

Revisiting the Proposed Malaysia-U.S. Free Trade Negotiations

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As the world's leading economic power, the United States has sought to use various instruments to enhance its trading position with other countries. In recent decades, as efforts at comprehensive free-trade solution through such entities as the World Trade Organization have faltered, the United States has increasingly looked to bilateral free trade agreements (FTAs) to achieve this end.

On March 8, 2006, the then U.S. President George Bush announced that negotiations had begun with Malaysia for a free-trade agreement. He noted that Malaysia is the tenth largest trading partner of the U.S., while the U.S. is Malaysia's largest export market and that he looked forward to a beneficial relationship for both parties. That same day, the United States and Malaysia launched talks on the FTA. The United States specifically hoped to expand American exports and bolster a "moderate" Muslim ally. An FTA with Malaysia appeared to have strong bipartisan congressional support because of Malaysia's dependability in the fight against terrorism, its tolerance and multiculturalism, with officials praising Malaysia as "a country that has been at the forefront of the economic dynamism that has transformed Asia in recent years." With \$44 billion in bilateral trade and more U.S. imports than India and Indonesia, the U.S. expected increased trade in agricultural products, manufactured goods, and, most of all, services, including telecommunications, energy services, health care, audio-visual services and financial services. The two nations hoped to conclude the agreement during 2006 to take advantage of the President's trade promotion authority (TPA) or "fast track," set to expire July 1, 2007. The TPA restricted Congress to a straight up-or-down vote within strict time limits and with no amendments. This is because Congress had become divided over trade agreements, approving them by ever-narrower margins.

The announcement of the FTA negotiations came after months of preparation following a May 2004 bilateral trade and investment framework agreement. Malaysia's March 7, 2006 announcement that it would re-open its markets to U.S. boneless beef was apparently a last hurdle paving the way to FTA talks. The most politically sensitive issues were expected to be, from the American side, exporting of textiles, and automobiles and financial services to Malaysia. Meanwhile, Malaysia has already begun relaxing financial market restrictions.

¹ The views and opinions expressed herein are those of the author and do not necessarily reflect the views of MIER.

The use of FTAs reflects political and economic wants. Many countries believe that freer trade brings economic benefits. The United States in particular stresses free trade as an effort to shape the world into a rational, western image. Globalization of trade and commerce is seen as a key to countering Islamic extremism.

After the initial announcement that the two countries would negotiate an FTA, talks followed, with a total of five rounds of trade talks beginning in March 2006 and ending in May of 2007. The two sides sought to open the Malaysian market to U.S. financial services and auto-makers while opening the American market to imports of rubber, timber, garments, plastics, chemical and agricultural products, optical and scientific instruments, and electrical and electronic goods, by dropping duties. Malaysia also sought technical support to give it an advantage over other Asian countries, making it attractive for biotechnology and for high-end technical research and development. The reason for the breakdown in talks, is mainly regarding Malaysian concerns about access to generic medications and opposition from the Malaysian agricultural sector as well as US concerns about intellectual property, patent protection, labour laws, environmental standards, and government procurement procedures.

After five rounds of negotiations, talks were stalled, leaving no chance of an agreement in time to give the U.S. Congress the needed three months before the TPA would expire. Each side had 'no-go' areas on which they would not move. Market access issues such as the entry of U.S. companies into Malaysia's protected finance, auto, and services sectors were discussed, but Malaysia refused to discuss affirmative action policies favouring *Bumiputeras*.

Now that the TPA has expired, any enabling legislation would have to go through open-ended congressional consideration. In the current scenario, economic nationalists who are influential in the administration of Donald Trump are bringing many changes to American trade policy. For example they believe bilateral trade deals are better than regional or multilateral agreements. This follows that in one of his first acts as US President, Trump withdrew the U.S. from the Trans-Pacific Partnership (TPP).

However it must be made clear that he has also stressed that he is not opposed to all trade agreements. In fact, he is supportive of new ones provided that they are negotiated on a bilateral basis.

Nevertheless, little has changed, and nothing has happened that negates the value of an FTA. Contentious issues such as generic medications or government procurement procedures should not stand in the way, they should instead be put in the back burner. A longer timetable ought to be given to resolve all outstanding issues prior to arriving at optimal solutions. Both sides should press forward with the negotiations based on foresight and commitment.

In the final analysis, is it a ludicrous idea to try to get a free-trade agreement through Congress under the current Trump administration? After all, there are strong reasons why an FTA would be beneficial for both nations. An FTA was advantageous to both sides when negotiations opened more than a decade ago.