

The secrecy behind TPPA and potential pitfalls

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COMMENT The Trans-Pacific Partnership Agreement (TPPA) has become one of the hottest issues in town, primarily because it will have significant impact on our nation's economy and businesses. And also because it will bring wider social implications and raise controversies on many fronts.

Some claim that the sovereignty of the nation will be under threat and given the potential challenge of investors to our national policies; some worry that the local small and medium enterprises (SMEs) cannot compete with the multinational corporations and conglomerates and will therefore lose out.

Some bumiputera companies fear that this will spell the end of the government's bumiputera policies that favour, support and protect their interests.

Unlike the goods and services tax (GST), about which we already know the details as to what exactly we will subscribe to, what measures will be taken and imposed on us come April 1, 2015.

However, as for the TPPA, thus far no one besides the federal government seems to know the details about the whole deal after 19th round of negotiations. The Ministry of International Trade and Industry (Miti) has been mandated by the cabinet to coordinate Malaysia's participation in the TPPA negotiations.

Our delegates led by Miti and formed mostly by ministries and agencies responsible for specific areas, are still on the negotiation table trying to strike a reasonable deal with all other 11 countries, with the promise to protect the national interests, such as bumiputera policies (in terms of government procurement) and SMEs. Intellectual property rights and environment protection are also in hot contention.

As a matter of fact, every participating country must reach a consensus for all details stipulated in the final agreement. Therefore, on surface, they are all look like equal partners with the veto power (or the right to withdraw from the negotiations and membership). Before coming to the conclusion, the TPPA text, which covers 30 chapters, is still veiled in secrecy.

All must abide by non-disclosure agreement

Every negotiating partner has to abide by and sign the non-disclosure agreement. It is not difficult to imagine the deep concern, doubts and worries of the people about keeping the negotiations secret when there is so much national interests at stake.

Verbal reassurance from the federal ministries is simply not sufficient to quell the people's fears when nothing is said about what the ministries would propose and

defend. The ministries tried to justify that any revelation of the proposed text would attenuate their negotiation position.

However, secrecy does not instil the confidence and trust from the people. With regard to the government's past records and performance, and also the simple doubt as to how much negotiation power Malaysia has in dealing with super regional and global powers such as the United States and Japan, it is safe to assume that the general public opinion is pessimistic.

The deficit of democracy is so glaring in the TPPA negotiations that if the outcome of the final agreement turns out to be unfair to the people of any signatory country, massive protests can be expected. This reminds us of the recent episode of ongoing fierce and huge protests in Taiwan against the Cross-Strait Services Trade Agreement and Ma Ying-Jeou's government.

Undoubtedly, Malaysia will reap massive economic benefits from the new trade creations and trade diversion effects the free trade agreement in the name of TPPA endows. Increased trade volume with TPPA member countries is expected due to significantly lower or no trade tariffs.

Export industries would be strengthened in normal circumstances. The more cost competitive and efficient producers among the member countries would more likely to dominate the market after the trade barriers are dismantled. People will probably also enjoy lower prices of many directly imported products from TPPA countries. That is the simplistic view.

SMEs will be the worst hit...

The increased influx of cheaper products could also spell the trouble of destabilising certain industries. The worst hit would be the SMEs and local businesses that are not involved in exports. They might not even get any real benefit if they also do not, or rarely, import raw and intermediate input products from TPPA countries.

Many TPPA members are in the bracket of advanced countries; they possess more advanced technology and are thus able to create more cost-competitive, value-added products compared with many local producers. Many inefficient and labour-intensive industries that are surviving on meagre, marginal profits will find the situation very difficult after the removal of the trade barriers.

Eventually, they might be driven to cease operations and shut down. Not only will value-added technology products, primary products such as agricultural products will also be affected. The local producers will face more competition pressure from the current TPPA members, for example, Vietnam.

Should Thailand and Indonesia join the pact in near future, the situation could worsen, unless the federal government has some careful and deliberate measures to alleviate adverse trade effects and protect the local industries.

Rising unemployment as a consequence of the TPPA, especially in the rural and industrial areas, will elevate social tension and fast erode the people's support for the current federal government. This is the dilemma of a free-trade agreement. Erecting trade barriers and introducing market distortions to protect the interests of certain losers are incompatible with the spirit and principles of free trade.

Intellectual property rights and higher costs

The stringency of the intellectual property rights (IPR) implementation is also one of the main outstanding issues. Many have argued that the IPR should encourage more creativity and inventions, not to stifle any development of such efforts or deny people from using a particular intellectual property just because they simply cannot afford the high price.

Given the technology advanced status and the quantities of patents some TPPA countries possess, if they strictly impose all IPR and the price regime to all member countries equally, lower income countries such as Malaysia, Mexico and Vietnam would have to bear higher cost for many products, ranging from medicines to various equipment and industrial designs.

To a certain extent, this will reduce the competitiveness of some industries. Also, it may incur higher costs of public expenses, for example, on healthcare. Therefore, some flexibility in applying the IPR according to different income tiers of the country is perhaps seen as one of the sensible and fair solutions to minimise the negative effect of economic impact and social welfare while upholding IPR principles.

Given the potential enormous trade benefits in tapping in and expanding the market to 12 TPPA member countries which constitute 36 percent of the total world GDP, it would not be wise for us to forgo this opportunity to stay more competitive ahead of other regional non-TPPA countries.

Right now, the government is still in the position to influence the direction of the negotiations, voice our concerns and let other TPPA member countries to take our demands seriously and finally negotiate for the best terms and outcomes that will meet the bare minimum consensus for all members.

Trust and confidence from the people can only be earned if enough transparency is ensured, updates are often given and the communication channels between the government and the concerned parties are always open.

The government can certainly do something more politically tactful to rally the people's support to strengthen its hands for negotiations. Without explicitly bleaching the democratic-deficit secret code in the name of the non-disclosure agreement, the government can convey the messages to the people more clearly and occasionally opt to reveal certain subtle policy details to show government's determination to safeguard people's interest.

All in all, the TPPA is not yet a lost cause. Eventually, it might still be beneficial for our

country – only if we can get what we want and avoid the potential pitfalls. The TPPA needs not only to be seen as free, but also fair.

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