

# **LIBERALIZATION OF THE SURVEYING PROFESSIONS IN MALAYSIA**

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**Keywords:** World Trade Organization (WTO), General Agreement of Trade in Services (GATS), trade barriers, liberalization, surveying professions.

## **SUMMARY**

The paper looks into the possibility of full liberalization of the surveying professions in Malaysia and its impact on the individual surveyor, survey professions, end users, public and the nation.

As part of her international obligations under both the WTO and GATS documents, Malaysia is expected to open her domestic market to foreign players by liberalizing any trade barrier policies particularly in agriculture, labour intensive manufacturing and services sectors respectively. In return, Malaysia would receive reciprocal treatment from other country members. The enhanced, new market access and reduction of trade barriers would reduce poverty. Most importantly it would bring both physical and technological development, leading towards an overall better societal quality of life. In line with its aspiration in becoming an active key player in international economy and trade, Malaysia has taken some initial but significant moves towards liberalization. In 2010 the Prime Minister of Malaysia made a rather bold and surprise move by removing the 30 percent Bumiputra equity requirement in local business entity, a 41 year old controversial policy considered by many as trade barrier. Such decision covers all sectors of business, professional services included. The article accesses the impact of liberalization on the future of the surveying profession of Malaysia, so far a small and almost an elite group of professionals, their readiness, how they are coping with the drastic change, whether the government could help them, whether such assistance is necessary or allowable under WTO regulation and the possibilities of taking actions as pre-emptive measures in preparation for the new wave of global competition

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## **1. INTRODUCTION**

Malaysia agrees to become a member to the World Trade Organization in 1995, when it replaces the General Agreement of Trade and Tariff 1947. Comparatively the WTO has a wider mandate than the GATT. The WTO covers both merchandise trade, trade in services and trade issues in relation to intellectual property rights. These areas of trade are governed by the General Agreement on Trade and Tariff (GATT), General Agreement on Trade in Services (GATS) and Agreement on Trade Related Issues of Intellectual Property Rights (TRIPS) respectively. Malaysia has to accept these three main agreements as part of the whole WTO package. Interestingly they are multilateral in nature. They are enforceable only when all member countries agree to the terms and provisions of the documents and signed them. In essence, they are the reverse of bilateral agreements, which is mainly limited to trade agreements between two nations only.

As a member country of WTO, Malaysia is to open more of her domestic market to foreign trading partners and international counterparts to compete. This is achieved by liberalizing and reducing any trade barriers in related sectors as mandated by WTO, GATS or TRIPS. For example, the GATT talks about individual countries' commitments to lower customs tariffs and other trade barriers. Likewise the GATS also expect country members to open and keep open services markets. In discharging her international obligations of WTO-GATS, Malaysia must liberalizes any trade barriers therein, particularly in agriculture, labour intensive manufacturing and services sectors, where she, like other developing countries has comparatively strong advantages than her more developed counterparts. The enhanced or new market access and reduction of trade barriers would reduce poverty and most importantly bring both physical and technological development, leading towards an overall better societal quality of life.

This paper discusses the possibility of the full liberalization of the surveying professions and its impact on the individual, profession, society and nation. Currently there is a slow but progressive movement to liberalize the said profession at ASEAN level when Malaysia signed to an agreement on arrangement for the mutual recognition of surveying qualifications in 2007. The end objective of this agreement to enable liberalization to eventually takes place and allows mobility of surveying personnel within the ASEAN regions. So far no particular study has been made to see their impacts on the relevant parties.

## **2. WTO OBLIGATIONS AND TRADE LIBERALIZATION**

Theoretically, openness in trade by the international community creates conducive investment climate for both foreign and domestic markets, which in turn, is positively correlated with

economic growth (Rahim, 2004). For example investors feel more opportunistic and secured financially in an open and free from all barriers markets when certain trade barriers that previously might restrict their business are removed. It is only prudent for any country to court investors, regardless locally or foreign as they bring intellectual capital and technology (Brotosusilo, 2006). They too can also push other aspect of social infrastructure in a positive direction. The enhanced market access would promote private incomes, local economy and consequently world trade. This is particularly so when WTO only offers trade privileges to member countries. Needless to say when a country in question refuses to become a WTO member country or fails to discharge its international obligation of WTO, it would miss the international trade bandwagon and subsequently risks marginalization by international communities.

Briefly many countries place trade barriers in the form of quotas, equitable interests, subsidies, taxation or tariffs as a protective effort in protecting local business and economy against foreign competition. Most of the time, the protectionist trade barriers and policies are essential and justifiable. It is feared the more technologically advanced and financially capable foreign competition would easily and quickly dominate the domestic market to the detriment of domestic players (Subramaniam & Shang, 2006), who in turn are generally lagging far behind in terms of efficiency and productivity. Practically many are still unable to compete on equal basis with foreign competition. In due course protectionism would positively permits the domestic industries to become more efficient producers so much so gain the confidence and capabilities of marketing their goods and services externally. The overall impact would see the development of external trade. However on a larger scale protectionism and trade barriers would eventually slow down the much anticipated developmental progress. This is because each country has to encounter the same protectionism and trade barriers policies whenever it wishes to venture into foreign market. Understandably every country in the international community would erect such trade barriers for the very same reasons of protecting their economy and national interests. As such opportunities for trade are neither developed nor capitalized fully to the extend it reduces the efficiency of the world economy. This explains for the WTO's call removal of trade barriers and trade liberalization at international level. Such exercise would presumably enhance efficiency further in boasting and bringing more trade, financial gain and finally economic growth amongst country members.

### **3. MALAYSIA AND INTERNATIONAL TRADE**

It has been widely accepted that trade in services contributed significantly to international trade and economic growth. Clearly Malaysia so far has benefited tremendously from international trade. It is responsible for Malaysian continuous, consistent and steady double digit in export since the last three decades. The reciprocity treatment, which permits Malaysia to gain concessions in penetrating foreign markets has and will give the local manufacturers bigger chance in promoting their goods abroad. As such, it is a very valuable bargaining chip. This fact is significant especially when Malaysia starts to strategically positioned itself in the knowledge-based economy, so much so the services sector has been earmarked as its next engine of growth.

On the other hand it equally has biting teeth. It could be equally damaging to the member country's economic growth. The trade liberalization is actually placing the local manufacturers and industries that usually have different capabilities or in-capabilities together with presumably the more advanced and able foreign counterparts in the same market place. The equal treatment and expectation of WTO then subsequently is expecting all the competing parties to fairly competing in vying for the same consumer trade market, when in certain cases they might not be true at all.

#### **4. LIBERALIZATION OF TRADE IN SERVICES**

In comparison with manufacturing (with exception of automobiles), services activities have been relatively closed to international competition. In discharging her GATS commitments Malaysia needs to firstly identify services sectors or sub-sectors and the modes of supply in which she is willing to liberalize. In furtherance, Malaysia must stipulate the expected time line for the liberalization of identified sectors or sub-sectors in a process called "scheduling". Malaysia also must indicate any limitations on market access and national treatment. Since 2005 till to date, more than thirty countries have requested Malaysia (Mazunder, 2002) to liberalize or further liberalize for a wide range of professional services placed under the current commitments. There are also request for Malaysia to eliminate restrictions in additional sectors not committed under GATS such as limits on foreign equity, intra-corporate transferees, transparency of policies and domestic regulatory procedures. In terms of sectoral commitments, Malaysia continues to relax some of the policies in regard to professional services (MITI, 2009). For example, foreign companies can now operate in Malaysia and work in the field of accounting, auditing, bookkeeping and taxation, as well as engineering services. However they must work together with the locals through joint ventures or partnerships. Their equity in the company should not exceed thirty percent.

The regulation and equity holding policy was further diluted in 2009, when the government agrees to improve the long standing national policy known as New Economic Policy 1971 (MITI, 2010). The announcement also declares the total removal of the thirty percent equity holding policy cap in local business organization, first introduced by NEP. The thirty percent cap policy refers to the mandatory thirty percent bumiputra's involvement in the form of either equity holding or actual participation in any business entity locally. It attempted to correct the British colonial policy in segregating Malaysians into three main groups according to ethnicity with each group focusing on specific economic activities. The said policy was to encourage more bumiputra's participation and involvement in the local economy. Despite being the native of the land, they do not control or involve actively in the local economy. Such policy has for so long and constantly been a source of attack, criticism levelled at the government and considered by foreigners as trade barriers.

In his 2012 budget speech on October 7, the Prime Minister announced liberalization of several service sectors to spur further private investment and accelerated growth. The budget specifies up to one hundred percent foreign equity will be allowed in key sectors such as healthcare, education and professional services.

## **5. EFFECTS AND CHALLENGES TO THE SURVEYING PROFESSION**

Admittedly the latest announcement on liberalization does not specifically mentioned about surveying professions. Nonetheless the surveying community cannot and should not treat this fact lightly, assuming they are forever protected and invincible from liberalization. It is believed that it would not be long in the future when the foreign government would make the request of liberalization of the surveying profession under the umbrella of “business services” which involves professional services too. When that happens, the government do not have much choice but to consider liberalizing the surveying professions for the international market too. Several recent governmental activities and undertaking with foreign counterparts from the ASEAN communities is already paving towards that direction particularly. This can be seen in the form of Agreement for the Mutual Recognition of Surveying Qualifications signed by the Government of Malaysia together with seven other ASEAN country members on 17th November in 2007 in Singapore (Hai, 2004). It could be regarded as the mere first few steps towards a broader liberalization of the surveying professions under the umbrella of “professional services”. This is also supported by stated the preamble and objectives of the agreement. It is in preparation for trade liberalization of the said profession and to facilitate the mobility of surveying professions within the ASEAN region. The term of mobility above could be further construed to allow and enable the surveying professionals to work within and outside the territories and jurisdictions of their countries of origin.

Even if the government decides to stop the liberalization exercise at ASEAN level, the surveying professions nonetheless is far from safe. The combined numbers of ASEAN surveyors who may have the intention to compete in Malaysian domestic market though smaller than the numbers of surveying professions at international level, they nonetheless are still by far larger than local surveyors. Due to the small numbers of existing professionals and nature of business, it is unknown whether the profession, currently regarded as an exclusive and close knit society could compete with the influx of foreign competitors locally. For instance, though the land survey profession is one of the oldest professions in Malaysia, and contributes significantly towards national development, the surveying community is usually and still small. Even after 55 years of independent, there are only about 6000 members registered with the surveying association, ranging from geomatic & land surveying, property management, valuation surveyor and quantity surveying. In that sense the surveying community is almost unrivalled. However that soon would change drastically when Malaysia opens its economic sky to foreign surveyors. The same shall have to fight very hard in a now saturated market order to maintain and continue to enjoy the lucrative and huge share of economic and financial cake.

The liberalization of the surveying profession is generally good for the public. However it must be done with caution. With the removal of thirty percent equity, any surveyors could now generally work in Malaysia and compete with the local. The market would become saturated further especially if there is no curtail on who can actually practise locally. For example, in absence of clear guideline or regulations either from the responsible ministry or surveying board, any one with economic and financial capabilities inclusive business man and

non-professional surveyor could also operate a surveying firm locally. This is dangerous as it would lead and expose the public to presumably reduced standards of practice and quality as usually demanded from a professional surveyor. This is an important consideration. It must be borne in mind that liberalization is put in place in return of the technology transfer. As such it defeats the whole purpose of liberalization for Malaysia as a host country. Instead the liberalization could become a camouflage for new neo-colonism for others in the local market.

Apart from that it may deny the local players of the necessary opportunities to nurture their capabilities, creativity and expand their business. As a “small” operator, their financial capital might be comparatively small than the foreign players. The Malaysian surveying market is not dominated by any large regional or multinational firms, except, possibly, for the offshore hydrographic surveying for the hydrocarbon industry. The surveying firms tend, traditionally, to be local or provincial. More often than not they are owned and operated by a sole professional or partnerships. Most of the times, their source of capital comes from personal pockets, loan or re-investment. It is possible for any foreign business entity to merge, acquire or buy over an existing surveying firm. Sometimes such option is preferable as it is much simpler than setting up a totally new business entity. For example, USD 10 million or 10 million Euro may be a small figure to invest to any foreign business man. However it is comparatively a huge amount, too tempting and difficult to resist offer to many locals. Moreover there are other issues involved too. For example, who would be the easiest target? Assuming that the foreigners would target young, up start survey firm as they may be cheaper to pay, it would be long for the more experienced local surveyor may face shortage supply of qualified surveyors who wish to work with them. If there is none, they may end up closing their practice.

On the other hand if the foreign targeted and choose the more experienced surveyors instead, the livelihood of the young, fresh graduates or uprising surveyors might be at stake too, as there may be less or no employment for them. In the end, if the above occurs on a widespread basis, it would not be long for the local domestic market is dominated by foreign players instead. There is a tendency that the locals may be “employed” by the foreign. Certainly the reversal of position is not what is intended by the government. Instead of working for themselves, they are working for foreign employees. Whatever profits made for that financial year would be transported outside of the country. The intended vision of improving the societal or professionals quality of life becomes questionable and the objective of Vision 2020 would be achieved at all.

Worst still, it is also possible for the “foreign” owner to practically continue staying in his home country for various reasons. For economic purposes, they can do this by merely employing or appointing surveyors with enough, minimum or no experience at all to run their business locally. The above scenario indicated several things. Firstly how business interest, profits and personal convenience shall take precedent over professional concerns, safety, quality and professionalism. Legally it is quite dangerous for the host country, end users and public. In the event of breach of professional duties or contractual obligations, the consumer and public may have difficulties in tracking and pinning down the real owner or litigate the

matter in court. It involves tricky legal issues on conflict of laws, jurisdiction and enforcement of the court order, if any.

Secondly, the widespread employment and equal distribution of economic wealth amongst members of public as visualized by the government through its New Economic Plan mentioned earlier may not occur at all. This is because not all surveyors would be “selected” to work with the foreign counterparts. Hypothetically, out of 6000 surveyors, only a small fraction of them, for example 1000 are chosen. This leaves another 5000 surveyors, who generally have limited financial or technological capabilities, as explained below, to compete with the foreigners. It is highly likely that they are fighting an uphill task and many may face the possibility of terminating their services. As at to date, it is very likely for them to venture abroad as what the foreign surveyors are doing. Unlike the legal, engineering or banking professions who have in the past decade gone beyond the Malaysia borders, offering their services elsewhere and involving several jurisdictions, the surveying profession so far has yet to become internationalized.

Lastly it also poses questions on the future for the younger generation of surveyors. It is a known fact that most Malaysian survey firms are family owned, traditionally hand down from generation to the next. As discussed above this small survey firm may have to close business when they no longer win their fight with the more powerful and capable foreign competitor. So what happen if the foreign firms refuse to grant an internship or industrial training to undergraduates? What would happen to their quality of education? In the longer term it would seriously jeopardize the profession.

Thinking aloud, most of the local surveyors have limited technological capabilities. This is because they are usually technology producers and do not engage in research and development activities or have strong links with research activities with local universities or research institutes for the purpose of developing and producing their own technology locally. They rely on methodologies and technologies developed by their counterparts from more advanced countries. These technologies are usually protected by intellectual property rights. As such the local surveyors may constantly require financial capital, for the purpose of purchasing the apparatus and technology, licensing fees or payment for royalty in return for the technology. It is a norm for technology producers to increase the price of their goods, subjecting the local surveyors to “fancy” and demands of others. They too have to allocate some of their annual budget for training in using that technology. Positively the same is good for the public and end users as they now have more or better choices. On the other hand, as far as the profession is concerned, they may have to think of new strategy or approach in delivering equal if not better services to the consumers. Otherwise they may lose the customers, a prospect which is not good to any profession. At both ends, this also means new injection of additional financial capital to their budgets.

## 6. GOVERNMENT'S ASSISTANT

Liberalization would have great impacts of the surveying professions, community and national wealth and societal well-being. As one of the major stakeholders in liberalization and

governing entity, the government has important role to play. Whist opening the Malaysian economic sky, it too has to ensure that the domestic players are not overwhelmed and “swallowed” by the economic big fish. In their current position, not many of them are ready to face or embrace liberalization fully. They thus still need the government assistance and protection. This leads to the next question. Are these allowable under the WTO regulation which clearly promotes openness, non-discrimination and transparency? If so, how could both the government and existing players protect their economic turf and to what extent? Again, would that be good for the nation?

Generally the WTO does not totally exclude or reject limitations or protectionism. Therefore it is still possible for Malaysia, as a sovereign to exercise her sovereignty by imposing limitation and protectionism through regulated domestic regulations. Moreover in so doing, Malaysia must ensure that such regulations are equally applicable to all, local or foreign so that there is discrimination of treatment from one applying party to another. Secondly, the domestic regulation or limitation must be made known to all, as part fulfilment of WTO transparency requirements.

However what those domestic regulations or requirements are subject to further investigations. In order to satisfy the requirements of various parties and as a good policy analysis exercise, it is better for parties concerned to conduct further research before a national policy and decisions could be made respectively. Views, data and inputs from various stakeholders such various government ministries and agencies involved in foreign and domestic trade, international relations and so on, industries, surveyors, foreign players, investors, universities and public must be collected first. Analysis of the current situation must be made too. This is ensure that the policy is not change, replaced or made based on immediate trends or symptomatic issues or misconstrued as action plan and vice versa. Most importantly the policies and said domestic regulations must be able to withstand the test of time. It is pertinent to avoid having policy or domestic regulations that are effective as merely delaying tactics only.

## 7. CONCLUSION

Decision to liberalize professional services is a matter of governmental and national policy. It should always remain solely with the government. In furtherance, government as a sovereign entity and power needs to make that big decision with careful consideration. Liberalization would bring the intended good when it is properly introduced and implemented at the right time and in conducive condition. Otherwise it would bring the opposite impact with negative results to the nation, negating the intended and much dreamt economic growth and prosperity.

On the same hand it is also important for the surveying professions to re-look and re-assess their capabilities and limitations. They should start focussing on strengthening their technological capabilities and expertise as professional surveyors. As such there must be avenues for the community to enhance their role, competency, competitiveness, relevancy and capabilities so that they continue to be the power house to be reckoned with.

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