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To Ratify or Not to Ratify? Malaysia's CPTPP Question

By Amalina Anuar

SYNOPSIS

Malaysia is unlikely to ratify the CPTPP in the short term, but efforts to create new and improve existing trade arrangements should continue amidst a volatile global economic environment.

COMMENTARY

WITH THE New Year, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) has come into full force. For the CPTPP's seven members, the pact is set to deliver two years' worth of eliminated tariffs [this year](#), along with the ongoing reduction of non-tariff measures in various aspects, including digital trade and preferential treatment to state-owned enterprises (SOEs) and government-linked companies (GLCs).

Though seven members is a good start, more benefits — including greater intra-regional trade — will accrue with a larger CPTPP membership. Unsurprisingly, the spotlight thus keeps returning to potential members, Malaysia among them, to see if it will join the CPTPP family soon.

Odds Against

Under the previous Najib administration, support for the CPTPP was strong. Enthusiasm has waned, however, under the Mahathir-led Pakatan Harapan (PH) government. Several lawmakers in the ruling coalition have historically expressed concerns over the mega-regional trade pact. With civil society organisations gaining more space under Malaysia Baru (New Malaysia), moreover, opposition towards the CPTPP has become more vocal.

Several factors cause this resistance towards the CPTPP and up the odds against ratification:

- *Political*: Some fear that the Investor-State Dispute Settlement (ISDS) mechanism will allow influential transnational companies to challenge public policy regulations for profit.
- *Economic*: Some argue that the CPTPP leaves Malaysia's development vulnerable to [external market](#) pressures, such as by speeding up the shift to a services-based economy despite manufacturing growth not yet reaching its full potential (premature deindustrialisation).
- *Social*: Stricter intellectual property rights could cause [medicine prices to spike](#). Prime Minister Mahathir Mohamad and others have also expressed concerns that joining the CPTPP will result in widening socioeconomic inequalities disruptive to multi-ethnic harmony.

Odds in Favour

But there have also been odds in favour of ratification. Firstly, after the Trump administration's withdrawal from the original TPP, some of the most onerous provisions were watered down or frozen. For example, extended biologics provisions were suspended under the successor CPTPP.

Secondly, most prominent anti-CPTPP sentiment within the ruling coalition, barring Mahathir, comes from non-cabinet members such as MP Nurul Izzah Anwar who have less influence on trade policy.

Thirdly, while Mahathir has expressed concern, he has not indicated outright opposition; as recently as [3 January 2019](#), Minister of International Trade and Industry Darell Leiking noted that Putrajaya is still studying the trade pact.

Fourthly, the CPTPP's aim of pushing for revisions to non-tariff and regulatory measures dovetails with PH's institutional reform goals in substantive ways, such as with [stricter rules](#) on SOEs and GLCs to curb patronage and crony capitalism. Malaysia could hence harness external pressure to complement its own internal reform efforts.

The issue, however, is that while these reform directions align in rhetoric, they do not always get mirrored in reality. Certain PH actions indicate a shift away from institutional reform in key fields, such as when it affects Putrajaya's ability to maintain its foothold in the pivotal Malay-Muslim *bumiputra* vote bloc.

Despite certain exemptions, for instance, the CPTPP's rules could constrain preferential treatment to GLCs and negatively affect the interests of a significant [number of Small-and-Medium Enterprises](#) (SMEs) and contractors — many of whom are *Bumiputras*— dependent on servicing these GLCs.

Plus, while a coalition implies some form of power-sharing and consensus-based decision-making, it is unlikely that CPTPP supporters in PH have enough clout to challenge the prime minister and expedite the agreement's ratification.

Quo Vadis, Malaysia: Three Scenarios

Going forward, three scenarios can unfold:

In the first scenario, Malaysia chooses to withdraw from the CPTPP but undertakes deeper unilateral liberalisation, including on revising preferential treatment of SOEs and government procurement impacted by patronage systems. This will likely come with continued postponement of ratification rather than outright rejection of the pact to reduce loss of face.

This could be further incentivised by a potential United States' [return to the CPTPP](#), as the recently passed Asia Reassurance Initiative Act ([ARIA](#)) promotes US multilateral trade interests in the Indo-Pacific. Though access to US markets could be a point in favour of ratification, Mahathir believes the CPTPP to be [fairer without US](#) involvement.

In the second scenario, Malaysia withdraws from the CPTPP but reform efforts, while present, do not go deep enough to upset key voter interests. Measures like improved transparency will reduce the gap between Malaysia and CPTPP countries, and boost investment appeal. Still, a lack of political will and a continued [reversion to patronage](#) practices, as noted by University of Malaya's Professor Terence Gomez, undercuts progress in governance.

In the third scenario, Malaysia ratifies the CPTPP, but necessary amendments to [19 current laws and regulations](#)— as well as the possible negotiation of [more exemptions](#) — may delay the reaping of benefits and the transformational impact of the trade pact. Plus, it remains to be seen how businesses enjoy gains on the ground, since resistance by a civil service loyal to the previous administration could hamper enforcement as it has ongoing institutional reform efforts.

The Big Push

Even in the most likely third scenario, a CPTPP expansion will not come with Malaysia joining its ranks so soon.

Going forward, whether in the CPTPP or not, Malaysia should intensify the momentum in reform efforts, including phasing in transparency and competition for sensitive areas such as government procurement. Doing so will lay the foundations for a more productive economy and thus long-term sustainable economic growth.

CPTPP members, meanwhile, can continue engaging Malaysia in establishing higher quality trade rules in existing and new disciplines, whether in the CPTPP or otherwise, to keep the flame of free trade diplomacy burning in the region.

So far, Putrajaya has underscored Malaysia's status as a trading nation and its openness to negotiate what it deems "free and fair" trade deals, including [bilaterally](#). Though regional and bilateral trade agreements have always been labelled second best to multilateralism, in a global political economy rocked by backlash against globalisation, protectionism and attacks against multilateral trade, something may be better than nothing.

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