

Free Trade Agreements: TPPA destroys livelihood of Malaysians!

Friday 2 October 2015, by [PSM \(Malaysia\)](#) (Date first published: 2 October 2015).

TPPA DESTROYS LIVELIHOOD OF MALAYSIANS !

No TPPA without a Human Rights Impact Assessment Study for Malaysia

Parti Sosialis Malaysia together with Suara Rakyat Malaysia (SUARAM) stresses that Malaysia negotiators are in no position to conclude the TPPA talks without having done a comprehensive Human Rights Impact Assessment (HRIA) study to examine the impact of the trade treaty on Malaysians when it is signed and implemented. If Malaysia concludes negotiations without conducting HRIA, then it is clearly a suicidal attempt for the rights of the Malaysian people.

This week, the final round of negotiation of the infamous Trans Pacific Partnership Agreement (TPPA) trade treaty is in process in USA. All the trade Ministers including our MITI Minister, Dato Seri Mustapha Mohammed is hard at work, negotiating to conclude the TPPA negotiation that have been on-going since 2010.

PSM and other civil interest group calls for the government to conduct a comprehensive study since 2012 have fallen onto deaf ears. In mid-2014, MITI initiated a Cost Benefit Analysis study (CBA) for only two specific areas, namely - impacts on Bumiputra policy, SME and National Interest Analysis.

We were informed that the Bumiputra policy and SME CBA study is undertaken by Teraju, while the National Interest Analysis is done by ISIS (Institute of Strategic and International Studies (ISIS) Malaysia)

But till today, the findings of both studies have yet to be released,

We reiterate that the two CBAs conducted are insufficient as an analysis. The implementation of the TPPA has vast impact on various aspects of our daily lives. The possible impacts of the trade agreements are as follows;

1. Right to food - TPP requires the removal of tariffs on all US agricultural products imported into other TPP Parties - poorest developing countries are left at a severe disadvantage, as they cannot afford to subsidize their agriculture, but must reduce tariffs and open up to unfair competition from subsidized products of the developed countries. This will cause their domestic food producers to go bust and in time completely rely on food imports. Additionally UPOV 1991 prohibits the exchange of seed and patents on plants and prohibit farmers from replanting seed they have saved themselves unless they pay a royalty to the patent holder. Both of these have been proposed in the TPP.

2. Right to healthcare and well-being - In the recent drafts, TPPA will delay or prohibit low-cost generic drugs from entering the market, further restricting access to medicines. Intellectual property provisions would make it very difficult, if not impossible, for generic drug manufacturers to enter and remain viable in the market. TPPA adopts the U.S. proposal of data exclusivity for biologic medicines of more than five years, perhaps even 12 years together with extension of patent term.

3. Right to basic amenities - Water and sanitation - When countries take steps to ensure the affordability and quality of water, they have been successfully sued via investor to state dispute settlement (ISDS) for violating provisions. The similar provisions are now found in the TPP's investment chapter. A case to note would be the Vivendi case.

'In 1995, the French company Compagnie Générale des Eaux (which subsequently became Vivendi Universal) and its Argentine affiliate Compañía de Aguas del Aconquija S.A. signed a concession contract with the Argentine province of Tucumán to develop and operate the region's water service. As part of Vivendi's "cost recovery strategy," the company raised water bills in the impoverished province by some 70 percent. Not only were these increased costs far beyond the means of most Tucumán's residents, but they did not yield any significant improvements to the water service.

4. Right to Education - A ban on private educational institutions or a restriction of their numbers is not possible under the likely market access rules of the TPP services, As stated by the Special Rapporteur on Right to Education- privatization adversely affects the right to education, both as an entitlement and as empowerment . . . ' Privatization in education cripples the universality of the right to education as well as the fundamental principles of human rights law by aggravating marginalization and exclusion in education and creating inequities in society.'.

Further, the leaked TPP intellectual property chapter includes a proposal to extend the copyright period (including copyrights period for educational materials) for another 20 to 50 years

5. Right to housing - The leaked TPP investment chapter and the likely TPP services chapter would allow investors from other TPP countries to buy as much land and housing for investment purposes as they want,- making it unavailable and unaffordable to locals.

6. Rights of citizens and environmental protection —. TPP is likely to require removal of tariffs on almost all products, including hazardous waste, Example, Canada banned the commercial export of polychlorinated biphenyl (PCB) waste for disposal and was successfully sued for this ban under investment chapter provisions in the North American Free Trade Agreement (NAFTA) that are equivalent to those which have been agreed in the leaked TPP investment chapter

7. Rights of workers - Despite the inclusion of a labour chapter that requires TPPA nations to implement ILO regulations, it does not prohibit corporations right to sue national governments if they enforce labour regulations against foreign direct investors. As the Veolia v Egypt investment dispute shows, increases in the minimum wage can give rise to an investment dispute.

Besides the above constrain, all developing countries that have liberalised their manufacturing and services sector will experience large layoffs of workers by domestic small and medium size industries that are not in an economic position to compete with the multinational corporations.

8. Rights of indigenous communities - In the case of 30,000 indigenous people who successfully sued Chevron in Ecuador's courts for its pollution of the Amazon, the case is currently in the process of appeal under investment treaty provisions equivalent to those which have been agreed in the leaked TPP investment chapter. Thus making it difficult for the indigenous communities to seek justice.

The above mentioned implications to Human Rights are only a fraction of possible Human Rights violations resulting from the TPPA. We are deeply concerned that the Malaysian government have taken this matter lightly without adequate study. The current CBA is no more than a superficial attempt to understand and evaluate the social, economic and human rights implication resulting from the implementation the TPPA.

A report by the United Nations Human Rights Council in December 2011 identified the importance of extensive Human rights Impact Assessment study by a state when negotiating trade investment treaties. The report by the Special Rapporteur on the right to food, Olivier De Schutter states that

"Human rights impact assessments of trade and investment agreements should be prepared prior to the conclusion of the agreements and in time to influence the outcomes of the negotiations and, if necessary, should be completed by ex post impact assessments" (Notes from UN General Assembly, Human Rights Council, and Session 19)

He has also laid out the general principles to carry out the HRIA. (Human Rights Impact Assessment for Trade and Investment Agreements. Report of the Expert Seminar, June 23-24, 2010, Geneva, Switzerland).

In conclusion we reaffirm our call to MITI and the Malaysian Government that the TPPA negotiations MUST NOT be concluded without conducting a complete and transparent HRIA in regards of the TPPA and ensure that the content of the HRIA is publicly available and accessible. We condemn any efforts by the MITI Minister to hoodwink the cabinet and Parliament with half-baked CBAs study on Bumi, SME and National Interest.

The Minister so far has confirmed that when the negotiations are concluded, the TPPA would be presented to the Parliament alongside with the CBA for debate. **On this note, we advise the Minister to NOT mislead the Parliament on the real effects and implications of the TPPA.**

If the Minister and by proxy the government of Malaysia wish to conclude the TPPA, the HRIA MUST be conducted now with no further delay. .

NO TPPA WITHOUT HRIA!

Released by,

Sivarajan

Secretary General

Parti Sosialis Malaysia (PSM)

P.S.

* PSM. 2 OCTOBER 2015:

<http://partisosialis.org>