

[Malaysia to Viet Nam]

The Honourable Vu Huy Hoang
Minister of Trade and Industry
Ministry of Trade and Industry
Hanoi, Viet Nam

Dear Minister Hoang,

In connection with the signing on [this date] of the Trans-Pacific Partnership Agreement (TPP Agreement), I have the honour to confirm the following agreement reached between representatives of the Government of Viet Nam (Viet Nam) and the Government of Malaysia (Malaysia):

Nothing in Annex KK, Section D restricts the right of Viet Nam to adopt or maintain measures that condition the cross-border supply of electronic payment services into Viet Nam by a service supplier of Malaysia on a requirement that such electronic payment services are supplied through a gateway operated by a national switching facility licensed by the State Bank of Viet Nam.

This is subject to reciprocal treatment¹ by Viet Nam towards Malaysia.

Any such requirement shall:

- (1) not be used as a means of avoiding Viet Nam's obligations under Section D;
- (2) not result in a competitive disadvantage to the service suppliers of another Party;
- (3) ensure the security, speed, or reliability of the services, and preserve the ability of service suppliers of another Party to innovate, and
- (4) not impose unreasonable costs, directly or indirectly, on service suppliers of another Party.

If the national switching facility of Viet Nam and a supplier of Malaysia enter into an agreement or agreements for the processing of electronic payments transactions that set out standards for operation of that facility, compliance with the terms of the agreement or agreements shall be deemed to satisfy Viet Nam's obligations under paragraphs (2), (3), and (4), listed above, with respect to that supplier.

¹ For greater clarity, reciprocal treatment refers to Malaysia's right to adopt or maintain measures that condition the cross-border supply of electronic payment services into Malaysia by a service supplier of Viet Nam on a requirement that such electronic payment services are supplied through a gateway operated by a national switching facility approved by Bank Negara Malaysia or other relevant authorities.

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MODIFIED HANDLING AUTHORIZED***

I have the honour 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 (Dispute Settlement) of the TPP Agreement as modified by Article 11.21 (Dispute Settlement) of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement as between the Viet Nam and Malaysia.

Sincerely,

Mustapa Mohamed
Minister of International Trade and Industry
Ministry of International Trade and Industry,
Kuala Lumpur, Malaysia.

[Viet Nam to Malaysia]

The Honourable Mustapa Mohamed
Minister of International Trade and Industry
Ministry of International Trade and Industry,
Kuala Lumpur, Malaysia.

Dear Minister Mustapa,

I have the honour to acknowledge receipt of your letter of [DATE], which reads as follows:

Nothing in Annex KK, Section D restricts the right of Viet Nam to adopt or maintain measures that condition the cross-border supply of electronic payment services into Viet Nam by a service supplier of Malaysia on a requirement that such electronic payment services are supplied through a gateway operated by a national switching facility licensed by the State Bank of Viet Nam.

This is subject to reciprocal treatment² by Viet Nam towards Malaysia.

Any such requirement shall:

- (1) not be used as a means of avoiding Viet Nam's obligations under Section D;
- (2) not result in a competitive disadvantage to the service suppliers of another Party;
- (3) ensure the security, speed, or reliability of the services, and preserve the ability of service suppliers of another Party to innovate, and
- (4) not impose unreasonable costs, directly or indirectly, on service suppliers of another Party.

If the national switching facility of Viet Nam and a supplier of Malaysia enter into an agreement or agreements for the processing of electronic payments transactions that set out standards for operation of that facility, compliance with the terms of the agreement or agreements shall be deemed to satisfy Viet Nam's obligations under paragraphs (2), (3), and (4), listed above, with respect to that supplier.

² For greater clarity, reciprocal treatment refers to Malaysia's right to adopt or maintain measures that condition the cross-border supply of electronic payment services into Malaysia by a service supplier of Viet Nam on a requirement that such electronic payment services are supplied through a gateway operated by a national switching facility approved by Bank Negara Malaysia or other relevant authorities.

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MODIFIED HANDLING AUTHORIZED***

I have the honour to confirm that the understanding that this reply shall constitute an agreement between our two Governments, subject to dispute settlement under Chapter 28 (Dispute Settlement) of the TPP Agreement as modified by Article 11.21 (Dispute Settlement) of the TPP Agreement, which shall enter into force on the date of entry into force of the TPP Agreement as between the Viet Nam and Malaysia.

Sincerely,

Vu Huy Hoang
Minister of Trade and Industry
Ministry of Trade and Industry
Hanoi, Viet Nam