



MINISTRY OF INTERNATIONAL TRADE AND INDUSTRY (MITI)

TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPPA)

**20 February 2014
SMECorp, KL**

INTRODUCTION

- Wider engagement with the NGOs and other stakeholders began in 2013.
 - ✓ Bloggers / Open Forum / Media / NGOs / Public
- To date, MITI has had more than 50 engagements with various stakeholders, academia, industries and private sector on the TPPA.
- TPP Open Day in MATRADE 1 August 2013
 - ✓ very hostile, anger, demand for transparency, consultations,
 - ✓ From total rejection to better understanding
 - ✓ Followed by another two similar engagements

SCOPE

- 21 WGs, covering 29 Chapters.
- Negotiations cover two main components:
 - text covering rules, disciplines, dispute settlement, institutional arrangements;
 - market access for goods, services, procurement and investment.
- Trade & Non-Trade Issues

- GOODS
- RULES OF ORIGIN
- SPS
- TBT
- CUSTOMS
- TRADE REMEDIES
- SERVICES
- NON-CONFORMING MEASURES
- FINANCIAL SERVICES
- TELECOMMUNICATIONS
- E-COMMERCE
- TEMPORARY ENTRY
- INVESTMENT

- GP
- COMPETITION (SOE)
- IPR
- LABOUR
- ENVIRONMENT
- CAPACITY BUILDING
- HORIZONTAL ISSUES
 - SME
 - Development
 - Regulatory Coherence
 - Competiveness and Business Facilitation
- LEGAL AND INSTITUTIONAL

PROCESS OF NEGOTIATIONS

- **Chief Negotiator**
↓
- **Working Groups**
↓
- **Ministerial Level**
↓
- **Leaders Level**
↓
- **Thorough Briefing to Cabinet x 2 times**

PROGRESS

- 29 Chapters
- Chapters that are finalised:
 - Development;
 - Regulatory Coherence;
 - Competitiveness and Business Facilitation;
 - SMEs;
 - Temporary Entry;
 - Cooperation and Capacity Building;
 - Administrative and Institutional Arrangements; and
 - Competition Policy (Section A).
- All other 21 Chapters have outstanding issues that are still being negotiated.

WHY ARE WE IN TPP?

- ◀ To take part in shaping global trade agenda and draft future trade rules.
- ◀ Facilitate economic transformation programmes and make Malaysia competitive.
- ◀ Create market access opportunities, draw investments and build capacity.
- ◀ Duty free access to TPP markets, leading to net benefits for Malaysian manufacturers, exporters and commodity producers including small holders:
 - Current US tariffs for Textile - 2.6-32%, Shoes - 45%, Palm Oil Products - 4.6%, Plywood - 8%, Processed Vegetable/ Palm Oil - 12.3 cents per kg or 8% and electrical & electronic - 2-18%
 - Potential increase in exports of textiles to TPP countries by 20%
 - Savings of USD 150 - 200 million through waiver of US merchandise fees (charges ranging from USD 28 – 485 per shipment)

WHY ARE WE IN TPP?

- ◀ Mitigate GSP graduation by Canada – Expiration of GSP in January 2015, will increase tariff by 3.5% to 18% (Example: Palm Oil products attract 11% duty).
- ◀ Elimination of import duties by TPP countries on Malaysian exports expected to result in savings in import duties of about USD 1.2 billion upon entry into force of TPPA.
- ◀ Integrating SMEs into the global supply chain – dedicated SME Chapter on capacity building and facilitating participation of SMEs in the supply chain.
- ◀ First mover advantage – writing rules for the future eg halal
- ◀ To compete with other trade initiatives – Transatlantic Partnership, Pacific Alliance in Latin America.

CHALLENGES

- **Modern, High Quality Agreement**
- **Maintaining policy space for national development goals**
- **Bumiputera agenda**
- **SMEs**
- **Federal-State Obligations**
- **Possible amendments to laws – IPR, Labour, Customs**

CHALLENGES

- **Cost Benefit Studies**
 - **National Interest Analysis (ISIS Malaysia)**
 - **Impact Analysis on Bumiputera and SMEs (TERAJU)**
- **Parliament Debate**
- **National Sovereignty may be compromised**
- **Some industries may be affected: imports from TPP Countries**

WHAT IF MALAYSIA DOES NOT JOIN THE TPPA?

- What will happen if Malaysia miss the boat?
 - Scenario in future, we have to subscribe to rules and regulations set by others
 - Malaysia as founding member of WTO.
 - China acceded to WTO in 2001 had to make substantive concessions.
 - Less attractive investment destination and existing investors may reconsider expansion plans (US and Japanese Companies).
 - Loss of trade and investment opportunities in TPP markets.
 - Affect participation in the regional supply chain.
 - Loss of first mover advantage in the FTAAP - price of later entry is high.
 - Miss opportunity to craft future trade rules. More countries indicated strong interest of joining TPP (ie. South Korea, Philippines, China)

MAJOR ISSUES

➤ IPR

- Remains the most complex and sensitive Chapter with 13 broad outstanding issues.
- Areas of concern are in pharmaceuticals (patents, patent linkage, data exclusivity), copyrights, enforcement and geographical indications.

MAJOR ISSUES

➤ SOEs

- Parties discussing definitions and basic disciplines on SOEs.
- Malaysia pressing for flexibilities required and negotiating on the basis of a country specific approach.

MAJOR ISSUES

- Investment
 - Primary concern is related to Investor-State Dispute Settlement (ISDS).
 - Malaysia negotiating for carve outs in areas we have concerns.

MAJOR ISSUES

➤ Environment

- Malaysia has concerns on Chapter being subject to DSM, elimination of fisheries subsidies and commitments made at the State level.

MAJOR ISSUES

➤ Labour

- Malaysia has concerns relating to definition (principles and rights) and the language of “adopt and maintain” ILO Declaration eg - freedom of association and national union.

MAJOR ISSUES

➤ Government Procurement

- Malaysia's offer takes into account Bumiputra policy and development of SMEs.
- Malaysia will maintain carve-outs for bumiputra preference and SMEs.

MAJOR ISSUES

➤ Tobacco

- Malaysia tabled a proposal on tobacco carve-out in Brunei Ds.
- Issue is still under active consideration by other members. Support from NGOs growing but governments have yet to indicate full support.
- To gain wider support, proposal was revised to exclude tariffs from the total carve-out.
- Proposal disallows ISDS challenge and government free to undertake tobacco control measures.

TRADE PROMOTION AUTHORITY

- **TPA allows for US Congress to vote without amending the Agreement.**
- **Bill to approve the TPA is still being considered in Congress.**
- **Malaysia monitoring closely developments.**
- **Conclusion of negotiations will hinge on US obtaining TPA.**

Red Lines / Parameters

- Federal Constitution
- Federal – State Relation
- Core Policies

Process

1. Negotiations → Cost-Benefit Analysis → Parliament
→ Government to decide

THANK YOU