Malaysia-US FTA: What's at stake? (Part 1)
Malaysiakini.com
April 13, 2007
Charles Santiago

The protracted and often turbulent negotiations between Malaysia and the United States on the future of their trade relations have reached a critical juncture.

Nearly three years after the original Trade and Investment Framework Agreement was signed - and after five rounds of talks - the two sides seem no closer to concluding the flagship Free Trade Agreement (FTA). In any event, there is now no likelihood of meeting the deadline that would enable President George W Bush to fast-track any deal through the US Congress.

While politicians talk of fine-tuning various contentious issues arising from negotiations and building consensus, and the cabinet promises not to be constrained by any fixed timescale, the conditions attached to the proposed FTA are coming under unprecedented critical scrutiny. Protests against the FTA have been held outside the US embassy and the office of Prime Minster's Department in Putrajaya. The editorial and letters to the editors pages of newspapers have been alive with hostile commentary.

None of this should come as a surprise. Around the world there has been a sea change in people's understanding of international trade issues. The arguments over the benefits or costs of free trade in Malaysia echo those in nearly all developing countries confronted by stark choices over the terms of their accommodation with globalisation.

Today international trade is widely recognised as one of the most important and controversial elements of global governance. At the same time, the assumptions and policies that drive trade liberalisation are in a state of crisis. As a result, the debate over its future seems set to run and run.

How has this transformation come about?

Back in the 1990s trade liberalisation was supposed to usher in a brave new world that would benefit everybody through so-called welfare gains. Its supporters claimed that the establishment of the World Trade Organisation (WTO) would create the appropriate regulatory environment to unleash the benefits of increased trade. Trade would not only be the engine of global economic progress and wealth creation. It would also radically reduce the prevailing levels of inequality and poverty.

There is today a huge body of evidence suggesting that these claims are exaggerated at best and a deliberate distortion at worst. The protesters and critics of the Malaysia-US FTA are drawing their own disparaging conclusions from what can only be termed the general crisis of the international trade regime. This crisis has interlocking theoretical, policy and institutional dimensions.

Dubious, biased assumptions

Part of the problem lies in the uncritical acceptance by a majority of the world's policymakers, business leaders and professional economists of theoretical models portraying rapid liberalisation as an unadulterated gain for all. Malaysian policymaking in government circles, business lobbies and think-tanks has not been immune from this kind of wishful thinking.

But a great deal of careful work by economists demonstrates the fallacy of such claims. For example, a recent paper by Lance Taylor and Rudiger von Arnim, of the New School University in New York, shows clearly that the "gains from trade" that liberalisation is said to generate are based on highly dubious and biased assumptions. In particular, they argue that the way that free trade models conceptualise and measure welfare is fundamentally flawed. They suggest that "despite all the fanfare, the magnitude of the welfare gain produced by the [liberalisation] models is small".

The real facts on the ground bear out this stark conclusion. Half the world - nearly 3 billion people - live on less than US$2 a day. This is actually more than in the mid-1980s. And as the Nobel laureate Amartya Sen points out, this kind of material deprivation grossly affects poor people's ability to lead fulfilling lives: "they lack education, access to land, health and longevity, justice, family and community support, credit and other productive resources, a voice in institutions, and access to opportunity". Development policy is failing on a global scale.

The story is similar if we look at the development gap between countries. For every US$1 generated by exports in the international trading system, low-income countries account for only three cents. While some Asian countries have clearly been successful exporters, the situation in the rest of the developing world is much less rosy. Many countries are trapped in low-value-added ghettoes so that export-led growth has had little or no impact on poverty reduction. In short, poor people and poor countries are getting left behind in the international trading system.

There is a third reason for the general crisis of the international trade regime. The institutional architecture that governs trade is in a mess. The establishment of the WTO in 1995 was intended to rationalise a rules-based trade system and offer mechanisms for resolving disputes. But the more the WTO has sought to extend its powers - often in concert with the International Monetary Fund and the World Bank - the more it has provoked an outpouring of outrage and opposition.

Starting with the mass protests at the WTO Ministerial Conference in Seattle in 1999, supporters of liberalisation have had to come to terms with a bald fact: increasing numbers of people regard the WTO as the propagator of bad trade rules. Central to this critical assault on its legitimacy has been the role non-governmental organisations (NGOs) and groups of developing countries, including Malaysia, who have pressured international organisations to be more transparent, more open, and more accommodating of alternative policy considerations.

The rich countries have largely remained unbending. As a result, the so-called Doha Development Round of WTO negotiation, billed as focusing on the needs of developing countries, has ground to a halt amid missed deadlines and bitter recriminations.

The irony of the current the Malaysia-US FTA, then, is that it was born out of theoretical, policy and institutional failure. The economic models have consistently omitted to think through the full implications of trade liberalisation. Poor people and poor countries have not benefited. And the institutional centrepiece of the international trade regime, the WTO, has turned into a white elephant.

US to gain most

Given the intellectual and practical bankruptcy of free trade, it is worth asking just how Malaysia has become embroiled in negotiations that will potentially exacerbate its worst features. Part of the reason lies in the character of US foreign economic policy.

While multilateralism may be dead in the water, Washington has not hesitated to pursue unilateral policies. As Robert McMahon of the US Council on Foreign Relations puts it: "The Bush administration has pressed ahead with smaller bilateral free trade agreements to secure preferential deals as well as cement ties with strategically important countries". Since completing its very first FTA with Israel in 1985, the US has operationalised or is negotiating similar agreements with more than 30 countries, mostly in the past five years.

The US logic is doing so is impeccable at least in terms of its own interests. Competition for investment opportunities in an expanding Asian market is perceived as critical for maintaining US capital's leading position in the global market place. This is especially true in light of its rivalry with European, Japanese and (increasingly) Chinese capital.

The business lobby collaborates closely with US Trade Representative in pushing for a widening and deepening of trade, services, investment and financial liberalisation, protection of commercial interests, and opening-up of various sectors for US business participation. The US-Malaysia FTA Business Coalition - comprising more than 50 organisations and individual companies - offers the institutional shell for building support in Congress for ratification of the FTA. In short, the leading representatives of the US business community are consulted and updated throughout the negotiation process.

From a policy perspective, bilateral and regional trade agreements allow the US to demand higher standards and deeper liberalisation commitments than those negotiated at the WTO. Crucially, FTAs help to "lock in" market-driven reforms at the domestic level. Politically, the US need not deal with the protracted and formidable opposition and counter-proposals of developing country groupings which effectively halted the Doha Round negotiations. Going it alone, then, makes sense for a US administration that clearly does not pay much heed to international rules in any case.

It is much more difficult to identify what benefits the proposed FTA holds for Malaysia. Supporters of the deal have trotted out the usual platitudes: accessing the US market for Malaysian firms, inducing foreign direct investment (FDI), stimulating local inventive activities and encouraging the transfer of new technologies into the country. Indeed, International Trade and Industry Minister Rafidah Aziz, has consistently asserted that if the FTA were to fall then Malaysia will "lose out" in terms of exports and as a location for investment by US companies.

In this Rafidah has been aggressively supported by business lobbies such as the American Malaysian Chamber of Commerce, the Federation of Malaysian Manufacturers and the Malaysian Textile Manufacturers Association. They eagerly rehearse a reassuring story about the potential gains in exports and are actively pressing for an early conclusion to the agreement.

Mohamed Ariff, the executive director of the Malaysian Institute of Economic Research, agrees, and even goes so far as to claim that because the Malaysia's desire for access to the US market is greater than the value of the Malaysian market to US firms, it follows that the US will not adopt a "hardline approach" to negotiations. The logic here flies in the face of the facts.

Equal treatment, unequal outcomes

There are other compelling reasons for concern. The optimism of the business lobby appears naïve in the face of hard evidence from other FTAs.

According to the international economist Jagdish Bhagwati - hardly an opponent of free trade - the US uses such deals to "bully" smaller states, leveraging them to accept conditions that actually exceed WTO requirements. In a similar vein, Martin Khor of Third World Network argues that since FTAs are negotiated on the basis of reciprocity - ensuring that trading partners accept similar levels of obligation - this "equal treatment of parties that are unequal in capacity is likely to result in unequal outcomes". It is difficult not to draw the obvious conclusion. If the WTO promotes bad rules for trade then FTA obligations are potentially even worse.

These are precisely the kinds of criticisms that have been picked up by those opposed to the US-Malaysia FTA. A new and disparate constellation of forces has emerged over the past year - including economic nationalists, farmers and trade unionists, consumer groups, environmentalists, human rights campaigners and development experts - who are part of the expanding opposition to the current international trade regime found in every part of the world.

Unsurprisingly, much of the opposition is driven by anger and resentment of US intimidatory tactics. These are seen as an affront to Malaysia's economic sovereignty and policy autonomy which, it is contended, will be undermined by rules that fundamentally favour US business interests above all else.

Naturally, ministers have fallen over themselves for the past year to reassure their constituencies that the national economy is safe in their hands. But the nationalist argument does seem to have touched a raw nerve. Typically, Rafidah dismisses such fears as reflecting an "inferiority complex".

By contrast, Prime Minister Abdullah Badawi has been more sensitive to local concerns. He was prompted recently to issue the assurance that "the nation's interest will always be safeguarded and would not be sacrificed in any way". It will be interesting to see just how these sentiments get translated into the fine print of any deal that is struck.

The politics of resentment is one thing but informed and effective resistance to the FTA is another. Part of the problem for serious debate is that the drafts of the negotiations are kept out of the public domain. "Now is not the time" is the constant refrain. While this hardly conforms to the stated aims of "transparency" and "openness" in governance, it does allow Rafidah and other supporters of trade liberalisation to airily dismiss opponents of the FTA as failing to "understand" the issues. This is disingenuous. It omits the fact that the US negotiates all its trade deals according to a one-size-fits-all blueprint whose fundamentals are not open to challenge.

As a consequence, opponents of the FTA have been able to draw inferences from a careful evaluation of similar US-sponsored FTAs elsewhere and subject their provisions to detailed scrutiny. The list of specific issue areas is sweeping. It includes intellectual property rights, access to affordable medicines, financial services, telecommunications, agricultural products, environment and biosafety, labour rights and government procurement.