



**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**