

YB Dato' Sri Mustapa Mohamed  
Minister  
Ministry of International Trade and Industry  
Kuala Lumpur

13 February 2011

Dear YB Dato' Sri,

You are currently negotiating the Trans-Pacific Partnership Agreement (TPPA), a free trade agreement that includes the USA. These negotiations are happening behind closed doors and the texts being discussed are not shown to the public, so we cannot know what you are agreeing to on our behalf.

Your government, our elected representatives, say the TPPA you are negotiating will be a 21<sup>st</sup> century trade agreement.

For us, a 21<sup>st</sup> century agreement must address the challenges that will shape our livelihoods, communities and our planet over the next ninety years - climate change, financial instability, food sovereignty, energy scarcity, pandemics, insecurity, inequality and poverty, and constraints on corporate greed.

Instead, we understand that the proposed TPPA would intrude far behind our national borders to not only restrict our financial regulation and grant new rights for foreign investors, but also limit how things like healthcare, energy, natural resources and culture will be regulated; how our tax dollars may be spent; what sort of food safety and labelling will be allowed; whether medicines will remain affordable; and more.

What you are proposing and the way it is being negotiated are undemocratic and hypocritical.

First, a TPPA would bind our domestic policies and laws for decades ahead; even when the government changes its policy in future or faces new realities, its hands will be tied.

Second, Malaysia's obligations under the agreement would be enforced in international, not domestic courts: as a minimum, the government could face trade sanctions if it failed to comply; and, at worst, foreign investors could sue the government in a secret international court to enforce their special new rights.

Third, you are conducting these negotiations in secret. A more transparent TPPA process would provide some basic safeguards against errors and identify risks that may not be apparent to negotiators and the government. It could also help convince people that a TPPA really will replace the past trade pact models that benefitted and privileged special interests and multinational firms.

The reason commonly given for needing to keep the negotiating texts secret is that greater transparency would undermine negotiations. But this presumes that your proposals would not survive the sunshine of scrutiny. Even the World Trade Organization (WTO), hardly renowned as a bastion of transparency, now posts country documents and negotiating texts on its website for scrutiny. If politicians and negotiators cannot convince the public through robust, open and informed debate about what you are proposing in our name, the talks should not proceed.

We are demanding, at a minimum, that the Malaysian Government proposes to all the other the TPPA negotiating parties at the forthcoming negotiations in Chile in February 2011 that they agree collectively to:

- 1) Create and maintain a public website which governments and civil society can post information and participate as equals in a dialogue and debate;
- 2) Post the draft text of each chapter as it is completed to open them to expert and public scrutiny. Given the global financial crisis, the perfect starting point is the texts on investment and financial services, completed in the December 2010 Auckland round;
- 3) Post countries' position papers on specific subjects that are tabled during negotiations;
- 4) Guarantee that all civil society has equal access to information and engagement with the process, regardless of whether they are supportive or critical of the proposed agreement.

Failure to agree to such transparency and allow for open debate will further discredit the TPPA negotiating process and strip any negotiated text of legitimacy.

Thank you for your kind attention.

Yours sincerely,

1. Consumers' Association of Penang (CAP)
2. Dewan Muslimat PAS Pusat (DMPP)
3. Lajnah Pengguna & Alam Sekitar PAS Pusat
4. Monitoring Sustainability of Globalisation (MSN)
5. Positive Malaysian Treatment Access & Advocacy Group (MTAAG+)
6. Sahabat Alam Malaysia (SAM)
7. Solidariti Wanita Muda Malaysia (SWiMM)
8. Third World Network (TWN)