

10 questions on TPPA for Mustapa Mohamed
MalaysiaKini.com
Jan 20th, 2016
Charles Santiago

MP SPEAKS The Trans-Pacific Partnership Agreement (TPPA) contains 30 chapters of legal text and technical language involving 6000 over pages and two million plus words.

The chapters in the agreement ranges from issues involving tariff's, government regulations, workers, environment, medicine, government procurement, investor-state dispute settlement, state owned enterprise etc.

The Malaysian Parliament will debate the trade agreement on the Jan 26 and 27.

The debate in the country on the agreement has been quite limited.

However, the government, political parties, NGOs, think-tank including academics have opined on the agreement, and it appears there are divergent and sometimes outright contradictions in their response to the TPPA.

The citizen asks whether prices of medicine will increase in a post TPPA environment. The Malaysian government says, prices will not increase.

However, the prime minister of New Zealand says price will increase and patents extension will happen in a post-TPPA environment.

This, and other matters relating to the TPPA have remained unanswered despite International Trade and Industry Minister Mustapa Mohamed's best efforts in trying to convince Malaysians.

I will post a total of 15 questions in the next days to the trade minister, starting with the first 10 today. My *Facebook* friends and *Twitter*followers have contributed to these questions.

I hope the trade minister would reciprocate with answers.

Questions on the TPPA to Miti

1. Robert Holleyman, Deputy United States Trade Representative, says that the market protection for drugs classified as biologics will be eight years, and not five years, as indicated by Mustapa.

How is it possible that countries negotiating with each other over a period of five years end up with two sets of market protection commitments?

Did the Malaysian government raise this issue during the legal scrubbing process? How will Malaysia resolve this confusion?

And will Malaysia change its commitment of five years to eight years if pressured by the US during its certification process?

2. The Intellectual Property Rights Chapter grants rights to Internet Service Providers (ISP) to set up specific servers which stores information of all internet users.

Similar provisions contained in the Anti-Counterfeiting Trade Agreement (ACTA) between the United States and Europe was defeated in the European Parliament on concerns of loss of the right to privacy to the European people.

Further, the European Court of Justice issued an advisory opinion to 5 select committees in the European Parliament supporting this view.

Why is Malaysia agreeing to such a provision in a trade agreement that allows its citizens to be spied on?

3. The governments of Russia and Ecuador have been slapped with damages of US\$50 billion and US\$2.4 billion respectively, after losing disputes in private arbitration tribunals to Yukos and Occidental Petroleum Corporation.

At present, Germany is facing up to 4 billion Euros in damages if an investment arbitration tribunal decides in favour of Vattenfall in a dispute involving changes to national environmental policies and nuclear power plants. Indonesia is facing a US\$2 billion suit from Churchill Mining.

Is the Malaysia government prepared to pay huge amounts in damages if it loses cases against foreign investors?

4. New Zealand's Prime Minister John Key says that prices of medicine will increase and patents will be extended under the TPPA.

Does the Malaysian government agree with Prime Minister Key? And would this phenomenon not violate National Medicines Policy (2012) which stipulates affordable medicine for all.

5. SME Association of Malaysia says that 30 percent or 195,000 small and medium enterprises in Malaysia "will disappear" after the TPPA.

Will the government set up a rehabilitation fund to support these SMEs? How will the government help support workers in these companies who will lose their livelihoods

6. The Malaysian government has stated that the second and third tier of governments (states and local government) will not be sued by foreign private corporations under the Investment chapter.

Is there an explicit agreement with state governments to absolve them of any liability concerning awards by investment tribunals?

7. There has been extensive lobbying at the United States Trade Representative (USTR) by the Pharmaceutical Research and Manufacturers of America (PhRMA).

Despite these powerful countervailing interests, the International Trade and Industry Ministry (Miti) has been saying that it is status quo for medicines.

Just how privy is the Malaysian government to the pharmaceutical lobbying environment with regards to the USTR, and how did that impact on the negotiations?

8. The Malaysian government parades the tobacco control carve-out as part of its achievements in the TPPA negotiations.

However, the exception to this carve-out allows growers of tobacco leaves to sue governments at investments tribunals as it constitutes an investment.

Is the Malaysian government prepared to be sued by a tobacco company if it implements plain-packaging as part of a health measure to reduce smoking?

9. News agency *Bernama* quotes Mustapa as saying the government will amend twenty-six state and federal laws and regulations in the next two years as a result of the TPPA.

The amendments, among others, “involved the rights of migrant workers, but he insisted that it was not about giving them equal rights to that of local workers”.

“Not same rights and this is still being discussed,” he said, adding discussions between the Human Resource Ministry and related parties were still on-going.

The US and Malaysia agreed to a Malaysia-United States Labour Consistency Plan as part of the TPPA, albeit a side agreement.

The Labour Consistency Plan allows migrant workers to join and take up leadership positions in the country’s trade unions.

Also, migrant workers will enjoy the same rights and privileges as Malaysian workers as stipulated in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.

The governments wanting to provide unequal treatment among workers could be in violation of ILOs Declaration on Fundamental Principles and Right at work.

Why is the government discriminating against migrant workers by not giving them equal rights as local workers, when they have agreed to a binding Labour Consistency Plan.

Was the government pressured by the US to accept the Labour Consistency Plan? Or in the eagerness and rush to sign the TPP, Malaysian negotiators overlooked the details.

10. The cost-benefit analysis by PriceWaterhouseCoopers states that Malaysia stands to lose about USD\$12 billion after joining the TPPA.

How will the government recover the loss in revenue?

Copyright © 1999-2012 Mkini Dotcom Sdn. Bhd
Source: <https://www.malaysiakini.com/news/327520>