

Subject to Legal Review for Accuracy, Clarity and Consistency

[date]

The Honorable Michael B.G. Froman
United States Trade Representative
Office of the U.S. Trade Representative
Washington, DC

Dear Ambassador Froman:

In connection with the signing on this date of the Trans-Pacific Partnership Agreement ("TPP Agreement"), I have the honor to confirm the following agreement reached between representatives of the Government of Malaysia ("Malaysia") and the Government of the United States of America ("United States"):

1. Malaysia agrees to consult and engage with the United States on the APEC Auto Dialogue work program related to auto standards with a view to increase understanding of U.S. Federal Motor Vehicle Safety Standards (FMVSS) and Environmental Protection Agency (EPA) fuel emission standards and to consider whether certain of these standards are suitable for acceptance as alternatives for complying with corresponding Malaysian regulations.
2. Malaysia agrees that, in the event a new excise duty structure is introduced, including any related technical criteria or standards, the process that is utilized will be transparent and consistent with Malaysia's commitments under the World Trade Organization (WTO) Agreement and this Agreement. Malaysia shall publish, and provide opportunities for any person or Party to review, any draft of any proposed regulation, standard or conformity assessment procedure related to excise duties for motor vehicles as soon as it is available. Malaysia shall provide opportunities for any person or Party to provide comments on any proposed regulation related to excise duties for motor vehicles prior to issuing the final regulation.
3. Starting January 1, 2021, Malaysia shall not provide, for motor vehicles, excise tax credits based on:
 - a) export performance;
 - b) the use of local content; or
 - c) local value added.
4. Starting from the date of entry into force of the TPP Agreement, Malaysia shall not:
 - a) apply any quantitative limit on the importation of originating new motor vehicles from the United States, including any limit applicable to vehicles that are subject an import licensing requirement; or
 - b) impose any new or additional charge applicable to the importation of originating motor vehicles from the United States.

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For greater certainty, motor vehicles shall be considered originating if they qualify as originating in accordance with Chapter DD (Rules of Origin) of the TPP Agreement.

5. Starting January 1, 2021, for customs valuation of imported new motor vehicles, Malaysia shall accept transaction values submitted by importers for their merchandise at the time of importation, in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.
6. Malaysia's commitments in paragraphs one through five of this letter shall apply notwithstanding any provision of Chapter CCC (Exceptions) of the TPP Agreement.
7. To enhance the benefits of the Agreement, the United States intends to facilitate technical cooperation and capacity building activities with Malaysia in areas of mutual interest in the automotive sector.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement as between the United States and Malaysia.

Sincerely yours,

Minister Mustapa Mohamed

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[date]

The Honorable Mustapa Mohamed
Minister of Trade and Industry
Ministry of Trade and Industry
Kuala Lumpur, Malaysia

Dear Minister Mohamed:

I am pleased to acknowledge your letter of this date, which reads as follows:

“In connection with the signing on this date of the Trans-Pacific Partnership Agreement (“TPP Agreement”), I have the honor to confirm the following agreement reached between representatives of the Government of Malaysia (“Malaysia”) and the Government of the United States of America (“United States”):

1. Malaysia agrees to consult and engage with the United States on the APEC Auto Dialogue work program related to auto standards with a view to increase understanding of U.S. Federal Motor Vehicle Safety Standards (FMVSS) and Environmental Protection Agency (EPA) fuel emission standards and to consider whether certain of these standards are suitable for acceptance as alternatives for complying with corresponding Malaysian regulations.
2. Malaysia agrees that, in the event a new excise duty structure is introduced, including any related technical criteria or standards, the process that is utilized will be transparent and consistent with Malaysia’s commitments under the World Trade Organization (WTO) Agreement and this Agreement. Malaysia shall publish, and provide opportunities for any person or Party to review, any draft of any proposed regulation, standard or conformity assessment procedure related to excise duties for motor vehicles as soon as it is available. Malaysia shall provide opportunities for any person or Party to provide comments on any proposed regulation related to excise duties for motor vehicles prior to issuing the final regulation.
3. Starting January 1, 2021, Malaysia shall not provide, for motor vehicles, excise tax credits based on:
 - a) export performance;
 - b) the use of local content; or
 - c) local value added.
4. Starting from the date of entry into force of the TPP Agreement, Malaysia shall not:
 - c) apply any quantitative limit on the importation of originating new motor vehicles from the United States, including any limit applicable to vehicles that are subject an import licensing requirement; or

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- d) impose any new or additional charge applicable to the importation of originating motor vehicles from the United States.

For greater certainty, motor vehicles shall be considered originating if they qualify as originating in accordance with Chapter DD (Rules of Origin) of the TPP Agreement.

5. Starting January 1, 2021, for customs valuation of imported new motor vehicles, Malaysia shall accept transaction values submitted by importers for their merchandise at the time of importation, in accordance with the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.
6. Malaysia's commitments in paragraphs one through five of this letter shall apply notwithstanding any provision of Chapter CCC (Exceptions) of the TPP Agreement.
7. To enhance the benefits of the Agreement, the United States intends to facilitate technical cooperation and capacity building activities with Malaysia in areas of mutual interest in the automotive sector.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement as between the United States and Malaysia.”

I have the honor to confirm that my Government shares this understanding, and that your letter and this reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement as between the United States and Malaysia.

Sincerely yours,

Ambassador Michael B.G. Froman