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Malaysia's Trade Policy: Time for Review

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EXECUTIVE SUMMARY

- As a new coalition takes over the reins of government in Malaysia, it is an opportune time for reviewing its trade and investment policies and make adjustments in line with regional and global developments.
- A good place to start would be a stock-take of Malaysia's commitments at the regional and multilateral levels. This would give policy makers an appreciation of the gaps and provide clarity on the way forward.
- A review of domestic policies should include trade facilitation, regulatory environment, digital connectivity, SME development, and human capital development.
- The new government should also review Malaysia's bilateral relations, including engagements in FTAs, regional partnerships specifically the country's role in ASEAN (including RCEP), APEC and the CPTPP, and its role in the WTO.
- It important to ratify the Comprehensive and Progressive Trans Pacific Partnership (CPTPP) Agreement and play a more central role in pushing for the conclusion of the Regional Comprehensive Economic Partnership (RCEP) Agreement. This would send a positive message about Malaysia's commitment to open and fair trade.

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INTRODUCTION

Malaysia is one of the world's most open economies. Trade is equivalent to 130% of its GDP. Its trade policy, which is fairly liberal and transparent, has contributed to its economic growth, which has averaged 5% over the past few years, in spite of the vagaries of global economic environment.

This essay provides a brief overview of Malaysia's trade, industrial and investment policies and proposes areas for review, the aim of which is to ensure Malaysia remains competitive and an investment destination of choice. This includes trade facilitation; and review and changes in regulatory environment and institutional structures; as well as strengthening Malaysia's role in bilateral, regional and multilateral fora.

OVERVIEW OF TRADE, INDUSTRIAL AND INVESTMENT POLICIES

Key to Malaysia's trade policy is its commitment to the rules-based multilateral trading system, regional economic integration through ASEAN, and strengthening of bilateral economic relationships. This trade policy is aligned with its industrial and investment policies. The industrial policy is driven by the need to continue to grow exports of both goods and services, expanding the export base and supporting the move up the value chain. Integral to its trade, industrial and investment policies are measures to enhance trade facilitation, reduce regulatory burden, and support productivity and innovation initiatives.

Malaysia maintains a somewhat "liberal" trade, industrial and investment regime. To a large extent, its policy regime is predictable, transparent, and uniform:

- It has limited requirements for licensing, or other approvals, except for health, safety, and environmental reasons;
- It has generally low tariffs;
- It makes prudent use of trade remedies (such as safeguards and anti-dumping measures);
- It has a fairly efficient Customs clearance processes;
- It has Free Trade Agreements (FTAs) with most of its trading partners; and
- It maintains a liberal environment for investments in the manufacturing sector, and an open service sector.

In addition, Malaysia has both the institutional support and facilities for business including trade-related institutions, Customs, and standards organization and an effective financial sector.

However, it maintains quantitative restrictions for some critical sectors of the economy, mainly in agriculture, and high tariffs limited to a few products (e.g. automotive and alcoholic beverages).

Malaysia is seen as business-friendly and attractive to investments, both foreign and domestic. However, to maintain and improve its competitiveness in the face of global economic and technological challenges, Malaysia would do well to review its policy regime.

WHAT NEEDS TO BE DONE

In the immediate term it is necessary to:

- do a stock-take of Malaysia's commitments at the regional and multilateral levels: This would then provide an appreciation of the gaps and provide clarity on the way forward;
- review the investment environment: this would include the concerns of the private sector regarding withholding tax, reinvestment allowance, licencing and permit requirements in the manufacturing and services sectors;
- work on ratification of the Comprehensive and Progressive Trans Pacific Partnership Agreement (CPTPP); and
- push for the completion of the negotiations of the Regional Comprehensive Economic Partnership (RCEP) Agreement.

The following are other priority policy areas that should be considered. At the domestic level, Malaysia should focus on trade facilitation, improving the regulatory environment, digital connectivity, SME development, support for the services sector, investment policy and human capital development and labour policy.

1. Trade Facilitation

Customs Clearance Procedures

Trade facilitation involves Customs, and the various Permit Issuing Agencies. It would be useful to review the efficiency of these bodies. Questions that need to be asked: How long does it take to clear a container or air freight shipment? How does this compare to neighbouring countries and to best practice? How many licences are required? Are they necessary? What are the payments involved? The answers to these questions would guide the process of reform and improvement.

Seamless Logistics

Effective and efficient logistics make for enhanced competitiveness. Malaysia needs to step up its efforts at improving the last mile infrastructure for better access to ports and airports. This would also involve facilitating better air and sea connectivity, as well as reducing choke points along the logistics supply chain.

Non-Tariff Measures

A significant aspect of trade facilitation is the streamlining of Non-Tariff Measures (NTMs). As Malaysia has relatively low average tariffs, the management of NTMs would provide the country with a competitive edge vis-à-vis its neighbours. NTMs are allowable for reasons of health, safety, consumer protection and the environment. It is important to ensure that these measures are applied in a transparent and predictable manner. Otherwise they become Non-Tariff Barriers (NTBs) as they can have a negative impact on trade. The Economic Research Institute for ASEAN and East Asia (ERIA) has a comprehensive database of Non-Tariff Measures (NTMs) for all ASEAN Member States. It would be useful to dive deeper into this database, verify the NTMs for Malaysia and eliminate those that cannot be justified for reasons of health, safety, consumer protection and the environment.

2. Improving the Regulatory Environment

Malaysia has a stated policy for Good Regulatory Practice: ‘National Policy on the Development and Implementation of Regulations’ (NPDIR). GRP handbooks have also been published – ‘Best Practice Regulation Hand-book’ and ‘Quick Reference Best Practice Regulation Handbook’ – as reference and guide for ministries and agencies to undertake Regulatory Impact Analysis (RIA). The policy and guidelines clearly indicate the need for consultation and feedback from the stakeholders that may be impacted by a proposed policy. While much has been done, it would be useful to review the processes and implementation of this policy. The aim should be to make it easier, faster and cheaper to do business in Malaysia.

In addition, quality regulation calls for better coordination among standards and compliance bodies. A structural change would be to consider including organisations like SIRIM and Standards Malaysia under the Ministry of International Trade.

Intellectual Property Rights Regime

Malaysia needs to review its IPR laws and policy, given international developments as well as the need to encourage creativity and innovation. This must be in line with its international commitments as well.

Competition Policy

Oversight for competition is undertaken by sectoral competition bodies: Energy Commission (EC), Malaysia Communications and Multimedia Commission (MCMC), Malaysia Aviation Commission (MAVCOM), Malaysia Competition Commission (MyCC). MyCC is supposed to coordinate among these commissions for policy coherence. However, there are structural constraints that make this less effective. As such, it would be in the interest of industry and the consumer that the structure of coordination be reviewed.

3. Digital Connectivity

Malaysia needs clear policy direction and coordination to develop its digital connectivity and provide affordable access to technology and digital tools. These will have a direct impact not only on inclusive development, but also facilitate Malaysia's move towards higher end manufacturing, services and e-Commerce. The measures should include:

- having reliable internet coverage and access, as well as affordable internet access; and
- improved nation-wide e-Payment infrastructure and access.

The policy must cover data flows and data-privacy.

E-Commerce

There are a host of government agencies involved in the promotion of e-Commerce in Malaysia. The National e-Commerce Coordinating Committee was established for better alignment of the policy and initiatives. The policy on e-Commerce must be tied to that of Small and Medium Enterprises (SME) development and work on improving the digital infrastructure. This would enable SMEs to take advantage of the benefits of e-Commerce.

4. SME Development

As with e-Commerce, there are a number of agencies involved in SME development. The SME Development Corporation (SME Corp) functions as the central coordinating agency for SME initiatives, with the National SME Development Council (Chaired by the Prime Minister, with members comprising the various ministers involved in supporting SME development) as the apex policy coordinating body. What is needed is a more effective assessment of the programmes and the funds available for the SMEs to ensure that SMEs are provided the necessary support to grow and scale-up, even as Malaysia considers further market liberalisation to enhance its competitiveness.

The focus should continue to be on creating an eco-system that would help the SMEs tap into global supply and value chains; and also ensure that they are able to take advantage of the various trade preferences obtained through the bilateral and regional FTAs.

5. Support for the Services Sector

An efficient service sector is necessary for national competitiveness. Key sectors that impact the effectiveness of the manufacturing and export sector as well as SME development and participation in global supply and value chains are telecommunications, logistics, financial services, and other business support such as accounting and legal services.

There are blueprints on service sector development and logistics sector. The National Transportation Policy is in its final stages of development. It is timely to revisit and review

the blueprints and policies linked to the service sector for a holistic view of the reforms that must be undertaken.

6. Investment Policy

Malaysia has a liberal investment policy, coordinated by the Malaysia Investment Development Authority (MIDA). It is necessary to review the set-up of Investment Promotion Agencies (IPAs) as well as the Investment Corridors as there is duplication of roles and services provided. These include the provision of investment incentives.

There is an urgent need to overhaul the entire incentives ecosystem, starting with an analysis of the efficacy of investment incentives (both in the manufacturing and services sectors) to determine whether or not the tax relief commensurate with the benefits accrued from the investments.

On the domestic investment front, it would be useful to review the automotive (including used cars), steel and other sectoral industrial policies in line with global developments and environmental laws and regulations.

The policy on Industry 4.0 (I4.0) needs to be reviewed. This requires further stakeholder consultations at the state and sub-central levels. The review must also ensure that the policy it is aligned with the country's sustainability and green goals. Most importantly, the policy must respond to opportunities brought about by digital economic developments.

Malaysia needs to have in place a policy to encourage investments in line with sustainable and inclusive development. Investments that have an environmental impact should not only be subjected to an Environmental Impact Assessment but also a Social-Impact Assessment. This will ensure that the investments are of high technology and environment-friendly and not disruptive to communities.

7. Human Capital Development and Labour Policy

There is an urgent need to review and revamp the education and skills development policies if Malaysia is to remain competitive and attractive to foreign and domestic investors. Also, better coordination among the Ministries of Education, Human Resource and Youth, as well as the various skills development and technical and vocational institutions (both private and public).

Equally important is a transparent and predictable foreign labour policy. An overhaul of this policy is imperative. This should be in tandem with the need to step up labour productivity. For as long as companies have relatively easy access to "cheap" foreign labour there is less incentive to invest in process improvements.

TAKING THE BILATERAL, REGIONAL AND MULTILATERAL STAGE

Bilateral Economic Relations

The time is right for Malaysia to relook its bilateral economic relations, prioritise its relationships so as to manage resources effectively. In this context it is necessary to coordinate with both the Ministries of Foreign Affairs and Defence to ensure that Malaysia's economic, geo-political and security interests are aligned.

Malaysia should decide on proceeding with the Malaysia-EU FTA, and the deepening of the bilateral FTA with Turkey; as well as consider a deeper relationship with the Pacific Alliance and Mercusor.

ASEAN Remains a Priority

At the regional level, Malaysia should continue its active role in ASEAN economic integration, especially in rules-making and to ensure that policy commitments at the ASEAN level are consistent with the national policy regime. These include not only the intra-ASEAN agreements but also the Free Trade Agreements between ASEAN and its Dialogue Partners. Malaysia could consider playing the role of the "honest broker" in taking forward the negotiations of the Regional Comprehensive Economic Partnership (RCEP).

The time is right for Malaysia to push ASEAN to reconsider three core elements in ASEAN's journey towards deepening its economic integration: its consensus decision-making approach (the "ASEAN Way"); its role in the region ("ASEAN Centrality"); and its institutional structure for implementation, monitoring and evaluation of its strategies and operations.

The "ASEAN Way" has worked but going forward ASEAN must be bolder, more dynamic and less sanguine in dealing with issues of compliance with, and implementation of, its commitments. Technological developments, specifically the Fourth Industrial Revolution requires ASEAN to relook its way of functioning.

The grouping needs to also give meaning to the phase "ASEAN Centrality" in its decision-making and dealings with its Dialogue Partners. Nowhere is this more relevant than in the RCEP negotiations.

Malaysia should also push for the "Whole-of-ASEAN" approach to implementation of initiatives, instead of functioning according to its three pillars: Political-Security, Economic and Socio-Cultural Pillars. This would enable the region to take a critical look at the compliance with commitments made, including ratification and implementation of agreements. It also means better alignment across the plans and blueprints, coordination among the ASEAN bodies, collaboration with regional and multinational bodies, and enhanced engagement with the private sector, research institutes and civil society.

Leading the APEC (Asia Pacific Economic Cooperation) Agenda

Malaysia will be chair of APEC in 2020. That year sees the completion of the Bogor Goals. When APEC Leaders gathered in Bogor, Indonesia in 1994, they committed to achieve free and open trade and investment by 2010 for industrialized economies and by 2020 for developing economies.

APEC members agreed to pursue this goal by further reducing barriers to trade and investment and by promoting the free flow of goods, services and capital.

These targets became known as the "Bogor Goals," an ambitious manifestation of APEC's common belief that free and open trade and investment are essential to realize the growth potential of the region and enhance economic and social outcomes for all APEC economies.

Malaysia should begin the process of planning its priority deliverables during its chairmanship of APEC. This could include measures for a more inclusive APEC region, focused on leveraging technology and the digital economy.

Other Regional Bodies

Of immediate consideration is the completion of the ratification process for the Comprehensive and Progressive Trans Pacific Partnership (CPTPP), especially since this agreement is consistent with the present government's stance on governance, transparency and predictability. This agreement would also set Malaysia on the course of structural and institutional reform, consistent with the aspirations of the new government.

Malaysia needs to consider its role in other regional groupings and developments. These include the Organisation of Islamic Conference (OIC), the Free and Open Indo-Pacific Strategy, the Pacific Alliance and the Belt and Road Initiative (BRI). Except of the Pacific Alliance, which is a Free Trade Area (Mexico, Columbia, Chile and Peru), the others are more geo-political in nature.

Malaysia should use these regional fora to support and push its national agenda, specifically in inclusive and sustainable development.

The World Trade Organisation (WTO)

Of late, the multilateral trading system under the WTO seems to be losing its impact. However, it is necessary to differentiate the Doha Development Agenda from the rules-making function of the WTO. This organisation is still relevant as it can have the ability to bring countries to the negotiating table in order to avert trade wars. Malaysia should consider how it would like to position itself in this organisation.

CONCLUSION

The change in government after six decades provides Malaysia with the opportunity to reflect on and review its trade and investment policies. It is also appropriate for Malaysia to take a more active role in regional economic integration, focusing on inclusive, sustainable growth and consider its role in the multilateral trading system. Malaysia must not only continue to maintain an open, liberal trade and investment environment, but more importantly, the country must ensure that its policies are relevant in the face of technological changes and demands.

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