



# STATE OWNED ENTERPRISES

5 November 2015

# Objective



- To ensure level playing field between State Owned Enterprises and Private entities that compete in the market.



# Scope

- Applies to commercial activities of SOE and Designated Monopolies that affect trade or investment between Parties within the free trade area.

## SOE

- principally engaged in commercial activities
- Directly own more than 50 percent of the share capital
- Control through ownership interest exercise of more than 50 percent of the voting rights.
- Holds the power to appoint majority of members of the board of directors or other equivalent management body

## Commercial Activities

- Activity which is profit making
- Result in production of a good or supply of services
- Sold in the market at prices determined by the enterprise

# Key Obligations



- **Government to ensure SOEs act in accordance with commercial considerations/non discriminatory manner in its purchase or sale of goods or services**
- **Government/SOE not to cause adverse effect to the interest of another Party through the use of non-commercial assistance to another SOE**
- **Government to provide its courts with jurisdiction for civil claims against a foreign SOE; and**
  - **Administrative bodies should exercise regulatory functions in an impartial manner**
- **On written request with how these affect trade and investment , Party to provide information relating to SOEs including total revenue/total assets/financing/loan guarantees/goods or services received/shares cumulatively owned; Government Programs on NCA**

# Flexibilities



**Independent Pension Fund**

**Sovereign Wealth Fund**

**Public service mandate to depart from commercial considerations**

**Non Commercial Assistance -domestic services excluded**

**National or global economic emergency**

**Threshold – SOE with Annual Revenue SDR 200million**

**Central bank or Monetary Authority in supervising monetary credit policy and exchange rate policy**

# Country Specific Flexibilities



**Preferences for purchase by SOEs up to 40% in pursuance of the Bumiputera Affirmative Action/SME/Sabah & Sarawak**

**SOEs owned by sub central governments**

**Felda Global Ventures – preference to purchase of goods from FELDA members for commercial sale**

**PETRONAS – preference for domestic suppliers till 40 percent of annual budget for upstream; sales and to receive non commercial assistance for specific projects**

**Non applicability of Dispute Settlement Mechanism for 2 years – Khazanah Nasional Berhad**

**Development Financial Institutions**

**SOE with Annual Revenue of SDR 500 million**



# Thank you



Block 10, Government Offices Complex,  
Jalan Duta, 50622 Kuala Lumpur, Malaysia  
Tel: 603-8000 8000 | Fax: 603-6201 2337  
Email: [webmiti@miti.gov.my](mailto:webmiti@miti.gov.my) | Website: [www.miti.gov.my](http://www.miti.gov.my)