

Malaysia's New FTAs: How Businesses Benefit?

Session Four saw panelists **Mr J Jayasiri** of the Ministry of International Trade and Industry (MITI) and **Mrs Chau Duncan** of the Australian High Commission in Kuala Lumpur discussing Malaysia's new FTAs. The session was moderated by Professor Dr Tham Siew Yean, Principal Research Fellow, Institute of Malaysian and International Studies (IKMAS), National University of Malaysia (UKM). **Firdaos Rosli**, Senior Analyst, ISIS Malaysia, reports.



From left: J Jayasiri, Tham Siew Yean and Chau Duncan

This thought-provoking session on Malaysia's New Free Trade Agreements (FTAs), set out in layman terms the technicalities of FTAs, specifically under the Trans-Pacific Partnership (TPP) and the Malaysia-Australia FTA (MAFTA).

Since becoming a member of the Asean Free Trade Area (Afta) in 1992, Malaysia has concluded a total of six bilateral FTAs and six plurilateral FTAs, said **Mr J Jayasiri**. It has bilateral FTAs with Japan, Pakistan, New Zealand, Chile, India and Australia. All of Malaysia's plurilateral FTAs, namely with China, the Republic of Korea, Japan, India, Australia-New Zealand and, of course, Afta are via Asean. There are overlapping FTAs with Japan, India, New Zealand and Australia.

Malaysia is currently negotiating bilaterally with Turkey, the European Union and the European Free Trade Area, and also

plurilaterally, i.e. Asean-Japan (Investment and Services), Asean-India (Investment and Services) and the Trans-Pacific Partnership (TPP). Malaysia's new FTAs are not old wine in new bottles.

According to MITI, Malaysia's approach in negotiating FTAs is anchored on a rules-based multilateral system with complementary agreements in both bilateral and plurilateral trade pacts. This is done by progressively adding new and more comprehensive FTAs, and embedding them into existing ones over time in order to create a much larger trade and investment framework.

This 'building-block approach' started from 'traditional areas' — duty elimination and the removal of non-trade barriers. Now, Malaysia is warming up to new areas such as government procurement (GP), competition

policy, intellectual property rights (IPR), labour, and the environment.

Today, Malaysia is playing a different ball game altogether. The country is now ready to negotiate high-quality (read deeper commitment) issues such as regional integration, regulatory coherence, competitiveness, supply chain and small and medium enterprises collaboration. In other words, Malaysia's new FTAs are also 'new' FTAs.

From Malaysia's involvement in the TPP, for example, it is explicit that the country is all geared up towards liberalizing its domestic economy more aggressively than before. To begin with, the TPP, unlike any other FTA, has no exclusion list (simply put, all tariff lines are included for duty elimination). In addition, the TPP will adopt the negative list approach that requires all services sectors to be fully liberalized from the very beginning unless specific measures are set out in the reservations list.

Contrary to its previous stance, Malaysia is also ready to negotiate specific requests and offers under the GP chapter. The government acknowledges that protectionist industrial policies cannot last forever. Home-grown players must improve their capacity by participating in larger and more competitive markets. However, it is vital that participating countries agree to a reciprocal exchange of preferential market access under the GP chapter.

As such, high-quality trade agreements must provide space for domestic SMEs to participate in the global supply chain, via capacity-building programmes with advanced economies. Market information for SMEs must

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be made as transparent as possible in identifying specific offensive interests, and business opportunities in each other's markets.

There are provisions under high-quality FTAs that allow the domestic industry to adjust and adapt to the new trade and investment environment. The TPP, for example, will not exceed the fundamental commitments made under the WTO.

Malaysia's big-scale FTAs are usually used as benchmarks for its subsequent trade deals. Commitments made under Afta, for example, were adopted as a point of reference in Malaysia's bilateral FTAs such as those with Japan and Pakistan.

Malaysia's commitments in FTAs are getting deeper as they progress. Its latest signing – MAFTA – marks the point of departure from its previous FTAs. According to **Mrs Chau Duncan**, MAFTA is Malaysia's most comprehensive agreement, encompassing trade in goods, services, investment, economic cooperation, IPR, e-commerce and competition policy. It was signed on 22 May 2012 and is currently being subjected to domestic



Chau Duncan

ratification procedures. The earliest the Agreement can take effect is 1 January 2013.

Australia is Malaysia's first FTA partner to eliminate all of its tariffs on goods starting from day one. It should be noted that duty elimination under the FTA with Australia has significantly deeper ramifications for Malaysia than under the Asean Australia-New Zealand FTA. Under the services sector, the Australian market will remain open with minor restrictions on its telecommunications industry.

It suffices to say that Malaysia has stepped up its FTA game with advanced countries for future trade gains. However, there was very little mention of Malaysia's next signings with Turkey and the EU, as well as the effect of MAFTA on Malaysia's future FTAs, including the TPP. The conclusion of the TPP will inevitably be Malaysia's reference point in negotiating high-quality FTAs in the future.

Deep FTA commitments can only mean one thing – in embracing the effect of globalization, the domestic economy has little room for continued government protection. Depending on the specific offensive interests of its FTA partners, the conclusion of the TPP will

eventually 'multilateralize' Malaysia's high-quality commitments to its future FTA partners.

There is a need for greater stakeholder engagement and awareness on the liberalization process, which can be achieved through reaching out to relevant members of the public. Outreach and publicity programmes must be easily accessible to the public. The Australian government publishes all information on its FTAs, including text agreements, on the website of the Department of Foreign Affairs and Trade. MITI, on the other hand, is actively engaging its industry players through interactive programmes such as FTA Pocket Talks, handholding activities and coaching clinics for all of its FTAs.

Economic liberalization will inevitably open up the domestic economy as a level playing field for foreign players. Absolute reciprocity will benefit consumers in smaller countries by allowing the flow of cheaper goods and services into these countries. By the same token, corporate efficiency will improve as a result of stiffer foreign competition.

But local players, regardless of their size, are still tiny compared to many globally-connected foreign corporations. As a developing economy, Malaysia still requires a higher degree of flexibility to allow the domestic development agenda to be implemented in an inclusive and sustainable manner. In this respect, the government could use various provisions under the TPP to protect the domestic economy from taking a beating as a result of market opening.

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There are usually two (or more) groups of countries in big-scale FTA negotiations. There is the group of countries which views these flexibilities as deal breakers and prefers punitive-type clauses in negotiations, and there is also the other group of countries which prefers industrial

cooperation programmes and demands a much bigger space to adapt to changes in trade and investment policies.

By the end of the session, there were still unanswered questions on Malaysia's new FTAs. How much flexibility should be given to developing economies in negotiating high-quality FTAs? Can we create trade by allowing local players to compete on a level (or maybe tilted?) playing field?

Yes, we all know that the globalization train is moving with great speed. Either we jump onto it, or risk being left behind. However, we are not alone in the global FTA game. We can always find alternatives and the right ones are usually right under our noses.