Agreement ID : AUSTRALIA-MALAYSIA
Short Name : Malaysia-Australia FTA

Member Countries

Australia
Malaysia

Total: 2 countries

Malaysia-Australia Free Trade Agreement

Status : Signed in **2012**. In force since 2013
Scope : Bilateral
Type : FTA & EIA
WTO Notification : GATT Art XXIV, GATS Art V 2013
Agreement text :
http://www.dfat.gov.au/fta/mafta/documents/Malaysia-Australia-Free-Trade-Agreement.pdf
Other links :
http://dfat.gov.au/fta/mafta/
WTO consideration process :

GOODS

Tariffs
Positive list

Australia to eliminate customs duties on all originating goods from the date of entry into force of this Agreement

Malaysia to eliminate customs duties in most products from 2013 to 2020 according to Schedule, eliminate customs duties on rice from 2023 to 2026, and maintain TRQ for milk and other agricultural products

Rules of Origin
Product specific rules

Contingency Measures
Anti - Dumping : Article VI of GATT and Antidumping Agreement
Countervailing Duties : Article VI of GATT and Agreement on Subsidies and Countervailing Measures
Safeguards : Article XIX of GATT and Agreement on Safeguards. Transitional Safeguard Measure

Standards : WTO Plus (TBT and SPS)

Notes :
Negotiations started 2005, resumed October 2008 and the agreement was signed on 22 May 2012.

SERVICES

WTO Notification (GATS Art. V) : Notified
Date of notification : 13/05/2013
Consideration Process : Not Considered

Liberalization Approach : Positive Lists

Modes Covered
Cross - Border Supply : **Yes**
Consumption Abroad : **Yes**
Commercial Presence Abroad : **Yes**
Movement of Natural Persons : **Yes**

Specific Chapters on

Financial services : **Yes**
Telecommunications :**Yes**
Movement of natural persons :**Yes**

Specific Sectors Excluded

Air transport : **Yes**

Public Sectors carve-out : GATS-like (Article I:3(b))

Most Favoured Nation :

National Treatment : Binding

Market Access : Binding

Domestic Regulation : Binding but subject to legitimate expectations (GATS-like)

Subsidies covered by services disciplines : Not covered

Denial of benefits for commercial presence : Article 8.15 Denial of Benefits

Notes :

Link to schedules :
http://dfat.gov.au/fta/mafta/

INVESTMENT

Scheduling Approach : Negative Lists

Definition of investment : Covers portfolio investment

Most Favoured Nation : Binding

National Treatment : Binding

NT provision applies to entry and establishment rights : **Yes**

Fair and Equitable Treatment : Binding

Clarifying text on FET : **Yes**

(a) “fair and equitable treatment” requires each Party not to deny justice in any legal or administrative proceedings;...(c) the concepts of “fair and equitable treatment” and “full protection and security” do not require treatment in addition to or beyond that which is required under customary international law, and do not create additional substantive rights.

Expropriation : Binding

Clarifying text : **Yes**

Board of Directors and executive personnel : Not Featured

Invester - State arbitration : No

Denial of Benefits :

Subject to prior notification or consultation, a Party may deny the benefits of this Chapter to an investor of the other Party that is a juridical person of such other Party and to investments of that investor if the juridical person has no substantive business activities in the territory of the other Party and persons of a non-Party, or of the denying Party, own or control the juridical person

Additional BIT exists between the parties : **No**

BIT list I :

Status:

BIT list II :

Status:

Notes :

The Parties shall enter into discussions on Schedules of Non-Conforming Measures within three years from the date of entry into force of this Agreement, unless the Parties otherwise agree. Articles on National Treatment, Most-Favoured-Nation Treatment and Non-Conforming Measures shall not apply until the Parties' Schedules of Non-Conforming Measures have entered into force. Article 12.3 on relation with other Chapters (Trade in Services and Movement of Natuaral Persons)

Link to schedules :

TRADE FACILITATION

Customs procedures : **Yes** Chapter 4
Customs valuation : **Yes** Article 2.8
Trade regulations publication and administration : **Yes** Article 4.7
Use of ICT : **No**
Mobility of business people : **No**
Freedom of transit : **No**
Transport and logistics : **No**
Trade finance : **No**

OTHER AREAS

Government Procurement : **No**
Investment : **Yes** Chapter 12
Competition Policy : **Yes** Chapter 14
Intellectual Property : **Yes** Chapter 13
Dispute Settlement : **Yes** Chapter 20
Labor Mobility : **No**
Labor and Environmental Standards : **No**
Technical cooperation : **Yes** Chapter 16
Institutional mechanism : **Yes** Chapter 19

Notes :

RULES OF ORIGIN

Cumulation

Bilateral

Specific Process

-

Heading Change

Chapter, heading and subheading change

De Minimis

10% of value; for chapters 50-63 also 10% of weight

Minimum Content

RVC:40%

Drawback

Not mentioned

HTTP Link

http://www.dfat.gov.au/fta/mafta/documents/Annex-2-Product-Specific-Rules-Schedule-HS2007.pdf

Notes :

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