

Trans-Pacific Partnership Agreement (TPPA): Good Governance Empowerment in Malaysia

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ABSTRACT: *Trans-Pacific Partnership Agreement (TPPA) was signed by 12 members of Asia Pacific Economic Corporation (APEC) on 4th February 2016, after five years of negotiation. The members are Malaysia, Singapore, Brunei, Vietnam, Chile, Peru, Australia, New Zealand, Japan, Mexico, Canada and United States of America. The Agreement seems to be a new pace in Free Trade Agreement (FTA) between nations in the region as it is genuinely constructed to facilitate nation members toward good governance. This article will specifically narrow to Transparency and Anti-Corruption element in the Agreement, despite other elements relate to good governance strategy in TPPA includes, (1) Antitrust / Competition Policy, (2) Government procurement, (3) Intellectual Property (IP), and (4) Investor-State Dispute Settlement (ISDS). Chapter 26 in the Agreement specialized to Transparency and Anti-Corruption that members committed to implement in trading activities among themselves. Two vital rules of the chapter are, (1) Transparency concept in trading activities between members as every member hold the responsibility to declare implemented and new laws, regulations and procedures to facilitate and ease country members, (2) Anti-corruption action to be conducted by members in every activities relate to every clauses of the Agreement. Malaysia become a member of United Nation Convention Against Corruption (UNCAC) since 2008 and by signing the Agreement, the best practices implemented due to the Agreement can be conducted by standardization to all trade members out from TPPA ring. This essential move will develop into good governance in international trading by Malaysia and pulling more investment into the country.*

Keywords: *anti-corruption, good governance, transparency, Trans-Pacific Partnership Agreement (TPPA).*

I. INTRODUCTION

World Bank (2016) reported in July 2016, Malaysia was ranked 23rd out of 190 countries in the list of ease doing business for 2017, a step below than her achievement in 2016 rank. The index of ease doing business used to evaluate regulations directly influence business and measure by 10 indicators, includes (1) starting a business, (2) dealing with construction permit, (3) getting electricity, (4) registering property, (5) getting credit, (6) protecting investors, (7) paying taxes, (8) trading across borders, (9) enforcing contracts, and (10) resolving insolvency. The evaluation of every indicator related to the procedures itself, the time taken to get the service and the cost involved for the service. In 2016 report, Malaysia was experienced lower rank for every indicator except in getting credit. It is learned that countries in higher ranking offer more conducive and friendly environment for business community compared to countries below. Realising the essential of proved measurement in supporting business showed by the ranking, Malaysia aimed to be in top ten spot in 2020 (MIDA, 2015). Being in the higher ranking is one of the steps to push economic growth in the country.

Despite the ranking above, Malaysia ranked at 18th out of 140 countries in the list of Global Competitiveness Index (GCI) (World Economic Forum, 2015). The ranking measurement includes 114 criteria and construct into 12 pillars. It is believed that the result is encouraged by strong urge in rebranding the system through Government Transformation Programme (GTP) and Economic Transformation Programme (ETP) by Malaysia government. Stated that Malaysia highest improvement in, (1) technology readiness (47th, up 13 places), (2) macroeconomic stability (35th, up nine places), (3) continuously reduced in deficit budget to the lowest in six years (3.7% of GDP) and (4) Higher Education & Training (36th, improving by 10 places). Beside the achievements, there are room for improvement in (1) reducing redundancy cost, (2) to increase % of women in labour force and (3) to % gross secondary education enrolment.

Recent development that put Malaysia in the eyes of the world is based on the strong basis in the system that encouraged resiliency in financial and economic of the country. It is also showed that Malaysia is practising good governance in order to be in this stage, but has to do more. By signing Trans-Pacific Partnership Agreement (TPPA) with 11 other members includes, Singapore, Brunei, Vietnam, Chile, Peru, Australia, New Zealand, Japan, Mexico, Canada and United States of America will enhance the challenges that can turn into opportunities for Malaysia to empower good governance practised and become high-income and developed country in 2020.

II. THE CONCEPT OF GOOD GOVERNANCE

In the simpler meaning, the word “Governance” is related to the process in decision-making and the implementation of the decision. It is can be used in several circumstances includes international governance, national governance and corporate governance. In context with the word “Governance”, it come “Good Governance”. Sheng (2015)discussed that Good Governance has 8 major characteristics, which are, (1) consensus oriented, (2) accountable, (3) transparent, (4) responsive, (5) effective and efficient, (6) equitable, (7) participation, and (8) follows the rule of law. The brief explanation of the 8 components is shown in the Table below:

Table 1.The characteristics of Good Governance

No.	Characteristic of Good Governance	Details
1.	Consensus oriented	In the situation of making decision, there are vary parties will directly and indirectly necessitated. Good Governance implementation required the mediation process to pool all interest related in order to find the best solution and can be achieved for the whole society/system involved.
2.	Accountable	Accountability is a main character of Good Governance, in line with transparency and the rule of law. Organization has the accountability that varies parties effect by decisions made is taken care wisely.
3.	Transparency	When the decision taken and enforcement action take place, two of them made by clear rules and regulation, it is called transparency. This word also represent situation where important information about any action that can affected to the parties, are freely available and accessible.
4.	Responsive	Responsive means every service needed by stakeholders be fulfil in reasonable time frame.
5.	Effectiveness and efficiency	Institution/process deliver in good governance will present the result that suited all stakeholder needs with the use of optimal resources and sustainable use of natural resources and environment protection.
6.	Equity and inclusiveness	All parties related to the organization/system/process are given equal space and opportunity to be in the mainstream.
7.	Participation	Participation in good governance directly means that every layers in the system are well informed, organized and take into consideration while making decision that have the impact to them directly or not.
8.	Follows the rule of law	Good governance organization/system implements fair action in legal and enforcement of the law. It is also support Human Rights especially for minorities.

In a deeper explanation, Good Governance is the concept where the country/organization has the ability to exercise power, outlined good and conclusive decisions and present decisions through best practices action in the field of economic, social, financial or other areas. Stated below are the key concepts of Good Governance:

1. Technical and Managerial Competence

Human factor is the main key concept in Good Governance, while technical and managerial fields are the main competencies to support the concept. The two competencies are important due to the needs of characteristics in Good Governance which includes consensus decision, inclusivity, effectiveness and others.

2. Organisational Capacity

2.1 The quality of the organisation where the concept aimed to be implemented should have strong basic capacity as a good and conducive organisation. The capacity involved is human and the system established within the organization.

2.2 Organization as one country ought to have significantly good human development in term of education and culture to create the ecosystem of Good Governance within the country. The same goes to every organization that Good Governance are.

3. The Rule of Law

Good Governance supported by the rule of law. Rule of lawis the way rules and regulation being established, which is through process involved of setting, interpretation and implementation action. Every decision made by the authority is written clearly in open documents that can be achieved by stakeholder.

4. Accountability

Accountability is the concept that keep those with power to deliver its in appropriate decision and action. Accountability can be strengthened through the establishment of supportive system such as check and balance, information openness and high accessibility.

5. Transparency and Open Information Systems

Transparency and Open Information System is the important key concept of Good Governance. Both have the good implication in empowering every stakeholder involved in the system where the two are developed. For example, once both concepts are present seriously by government in international business, it will empower private sector by offering the clear perspective of what conditions are in place, so the latter can make the best decision about being across boundary or make new investment.

6. Participation

Participation concept is believed as the tools to gather all information needed from all stakeholders in order to generate best decision related to the organization. The concept of participation is also one of the main concepts in democracy.

Explanations above take into the conclusion of Good Governance as a big and continued effort to achieve by the nation or organization. It is also involve time consuming that a weakness in coordinating such effort will grow failure seed to nation development as a whole. It is learned that developing countries like Malaysia are progressively develop and strengthen the system of the country to be Good Governance government. By practising the characteristics and the key concepts of Good Governance, a country will become resilience in the aspect of economic, political environment and social that will empower the people and develop the country.

III. DISCUSSION

The objective of TPPA is to provide significantly transparent international business within the country members. On the other hand, TPPA sealed the proactive action to combat corruption and bribery among public officers by lay out ethical principles for those involved in multinational business. As mention by Baker & MacKenzie (2016), the TPPA seeks to enhance trade and investment through, among other things, raising standards amongst the parties. Arnold & Porter LLP (2015) shared four key provisions of Chapter 26 in TPPA as below:

1. The Parties seek to eliminate bribery and corruption in international trade and investment.
2. The Parties agree to adopt laws to establish bribery of government officials as a criminal offense, and to have those laws apply not only to persons, but to entities as well. The Parties also commit to enact provisions ensuring accurate books and records and to consider enacting protections for individuals who report misconduct relating to bribery to governments.
3. The Parties are required to effectively enforce their respective anti-corruption laws.
4. The Parties commit to use appropriate measures to promote the active participation of individuals and groups in the private sector to adopt internal accounting controls to prevent or detect corruption in international trade and investment and to undertake appropriate auditing and certification procedures.

Beside the proactive provisions as mention above, the Agreement request members to join United Nations Convention Against Corruption (UNCAC) that is also encourage all parties to prevent corruption, criminalize bribery in the law and commitment to give corporation in asset recovery action specifically to detect and prevent money-laundering. UNCAC is the first collaboration among countries in order to fight against corruption that took place in 2003. Among all, Malaysia, Brunei, Singapore and Vietnam are already in the ring of UNCAC. For Malaysia, being in UNCAC from 2008 is shown that the country was realised the importance of establishing Good Governance based in its system. And by joining TPPA, the effort to strengthen the base of Good Governance, especially in international trading is continuously get the commitment from the government. It is vital to stay in this path as it will show the ethical development in conducting matters within the country to pull new investors/international traders and retain existing investors/international traders in Malaysia.

IV. CONCLUSION

TPPA will bring changes in the system of international business in Malaysia. Despite the comprehensive system that the country have today, the Agreement will make it perfect. For the private sector, the sector that government put more responsibility to grow the economic environment in Malaysia, proactive action should be taken to grab all the opportunities offered by the Agreement. Preparation to the changes coming ought to be done before the enforcement of the Agreement take place in 2018. Government as the enabler and facilitator should do the same. The readiness of all the system in the country to suit the implementation of TPPA should be evaluate by this year as premier step, and action to restructuring should take place concurrently. In the aspect of human resource, public officers must keep competence in order to play a

vital role in managing stakeholder. The concept of Good Governance that more than offered by Transparency and Anti-Corruption in Chapter 29, TPPA should be the main objective of the country.

As mention above, the specifically concentration in Transparency and Anti-Corruption prevention action taken place in TPPA is the first attempt to put it clearly in Free Trade Agreement (FTA). It is strongly suggested that the World Trade Organization (WTO) through WTO Dispute Settlement Body enforced the anticorruption commitment invented through TPPA to put more weight to the implementation.

The execution of Transparency in law, regulations and other information in TPPA will assist the trade activities as a whole. The benefit of this one of Good Governance element will spill all over in the business environment in the country, and the region specifically.

As a conclusion, Malaysia is one of the countries with established anti-corruption law that suited with the one agreed in TPPA. But, Malaysia placed 54th out of 168 countries in Corruption Perception Index 2015 (Tranparency International, 2015) down by four places from a year before. Although the index solely based on the perception, Malaysia should take serious action to take care of the system in the country, and build a huge wall between the system and bribery. As a member of TPPA, the hope to see and feel Good Governance implementation broadly and effectively in Malaysia will shine as it supposed to be.

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