



**CLARIFICATION ON POINTS RAISED IN THE LETTER ON TPPA-  
THE STAR 17 AUGUST 2015  
“IS THE TPPA A TROJAN HORSE?”**

**A number of issues highlighted have been addressed in various articles and media statements which have been circulated previously. These clarifications are reproduced for the benefit of the reader.**

**a. Secret Talks**

**As part of the effort to enhance public understanding of the TPPA, more than 100 engagements were held with various stakeholders over the last few years. These sessions included parliamentarians, industry groups, academicians, students, cleared advisors and non-governmental organizations (NGOs) as well as individuals.**

**It needs to be clarified that in international negotiations the negotiating text which indicates country positions is not made public. All the issues being negotiated, however, have been openly discussed in all our engagements with various stakeholders. It is not the intention of the Government to keep the text a secret. In the event that an agreement is reached, we will present the document to Parliament for debate and the Malaysian public before we sign on. The two cost-and-benefit analyses on the TPPA commissioned by the Government will also be completed in August 2015, and this will provide some guidance to Parliament and the Cabinet in considering the TPPA document.**

**b. ISDS**

While it is true that ISDS provides an avenue for the investor to seek recourse, in the event the government breaches its commitment, it does not mean that the government is not able to formulate laws or policies to regulate in the public interest in areas such as promoting environment, safety and health. It is important to note that the ISDS provisions are also found in 74 Bilateral Investment Treaties (BITs) and eight FTAs which Malaysia has signed.

**c. Capital Flows**

Providing investors the right to repatriate its investments, and other related funds from its investment activities is to ensure that Malaysia remains an attractive destination for foreign direct investment (FDI), given the global competition for FDI. This is particular important to investors who are investing in high capital intensive projects and needs the assurance in terms of capital flows as such investors are also global players and need to repatriate profits across borders for business viability. Nevertheless, there are provisions in the TPPA that will allow Malaysia to introduce policy measures in the event there is a need to do so when there is severe macro economic and financial instability.

**d. Viability of Domestic Industries / Jobs Loss**

FTAs are not new to Malaysia. To date, Malaysia has signed FTAs with several countries, including Australia, China, Japan, India among others. Tariff elimination and liberalisation of industry is an on-going process under these FTAs. This has enabled industry to enhance its competitiveness over time. Similar concerns were expressed when the ASEAN Free Trade Area was first mooted but Malaysian companies have gone abroad to take advantage of the liberalisation under AFTA as well as under the various FTAs. TPPA will provide preferential market access to four new markets, namely US, Canada,

**Mexico and Peru. In these new markets, tariff elimination is expected for 2,000 - 4,000 tariff lines for products of interest to Malaysia, including, electrical & electronics products, timber and timber products; textiles; plastic and plastic products; and palm oil and palm oil related products.**

**In 2014 alone, companies from across the world, including the United States, Australia, Europe and Northeast Asia, have either set up shop in Malaysia or expanded their existing operations in Malaysia. Of the 773 manufacturing projects which started production in 2014, 34.7% were foreign owned. These created 35,130 jobs, of which 25% or 8,700 were jobs at executive level requiring tertiary education.**

**Some of the MNCs in Malaysia have strong linkages to our SMEs resulting in job creation and business opportunities, in the software, packaging and display solutions sector and activities related to design and manufacturing of machine parts.**

**e. Price of Medicine**

**The Government is fully aware of the need to ensure that the public has access to affordable medicine and health care. While the TPPA aims to promote innovation through protection of Intellectual Property Rights (IPR), it will also ensure the entry of new and improved drugs in the market. In terms of pricing of drugs, various factors are taken on board in addition to length of patent protection.**

**Malaysia currently provides protection for patent for a 20-year period. Only in the event there is an unreasonable delay, would the patent period be extended. We strongly believe our current approval process is efficient and within the international benchmark and would not constitute an unreasonable delay.**

**Ministry of International Trade and Industry  
17 August 2015**