



Reconsider TPPA in public interest

Jomo Kwame Sundaram

February 3, 2016

Use the next two years to think about the TPPA and its many implications for present as well as future generations of Malaysians.

Last week, Malaysia's Parliament authorised the government to sign and ratify the 6350-page Trans-Pacific Partnership Agreement (TPPA). Thankfully, as the Minister has emphasised, countries will not need to ratify the deal for about two years, and can withdraw after that, though neither option will be costless. Hence, it is important to use the next two years to have a careful consideration of the TPPA and its many implications for present as well as future generations of Malaysians.

Who gains how much?

Most people think the TPPA is about greater growth from freer trade. Nothing could be further from the truth. Even the overly optimistic computable general equilibrium (CGE) projections, made on methodologically moot grounds, recognise that more trade does not mean more growth. After all, freer trade not only means more exports, but also more imports. Without adequate compensatory mechanisms, nothing guarantees that all will benefit.

The net gains for growth from increased trade are difficult to estimate reliably, and depend very much on crucial assumptions made for modelling. Even the CGE models used for TPPA advocacy acknowledge limited net economic benefits from trade liberalisation. Hence, while the TPPA will result in greater trade, there is no reliable basis for assuming that increased trade will improve economic welfare for all.

More production for export will partly replace production for domestic markets. Exports are less labour-intensive and use more imported inputs than production for domestic markets. Businesses become more competitive by cutting labour costs, negatively affecting income distribution, thus further weakening domestic demand.

Both the USA and Malaysia are among the world's most open economies, with little more trade to be gained by further reducing tariffs. The TPPA does not address many non-tariff barriers, e.g. the campaign against Malaysian palm oil.

The only US government study of the TPP's growth effects did not see much growth from increased trade. The World Bank and Peterson Institute studies claimed more significant growth

gains from large, but dubious projected increases in foreign direct investment (FDI). But there is no evidence that FDI reliably increases tax revenue, especially with the generous tax incentives offered by the authorities.

Cheap labour.

As a middle income country, it will be difficult for Malaysia to compete successfully with Vietnam and other such developing economies on the basis of labour costs for the labour-intensive primary commodity and export-oriented manufacturing envisaged by the TPPA. All this is likely to work to keep Malaysia stuck in the middle income trap.

Yet, despite the exaggerated claims of its advocates, the TPPA provisions for the trade in goods are probably its least dangerous aspects. For example, TPPA provisions for further liberalisation of financial services will undermine national prudential regulation, exposing Malaysia to greater vulnerability from abroad, as if we have not learnt from the 1997-98 Southeast Asian financial crisis as well as the 2008-09 financial meltdown and ensuing protracted Great Recession.

Partnership?

Many ostensible provisions and safeguards in the TPPA have asymmetric implications. For instance, compared to Malaysia, the US federal government has much less scope for discretionary spending compared to its state governments which are, in many instances, larger than many other TPPA economies. Thus, exempting state governments from TPPA provisions, e.g. on government procurement, will have very different implications in the two countries.

Instead of trade, for Malaysia, the TPPA is mainly about greatly strengthening investor rights, including intellectual property rights (IPRs). But stronger IPRs hardly promote research. Instead, most contemporary IPR regimes actually impede innovation, besides undermining public health and consumer welfare by limiting competition and raising prices. The TPPA will thus allow 'Big Pharma' longer monopolies on patented medicines, keep cheaper generics off the market, and block the development and availability of similar new medicines.

Corporate interests.

The collective drafting of the 6350 pages of the TPPA was 'assisted' by over five hundred official corporate advisers to the US Trade Representative (USTR) Michael Froman, greatly strengthening foreign investor rights at the expense of Malaysian business and public interests.

The TPPA's investor-state dispute settlement (ISDS) system obliges governments to compensate foreign investors for the loss of expected profits in binding private arbitration, even when profits are made by causing public harm.

US corporate interests claim that ISDS is necessary to protect property rights where the rule of law and credible courts are lacking. But instead of reforms to improve the judiciary's performance and reputation, the TPPA will expose Malaysia to new risks and liabilities.

ISDS provisions make it hard for governments to fulfil their basic obligations such as to protect their citizens' health and safety, to ensure economic development and stability, and to safeguard the environment.

For example, the world's most widely used herbicide has been declared by the WHO to be carcinogenic. By banning such toxic materials, with the ISDS, the government would be liable to compensate its manufacturers not to harm our people, instead of forcing them to compensate those already harmed! Thus, the ISDS may even deter the government from banning the substance, putting people at risk.

Multilateralism.

Like many other recent bilateral and plurilateral economic agreements, the TPPA has less to do with freeing trade, but instead advances the interests of powerful foreign business interests.

Concluding the TPPA before the mid-December Nairobi World Trade Organization (WTO) ministerial was then used by USTR Froman to try to kill the WTO Doha Round of trade negotiations, apparently also in line with the current European Commission commissioner's preferences. The negotiation had begun in late 2001, after 9/11, with the promise of rectifying the anti-development and food security outcomes of the previous Uruguay Round following the Seattle WTO ministerial failure.

In spite of their denials, Asean members joining the TPPA have also effectively undermined existing commitments to the Asean Free Trade Area (AFTA) and Asean Economic Community (AEC).

The main US motivation for the TPPA has been to exclude China. At his State of the Union address, President Obama triumphantly announced, "With TPP, China does not set the rules in that region, we do".

After being blocked from greater commensurate influence in the Washington-based Bretton Woods institutions, broad support for the Asian Infrastructure Investment Bank (AIIB), even from traditional US allies, was a major embarrassment to the US.

Neutrality.

The political re-alignment also abandons the late Tun Razak's commitment to make Asean a 'zone of peace, freedom and neutrality' (ZOPFAN), an irony for the host of the last Asean summit.

One may understand why Vietnam, at war with the US until four decades ago, is keen to join the TPPA, to strengthen its hand viz a viz China, but it too will be compelled to pay a high economic price for Uncle Sam's 'protection'.

Yet, despite its own problems with China, Philippine President Benigno Aquino Jr chose not to participate in the negotiations. Pre- and post-military coup Thailand, with an economy even more open than Malaysia's, also chose to stay away. Why?

Singapore's existing bilateral economic arrangements with the US go much further than the TPPA in line with its own unique strategic considerations. Of course, no serving government leader is going to offend the US by rejecting the TPPA outright.

Misgivings.

Already, some other, mainly European governments have privately expressed their dismay at the TPPA provisions as it will weaken their own negotiating positions for the Trans-Atlantic Trade and Investment Partnership (TTIP). It is the US which has secured 'first-mover' advantage. It is unclear to most observers what great advantage Malaysia secured beyond some NEP 'carve-outs'.

Since negotiations ended in Atlanta in October 2015, the minister in the new centrist Liberal Party Canadian government, an experienced former Financial Times editor, has already called for reconsideration of the TPPA provisions.

Australia and New Zealand, the public and parliamentarians are outraged about the onerous investment provisions of the TPPA after a 2016 World Bank report projected paltry gains for them.

Despite touting the TPP in Asia as his main foreign policy priority for 2016, Obama only spent 28 seconds of his hour-long State of the Union address on it, realising its widespread unpopularity with the American public, including his Democratic Party base. Even the libertarian Cato Institute has denounced the TPP as the tool of corporate lobbyists.

Caution needed.

More careful consideration through more informed public discussion of the TPPA's many provisions can only help the nation.

According to a mid-2015 Pew Research survey, the strongest support for the TPP is in Vietnam, where 89% of the public backed it, while the weakest support was in Malaysia (38%) and the US (49%). The greatest outright opposition was in Canada (31%), Australia (30%) and the US (29%).

Malaysians (14%) were the least supportive of closer economic relations with the US while the most support for deeper economic ties with China was in Australia (50%) and South Korea (47%). Large numbers of Malaysians (43%) and Chileans (35%) wanted stronger commercial relations with both China and the US.

The greatest opposition to the US defence pivot was in Malaysia, where 54% believed it is bad because it could lead to conflict with China.

TPPA not costless

If the TPPA is simply a trade deal, there would be less grounds for concern. Unfortunately, its other provisions will undermine Malaysian development prospects and the public interest in the

longer term, with diminished ability for the Government, Parliament and the public to set things right.

Many well-intentioned Malaysians opposed to abuses of various kinds, support the TPPA, hoping that it will somehow eliminate corruption, improve governance and address other problems in the country. Unfortunately, this is merely wishful thinking. The TPPA is not a costless 'hop-on, hop-off' option, as some think.