

Heading Towards a US-Malaysia Free Trade Agreement

MIERSCOPE

by

Shankaran Nambiar

Malaysia's political relationship with the United States has seen interesting turns and bends in recent years. It has been a mixed relationship, eliciting strong mutual agreement on issues such as the war against terrorism; and equally strong disagreement on how the US should address the Palestine question as well as the US's position with regard to the war on Iraq.

The economic relationship between the US and Malaysia has been more sedate. There is no disagreement that trade between the two countries is mutually beneficial. There is, also, no doubt that Malaysia benefits from portfolio flows from the US. Foreign direct investment (FDI) from the US is, again, most welcome.

Viewing the whole picture from the opposite end of the board, it would not be wrong to say that Malaysia stands to lose if it cannot attract the flow of funds from the US, since the latter is an important trading partner and investor.

One can underline this phenomenon by observing some figures. US investment in Malaysia is worth over US\$20 billion. Bilateral trade between the US and Malaysia was more than US\$34 billion in 2002. One must not ignore the fact that project approvals from the US exceeded US\$700 million in 2002.

The need for Malaysia to be competitive is real given the fast changing global landscape. China and India keep figuring more and more predominantly on the radar screen. Closer to our country, Thailand promises to be the manufacturing hub of ASEAN.

Indeed, there are various ways in which Malaysia can be more competitive. Commentators have, for instance, called on the importance of human resource development and research and development (R&D) to enhance our competitiveness. They have stressed that Malaysia cannot compete any longer on the basis of low wage costs. They point that more has to be done to sharpen our technological capacity, and add that steps in that direction require more emphasis to be placed on innovation and R&D.

Indeed, these structural issues must be addressed in a more concerted fashion. They demand more immediate attention than does space research or an astronaut development programme.

Our success in achieving good outcomes in the space of technological capabilities, education, and skilled human resources will make us more competitive than other economies which rely on cheap labour as a source of competitiveness. It is well-recognised that Malaysia has to move up the value-chain. However, efforts towards this end have a relatively long gestation period.

So, what can be done more immediately? One possibility is to devise packages that make Malaysia attractive to potential investors. In the short-run, to surf the waves of the rapidly changing investment climate, it would be crucial that these packages be tailor-made to suit the needs of specific countries and investors.

A commendable line of action in this respect would be to forge a free trade agreement with the US. Given strong misgivings within certain sections of society against the US this might seem a heretical suggestion.

As was mentioned at the outset, one should keep an eye on the important distinction between economic and political relations between nations. And, again, one could strongly disagree with the political policies of another nation while maintaining an air of civility. This, one would suppose, are what diplomacy and the right use of language are all about.

The US has for long been an extremely important trading partner. Some of America's top companies have had a long-standing interest in Malaysia. The recent visit conducted by the US-ASEAN Business Council to Malaysia is a sign of their continued interest in opportunities in this country.

The delegation had a fruitful meeting with Prime Minister Abdullah Badawi. In a subsequent statement the Chairman of the US-ASEAN Business Council's group for Malaysia, Michael Gadbaw, stressed that they were impressed with the leadership that was offered and the strong pro-business focus. They were equally impressed with the

Prime Minister's commitment to efficient and transparent governance. Most importantly, they saw tremendous opportunities in Malaysia.

A US-Malaysia FTA is one obvious way of capitalising on the opportunities that are available. It needs no reminder that Singapore already has an FTA with the US. Thailand and the US are set on negotiating a US-Thailand FTA.

A US-Malaysia FTA is not a solution to all woes. Neither is it the best we can do to make Malaysia more attractive to all foreign investors. But it is a good instrument to put in place.

It is perhaps a necessary cog, since the US is keen to form bilateral FTAs with individual ASEAN countries. While Singapore has already completed its FTA with the US, other ASEAN countries like Indonesia and the Philippines qualify for an FTA with the US. This is because Indonesia and the Philippines are members of the World Trade Organization (WTO) and the Trade and Investment Framework Agreement (TIFA). Not having an FTA with the US could put Malaysia at a disadvantage if our neighbours do have the benefit of such an agreement.

It is estimated that Malaysia's potential exports to the US could increase by five to ten per cent in the event that it enters into an FTA with the US. Imports are expected to increase by three per cent or so. US manufacturing FDI will, in all likelihood, increase with an FTA. And Singapore will not have the edge over Malaysia of being a tariff-free gateway to the US.

But the road to the conclusion of a US-Malaysia FTA need not be smooth or without compromises. Judging from the US-Singapore and US-Chile FTAs, it is clear that there will be several areas on which Malaysia will have to take hard decisions.

There is no doubt that a US-Malaysia FTA will be based on such principles as non-discrimination, most-favoured nation treatment and market access obligations. In effect this will mean that US firms will have as much access to Malaysian markets as Malaysian firms will have to US markets. The Malaysian position may be more on edge due to the fear that, in practice, US firms will be better equipped to enter Malaysian markets than the other way round.

The services sector will have to open up and handle competition in a more mature fashion. In particular, the banking, insurance, and securities services will be the focus of attention. So will express delivery and professional services. While the field of competition will be more intense for Malaysian firms in the services sector - with the banking sector as a prime example - consumers in Malaysia can expect to gain from such competition.

Another thorny area may lie in the area of intellectual property rights (IPR). It is true that Malaysia is making good strides in ensuring IPR protection. The campaign on the sales of pirated VCDs that was conducted not too long ago is still fresh in our memories. Yet, the US might expect levels of protection that may run counter to our moral intuition.

Let us take the case of a patented drug that effectively manages, say, HIV/AIDS. It might be felt appropriate to resort to the importation of a generic drug that is based on the patented version. Or, not to extend the patent of an anti-AIDS drug when the patent expires.

In a case such as this (which finds concrete expression in Africa), there is a tension between doing what is morally right and safeguarding property rights. The question that is raised is: does protecting profits take precedence over saving lives?

Other issues that might be pushed before an US-Malaysia FTA is concluded are competition and government procurement. Singapore committed itself to enacting laws proscribing anti-competitive conduct. It also agreed to create a competition authority by 2005. While Singapore is a member of the WTO Agreement on Government Procurement, the US-Singapore FTA commits it to even further obligations.

A US-Malaysia FTA will demand strong obligations from Malaysia. It will push us towards greater liberalisation. Complain as we may that such an FTA will be an instrument of economic imperialism, it will not be pragmatic to deny it.

At any rate, the US and Malaysia are expected to sign the Trade and Investment Framework Agreement (TIFA) some time this year. The TIFA is a precursor to a US-Malaysia FTA. Given the flow of events and circumstances, globally and regionally, it would be more pragmatic to debate the issues, engage in tough negotiations and get the best deal possible than to whine about ways of the US.

The writer is a Research Fellow with the Malaysian Institute of Economic Research (MIER).