

# Transparency Missing in US-Malaysia Free Trade Deal

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**PENANG-** While millions of Malaysians are engrossed with the World Cup, civil society groups are raising the alarm over a proposed Free Trade Agreement (FTA) with the United States as negotiations get underway here on Monday.

A civil society 'Coalition on the US FTA' has coalesced and a delegation of activists is submitting a petition on Monday to express their concerns to Malaysian negotiators meeting at a beach hotel in Penang.

The issue of market access for US products and services in Malaysia is likely to figure prominently in negotiations. US negotiators are believed to be eyeing the Malaysian automobile and financial services sectors in particular.

"They (the US negotiators) want not only market access but also laws that promote and protect their interests in this country in a legally binding manner," said Charles Santiago, coordinator of the Monitoring Sustainability of Globalisation (MSN) group.

Malaysia is the United States' 10th largest trading partner. Two-way trade between the two countries stood at 44 billion US dollars (160 billion ringgit) in 2005.

Under a Trade Promotion Authority (TPA) law, introduced in 2002, the US has entered into similar free trade agreements with its other trading partners. Regionally, it entered into an FTA with Singapore in 2002 and is currently in negotiations with Thailand.

Malaysia, for its part, entered into a trade and investment framework agreement (TIFA) with the United States in May 2004. On Mar. 8 this year, officials from both countries announced that they would be entering into FTA negotiations. US negotiators are believed to be keen to conclude negotiations before the expiry of the TPA next June.

An FTA with Malaysia may include provisions for "government procurement" -- which could mean U.S. firms being allowed to bid for Malaysian government contracts.

This could have huge implications for Malaysia's affirmative action policy of favouring firms controlled by indigenous ethnic Malays. Under the country's Ninth Malaysia Plan from 2006-2010, the government is expected to spend some 200 billion ringgit (54 billion dollars) on various projects related to construction, education and essential infrastructure.

An FTA could severely limit the government's economic policy options especially when it comes to infrastructure spending as a 'pump-priming' tool to boost economic growth.

"The government's ability to manoeuvre the local economy in terms of policy space will

be highly restricted," Santiago told IPS. "These arrangements are designed to promote the rights of US Big Business in Malaysia."

But Minister of International Trade and Industry Rafidah Aziz provided an assurance. "The agreement will not be signed if the US is found to have interfered in the country's procurement and determining of policies." She said sectors that could benefit were electronics and agriculture goods, textiles and clothing, rubber and wood products.

But even without the FTA, Malaysian national carmaker Proton has been gradually losing market share. Malaysians banks have already begun consolidating and merging in anticipation of foreign competition -- but some analysts believe they are still ill-equipped to go head-to-head with global banking giants in a free-for-all market.

A spokesperson for the Coalition on the US FTA, Meenakshi Raman, sounded worried. "The primary concern is that the FTA will have serious ramifications for a whole range of sectors," she told IPS.

She said about 116,000 farmers in the 'rice bowl' north-western region of Malaysia could be especially vulnerable. Some of them have already expressed fears that their livelihoods could be jeopardised if Malaysia lowers import tariffs (currently around 40 per cent) and opens its domestic market to US agricultural producers.

"We hope that the government will postpone the discussions until the FTA and its implications are made known to the farmers," said Ahsin Salleh, the chairman of the Kedah Farmers Action Committee.

US negotiators are also likely to push hard for stronger protection of intellectual property. "The US FTA usually makes demands which are 'TRIPS (Trade Related aspects of Intellectual Property Rights)-plus', (that is,) they go beyond a country's commitments to the World Trade Organisation," complained Meenakshi, who is also associated with the Consumers Association of Penang and the Friends of the Earth, Malaysia.

She is worried that the US could ask for 'test data exclusivity' -- protection of clinical test data -- to be enforced on cheaper generic drugs such as anti-HIV medication.

The big pharmaceutical firms argue that it is expensive to carry out clinical tests and it would be unfair to allow generic manufacturers to use such test data without their incurring the costs of clinical trials as well.

But critics counter that a data exclusivity provision would be an added restriction for generic manufacturers and thus make it more expensive for the poor and those with HIV/AIDS to buy essential drugs.

An FTA could also throw a spanner into the efforts of the Malaysian government to promote the use of open source software - rather than expensive proprietary software. It will also add pressure on the government to privatise or 'liberalise' more services.

Many are worried that the government has not carried out a proper cost-benefit analysis. Even if they have, the findings have not been made public. Neither has there been much media coverage, public consultation or parliamentary scrutiny of the impact the FTA is likely to have on Malaysia.

Job security for Malaysians could be at stake as both Malaysian and US firms want to make it a lot easier to fire workers. In its public submission for the FTA, the American Malaysian Chamber of Commerce (AMCHAM) and the US Chamber of Commerce observed: "Malaysia's current employment laws are too restrictive and unbalanced against companies, thus making it very difficult for employers to terminate under-performing employees."

Activists believe transparency in negotiations is key. "If there is transparency, then the pressure will be on the Malaysian and US governments," says Greg Lopez, a researcher with MSN. "But if we keep the negotiations secret, the Malaysian negotiators will have to horse trade (during the negotiations) and give up certain things because they have no public support."

The unequal negotiating strength between US negotiators and their Malaysian counterparts remains a major source of concern. The US has plenty of experience in negotiating FTAs while Malaysia, an emerging economy, has next to none.

One visiting Canadian professor described the lopsided relative negotiating strength this way: "You have no idea what you are getting into. It's like Malaysia is David and you are up against Goliath (the US) and you have forgotten to bring your sling-shot.."