

## **Legal And Institutional Issues On TPPA**

**Bernama**

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KUALA LUMPUR, Nov 4 (Bernama) -- Following is the latest list of Frequently Asked Questions pertaining to the legal and institutional issues on the Trans-Pacific Partnership Agreement (TPPA) made available on the Ministry of International Trade and Industry website today.

Under a sub-topic, explanation was given to six questions in relation to exceptions available to all TPP Parties under the agreement.

### **1. What are the exceptions from the obligations?**

There is a chapter on Exceptions wherein Malaysia can exempt itself from the obligations as stipulated in the respective Chapters under the TPPA. The exceptions that can be invoked by a Party relate to essential security, taxation, balance of payments measures on trade in goods, and disclosure of confidential information. Parties have also been accorded rights to deny the benefits of the Investor State Dispute Settlement (ISDS) mechanism for tobacco control measures undertaken by them.

### **2. Can Malaysia withdraw from the TPP in future?**

Yes, the TPPA allows for Parties to withdraw from this Agreement by providing written notice of withdrawal to the Depositary and the other Parties. Such withdrawal shall take effect six months after the Party provides such written notice.

### **3. When will the TPPA be implemented?**

\* The TPPA will be signed by all parties on a date to be collectively decided.

\* The Agreement will enter into force 60 days after the date on which all original signatories have ratified the Agreement.

\* If not all original signatories have ratified the Agreement within two years of the Agreement, then the Agreement will enter into force 60 days after the expiry of this period if at least six of the original signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013 have ratified the agreement.

\* If both the aforementioned scenarios do not take place, the Agreement will enter into force 60 days after the date on which at least six of the original signatories, which together account for at least 85 per cent of the combined gross domestic product of the original signatories in 2013, have ratified the Agreement.

### **4. Are all the obligations subject to dispute settlement?**

Almost all obligations as enumerated in the TPPA are subject to the dispute settlement mechanism. However, some Chapters such as Competition, Regulatory Coherence, Small Medium Enterprises (SME) Development, Capacity Building and Competitiveness and Business Facilitation provides for a specific carve-out from the application of the dispute settlement mechanism.

## **5. What are the obligations under the Anti-Corruption Chapter?**

The Anti-Corruption provisions provide that the Parties will resolve to eliminate bribery and corruption in international trade and investment. The Parties are, amongst others, required to:

- \* ensure that its laws, regulations, procedures, and administrative rulings of general application are promptly published or otherwise made available in a manner that enables interested persons and Parties to become acquainted with them;
- \* establish or maintain judicial, quasi-judicial, or administrative tribunals or procedures for the purpose of prompt review and correction of final administrative actions, as well as the rights to be accorded to Parties during such proceedings;
- \* any offence as underlined in Anti-Corruption Chapter shall be prosecuted and punished in accordance with each Party's domestic law, and that Parties shall ratify and accede to the 2003 United Nations Convention against Corruption (UNCAC);
- \* shall not fail to effectively enforce the laws or other measures adopted or maintained to comply with the obligations as stated under Section C of this Chapter.

## **6. What is the extent of obligations in transparency?**

As transparency is an essential element that would attract trade and investment, there are various provisions in TPP which require a TPP Party, in one form or another, to publish or notify trade measures for the information of the TPP Parties. These measures include laws, regulations, regulations, procedures, requirements, or practice.

There are also various obligations on notifications to ensure and promote good governance amongst TPP Parties.

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