



OVERVIEW OF THE TRANS-PACIFIC PARTNERSHIP (TPP) AGREEMENT

5 November 2015

TPP Chapters



Standard Legal Chapters

- 1 – Initial Provisions
- 27 – Administrative & Institutional Provisions
- 28 – Dispute Settlement
- 29 – Exceptions and General Provisions
- 30 – Final Provision

Traditional Trade Issues

- 2 – Market Access for Goods
- 3 – ROOs
- 4 – Textiles and Apparel
- 5 – Customs Administration
- 6 – Trade Remedies
- 7 – Sanitary and Phytosanitary
- 8 – Technical Barriers to Trade
- 9 – Investment
- 10 – Cross Border Services
- 11 – Financial Services
- 12 – Temporary Entry
- 13 – Telecommunications
- 14 – E-Commerce
- 15 – Government Procurement
- 16 – Competition Policy
- 18 – Intellectual Property Rights
- 21 – Cooperation and Capacity Building
- 22 – Competitiveness / Business Facilitation

New Issues

- 17 – Competition (SOE)
- 19 – Labour
- 20 – Environment
- 23 – Development
- 24 – SMEs
- 25 – Regulatory Coherence
- 26 – Transparency and Anti Corruption



Legal and Institutional Issues

Entry into Force

- 60 days after the date on which all original signatories have notified the Depository in writing of the completion of their applicable domestic procedures (ratification);
- If not all signatories have ratified within 2 years of the date of signature , 60 days after the expiry of this period if at least six of the signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013 have ratified; **or**
- If both do not take place, 60 days after the date on which at least six of the original signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013, have ratified.

TPP Commission

- To be responsible for the administration of the Agreement, including review of Agreement; supervise work of all Committees; resolve difference or disputes regarding interpretation or application of Agreement; and issue interpretations of the agreement.



Legal and Institutional Issues (cont...)

Accession

Open to any State or separate customs territory that is a member of APEC, and such other State or separate customs territory as the Parties may agree . Parties to decide on accession procedures .

Withdrawal

Parties may withdraw from this Agreement by providing written notice of withdrawal to the Depositary and the other Parties. Such withdrawal shall take effect six months after a Party provides written notice.

Exceptions

- general exceptions;
- security exceptions;
- temporary safeguard measures;
- taxation measures;
- applicability of the Treaty of Waitangi; and
- disclosure of information.



Horizontal Issues

1. BUMIPUTERA FLEXIBILITIES

Government Procurement

- 30% set aside for Bumiputera contractors (construction services).
- Bumiputera suppliers and manufacturers will continue to enjoy the price preference for goods and services.
- Central Contract on existing items will continue.

SOEs

- Flexibilities applicable for all SOEs in giving preferences for Bumiputera up to cumulative 40% (including SMEs and regional development) of their annual purchases.

Non-conforming Measures (NCMs)

- Malaysia may maintain current policies and adopt new policies on Bumiputera through creation of new and additional licenses/permits in investment and services. Such policy should not affect the rights of other TPP investors.



Horizontal Issues (cont...)

2. SMEs

SOEs

- Flexibilities applicable for all SOEs in giving preferences for SMEs up to cumulative of 40% (including Bumiputera and regional development) of their annual purchases.

Financial Services

- Malaysia has the right to provide subsidies or advantages for the supply of any financial service which we deem necessary for the development of micro, small and medium enterprises.

3. SOVEREIGNTY

- National interest – right to regulate and safeguards
- State's right to regulate –sectors under state's list



Dispute Settlement Mechanism (DSM)

- The DSM establishes the procedures for the avoidance and settlement of disputes regarding the interpretation or application of this Agreement. Disputes arise as a result of a breach of the Agreement (violation) or as a result of a measure that nullifies the benefits to a Party, even if the measure is not a breach of the Agreement (non-violation).
- The Chapter provides for the process of settlement of disputes, first through a process of consultations before reference to an independent Panel, established in accordance with agreed procedures.
- A Panel shall comprise three members, selected in accordance with the procedures set out in the Chapter.
- Panel findings and recommendations are binding on the Parties to the dispute.
- Parties must implement findings and bring the offending measure into compliance with the Agreement.
- If a Party fails to comply with the panel recommendations, the Parties to the dispute may agree to a mutually acceptable compensation.



Sanitary and Phytosanitary (SPS)

- SPS measures to are taken to protect human, animal or plant life or health while facilitating and expanding trade. Similar to the agreement in the WTO.
- **Exception: Halal requirements are carved out** from the SPS Chapter. This allows Malaysia and all TPP Parties to continue implementing halal requirements related to importation of food and food products, including conducting on-site inspection on establishments, and requiring halal certificates to allow importation of halal products.

Technical Barriers to Trade (TBT)

- The objective of this Chapter is to facilitate trade, including by eliminating unnecessary technical barriers to trade, enhancing transparency, and promoting greater regulatory cooperation and good regulatory practices. Similar to the agreement in the WTO



Telecommunications

- This Chapter applies to measures affecting access and use of public telecommunications services, obligations on public telecommunications suppliers and other measures relating to telecommunications services, but does not cover broadcasting services and cable distribution of radio or television programmes.
- Parties are allowed to determine how best to implement its regulatory needs; either through direct regulation or relying on market forces.

e-Commerce

- The Chapter outlines rules to facilitate trade in services, goods and investment through the use of electronic commerce.
- The rules include not applying duties to products transmitted electronically, non-discrimination in the treatment of digital products, not to deny legal validity to a signature solely on the basis that such signature is in the electronic form, protect personal information data, and protect consumers from fraudulent and deceptive commercial activities.



SME

- Chapter seeks to support the growth of SMEs by enhancing their ability to participate and benefit from the opportunities created by the TPPA.
- Creation of public website to provide on-line exchange of information to assist SMEs; establishment of SME Committee to provide platform to share best practices,, undertake capacity building programmes to help SMEs integrate into the global supply chain.

COOPERATION AND CAPACITY BUILDING

- Objective is to strengthen cooperation and capacity building to take advantage of economic opportunities created by the TPPA. Focus in areas such as agriculture, industrial and services sectors, technology and innovation and promotion of education.
- Committee on cooperation to be established and involvement of private sector and international organisations.



Thank you



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