

## **Malaysia Australia Free Trade Agreement (MAFTA)**

### **Guide to the Agreement – Chapter Summaries**

## **Malaysia-Australia Free Trade Agreement (MAFTA) — Chapter Summaries**

### **Preamble and Chapter 1 - Establishment of the Free Trade Area and General Definitions**

1. The Preamble recites the historical basis, bilateral context and broad aims for the Malaysia-Australia Free Trade Agreement (MAFTA). MAFTA is cited as *"building on [the Parties'] respective rights and obligations under... the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area [AANZFTA] and other multilateral, regional and bilateral agreements"* in recognition of MAFTA's objective of delivering AANZFTA-plus outcomes. Chapter 1 establishes MAFTA (consistent with World Trade Organization (WTO) rules) and defines terms that are used in more than one chapter of MAFTA.

### **Chapter 2 - Trade in Goods**

2. The Trade in Goods Chapter obliges the Parties to progressively reduce and/or eliminate tariffs in accordance with each Party's applicable schedule contained in the Schedule of Tariff Commitments. It establishes the framework of rules for trade in goods between the Parties. The Chapter affirms a number of WTO provisions that already govern trade in goods among the Parties and, in some cases, provides for more specific commitments as well as enhanced transparency. This includes provisions covering national treatment, fees and charges connected with importation and exportation, publication and administration of trade regulations, and import licensing.

3. Article 2.10 (Non-Tariff Measures) of the Chapter requires the two Parties not to adopt or maintain any non-tariff measures on the importation or exportation of any goods to the other Party except in accordance with its WTO rights and obligations. The Parties are required to ensure any non-tariff measures are transparent and do not create unnecessary barriers to trade between the Parties.

4. There is also provision for the Parties to hold consultations on non-tariff measures to identify the scope for additional means to enhance the facilitation of bilateral trade in goods.

5. Article 2.11 (Import Licensing) provides for a Party to respond to a request from the other Party for information on the criteria employed by its licensing authorities in granting or denying import licensing. The importing Party is also required to consider publication of such criteria.

6. With regard to tariffs, the Parties have agreed to reduce and/or eliminate tariffs ahead of the time frame provided for under AANZFTA.

### Chapter 3 - Rules of Origin

7. The Rules of Origin (ROO) Chapter and associated Operational Certification Procedures (OCP) and Schedule of Product Specific Rules (PSRs) establish the criteria for determining whether goods will qualify for preferential tariff treatment under MAFTA (whether a good 'originates' in Australia or Malaysia). The chapter also sets out the procedures and documentation for demonstrating that a good qualifies for preferential treatment and, if necessary, verifying that this is the case.

8. MAFTA builds on AANZFTA which established ROO based on 'co-equal' access to either the 'change in tariff classification' (CTC) model or a regional value content (RVC) test. For most goods under MAFTA, exporters have the choice of testing their products under a CTC-based rule or an equivalent RVC-based rule. For some goods, only a single option applies.

9. The key benefit of the 'co-equal' approach is that it marries the objectivity of Australia's preferred CTC approach – there is a single, clear rule for each tariff line – with Malaysia's greater familiarity and comfort with the RVC-based approach. The agreement to adopt alternative approaches to ROO also provides additional flexibility for Australian exporters who may, for whatever reason, choose to export their goods under the RVC-based test. For some goods there is an additional option for exporters to use a rule based on the production process.

10. The rules in this Chapter provide for full cumulation – whereby any originating material and processing which occurs in Australia or Malaysia is counted as originating content in the manufacture of another good. Under full cumulation, the whole preferential area created by the free trade agreement (FTA) is considered a single territory. Any working or processing of a good within the area is considered when determining the origin of that good, not just the originating materials used in its production. It means that the processing of a material in Australia can be counted in determining the origin of a final good produced in Malaysia, even in cases where that material was not deemed to be MAFTA originating. Full cumulation recognises the growing trend towards global production networks and the fragmentation of manufacturing into discrete units.

11. The Chapter includes provisions covering a comprehensive set of issues relating to the determination of origin, including: methodology for calculating regional value content; minimal operations and processes which do not affect originating status; treatment of accessories, parts and tools; treatment of goods where only a small proportion of inputs fail to meet the relevant ROO (the so-called de minimus principle); treatment of packing materials and containers, and transport of goods through non-Parties.

12. The Chapter also sets out procedures and requirements relating to documentation that the good satisfies the origin requirements. The documentary requirement in the case of Australian exporters is a declaration of origin (DOO) completed by the exporter or producer of the goods and for Malaysian exporters is a certificate of origin (COO) issued by a designated Issuing Authority. This is a significant improvement on AANZFTA which requires the use of COOs. As COOs impose a monetary and time cost on exporters, the use of DOOs for Australian exporters is trade facilitating and will reduce the administrative burden. Furthermore, MAFTA provides flexibility for Malaysia to waive the COO requirement and instead make use of a DOO. The mandatory data requirements, for DOO and COO are the same.

13. Other administrative requirements are also trade facilitating. MAFTA contains provisions relating to review and appeal of decisions on eligibility for preferential tariff treatment. Of particular importance is the Chapter's consignment provision which allows goods to be transhipped through, stored, repacked and relabelled in non-Parties and still retain MAFTA origin. The consignment provisions are business friendly and reflect modern trading practices such as the use of distribution hubs.

14. There are also provisions for ongoing consultations aimed at ensuring effective administration of the provisions on ROO, and providing opportunity for review and amendment of the Chapter.

15. The Annexes to the Chapter include the Schedule of Product Specific Rules and an additional Annex and Appendix relating to procedures and requirements for the Operational Certification Procedures.

#### **Chapter 4 - Customs Procedures and Cooperation**

16. The Chapter on Customs Procedures and Cooperation establishes arrangements for expeditious, predictable, transparent and simplified customs administration aimed at facilitating trade between the Parties. In particular, the Chapter encourages procedures that facilitate the clearance of low-risk goods, and provides for the use of advance rulings to give greater certainty to business, and ensure the availability of review and appeal mechanisms to address disputes.

17. The Chapter requires the Parties to provide for written advance rulings on tariff classification and valuation to be issued in response to a request by importers or by exporters or producers in the exporting Party. With regard to advance rulings on origin, the Chapter provides for these to be provided to the extent permitted by each Party's domestic laws, regulations and administrative determinations. While Australia's domestic arrangements already allow for the provision of advance rulings on origin, Malaysia's current domestic arrangements do not.

18. The Chapter also contains provisions relating to the assurance of protection of confidential information exchanged between the Parties.

19. The Chapter provides for the establishment of inquiry points and publication of all statutory, regulatory and administrative requirements, either on the internet or in print. There is also a requirement for Parties to ensure importers have access to independent administrative and judicial review of decisions taken by their Customs administrations.

### **Chapter 5 - Sanitary and Phytosanitary Measures**

20. The Chapter on Sanitary and Phytosanitary Measures affirms that such measures will continue to be applied in accordance with the Parties' rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Chapter contains provisions on arrangements aimed at strengthening information exchange, cooperation and consultation between the Parties, and in this regard provides for the establishment of Contact Points for the exchange of information and notification. There is also provision for an SPS Working Group to be established that will enhance the existing arrangements for cooperation through the Malaysia-Australia Agricultural Cooperation Working Group (MCWAAG).

21. The dispute settlement provisions of MAFTA are not applicable to any matter arising under this Chapter.

### **Chapter 6 - Standards, Technical Regulations and Conformity Assessment Procedures**

22. The Chapter on Standards, Technical Regulations and Conformity Assessment Procedures affirms the Parties' rights and obligations under the WTO Agreement on Technical Barriers to Trade and provides for the establishment of arrangements for enhanced information exchange, cooperation and consultation between the Parties. The Chapter identifies a range of possible vehicles for giving effect to enhanced cooperation. The Chapter (Article 6.1) also recognises the benefits of increasing efficiency, avoiding duplication and ensuring cost effectiveness in conformity assessment procedures, and provides for the Parties to cooperate to facilitate the acceptance of conformity assessment procedures by drawing on a range of mechanisms where appropriate.

23. The Chapter also provides for the Parties to designate Chapter Coordinators to facilitate cooperation between the Parties on standards, technical regulations and conformity assessment procedures.

## Chapter 7 - Trade Remedies

24. The Chapter on Trade Remedies affirms the WTO rights and obligations of the Parties, and establishes arrangements for safeguard measures which may be applied during the transitional period, that is, while tariffs are being reduced and/or eliminated. Safeguard measures may only be applied to the extent and for such time as may be necessary to prevent or remedy serious injury and to facilitate adjustment during the transitional period. The transitional period is the period from entry into force of MAFTA until two years after the customs duty on a particular good is eliminated or reduced to its final commitment, in accordance with a Party's schedule of tariff commitments.

25. A safeguard action can only be taken following an investigation to establish whether the conditions justifying such action are met. The safeguard action cannot be applied for a period exceeding two years, although if certain conditions are met the action can be extended for up to a year. A safeguard action cannot be taken more than once on imports of any good.

26. The safeguard action may involve either a suspension in the reduction of the tariff or an increase in the tariff. The Chapter also contains procedures/provisions in relation to compensation in the form of substantially equivalent concessions, but this compensation may be suspended for twelve months if certain conditions are met. The Chapter references WTO provisions relating to Anti-Dumping, Subsidies and Countervailing Measures and Global Safeguard Measures. This provides certainty regarding the application of relevant WTO disciplines, and some limited 'WTO-plus' treatment. In particular, in relation to Anti-Dumping measures, the Chapter provides for a Party to normally apply the 'lesser duty' rule if this is adequate to remove injury to domestic industry; on Subsidies and Countervailing Measures, the Chapter simply affirms the WTO rights and obligations of the two Parties; with regard to global safeguard measures, the Chapter provides that there should be no duplication in the application of bilateral and global safeguard measures, and for the Parties to consult with each other relating to consideration by either Party of the initiation of global measures.

27. The Chapter also includes a general provision for the Parties to exchange information on their respective trade remedy practices.

## Chapter 8 - Trade in Services

28. The Chapter on Trade in Services includes the substantive obligations relating to trade in services for modes 1 to 3 (cross-border supply; consumption abroad; and commercial presence, respectively) and each Party's Schedule of Specific Services Commitments in an annex to MAFTA, including market access and national treatment; and various regulatory disciplines and other obligations that will enhance certainty and transparency for Australian services suppliers. The Chapter also contains an annex which sets out sector-specific obligations for financial services (see Annex on Financial Services below). A separate chapter and related schedule contain obligations and commitments for the movement of natural persons – 'mode 4' of trade in services (see Chapter on Movement of Natural Persons below).

29. The Chapter, which is based on the AANZFTA Chapter on Trade in Services, provides for a 'positive list' approach to scheduling market access and national treatment commitments, where each Party identifies in its own schedule the services for which market access and national treatment apply, including the specification of any limitations to such access or national treatment. This approach is identical to that provided for under AANZFTA.

30. Parties specify in their Schedule of Specific Services Commitments any limitations on market access where it has undertaken commitments in a sector (for example, limitations on foreign equity, restrictions on the organisational form of commercial presence, number of service suppliers or total value of services transactions or assets). The national treatment obligation requires that, in sectors where commitments have been undertaken, each Party shall accord to services and service suppliers of another Party treatment no less favourable than it accords to its own like services and service suppliers, subject to any specified conditions and qualifications. There is also provision for a Party to make additional commitments relating to qualifications, standards or licensing matters. A Party may modify its specific commitments, subject to compliance with formal procedures for notification of, and consultation with, the other Party and, if necessary, compensatory adjustments.

31. The Chapter on Trade in Services provides for a review of commitments by Parties three years after entry into force of MAFTA and at least every five years subsequently. The aim of these reviews is for Parties to further improve specific services commitments so as to progressively liberalise trade in services.

32. Unlike AANZFTA, the Chapter does not contain a provision for consultations on most-favoured-nation (MFN) treatment, but includes MFN treatment in the list of issues that the FTA Joint Commission may consider in its forward work program. Australian companies supplying services to Malaysia will continue to have access to AANZFTA consultations on MFN treatment. The Chapter contains a modified provision for an emergency safeguards mechanism, which applies only to the services sectors on which AANZFTA-plus market access commitments have been made.

33. The Chapter contains a sector-specific annex covering financial services.

### **Chapter 8 Annex - Financial Services**

34. The Annex on Financial Services sets out certain rights and obligations on the Parties that reflect the distinctive characteristics and systemic importance of financial sector regulation (AANZFTA also has a Financial Services Annex to its Chapter on Trade in Services). These include exceptions for a Party in relation to measures taken for prudential reasons; to ensure the integrity and stability of the financial system; to ensure the stability of the exchange rate; or to prevent deceptive and fraudulent practices. It also contains obligations in relation to transparency, timely processing of licensing applications, and transfers and processing of information by financial service suppliers in the ordinary course of business.

35. The MAFTA Annex on Financial Services contains a number of AANZFTA-plus provisions.

- A shorter period (within 120 days) for responses by Malaysia's regulatory authorities to applications by Australian financial institutions to supply financial services (within 180 days in AANZFTA) and vice versa.
- Includes a commitment that prudential and regulatory measures 'shall not constitute a means of arbitrary or unjustifiable discrimination' against Australia (and vice versa).
- Inclusion of a payment and clearing systems article, which provides Australian financial institutions established in Malaysia (and vice versa) access to payment and clearing systems operated by public entities, and to official funding and re-financing facilities available in the normal course of business. There is no provision for a lender of last resort facility.
- Inclusion of a provision that permits Australian financial institutions to supply any new financial service similar to those services (included in Malaysia's market access commitments) that Malaysia would permit its own financial institutions to supply (and vice versa).

- Recognition that the Annex covers Shariah-compliant financial services, given the development of Islamic finance in Malaysia and Australia.

## **Chapter 9 - Telecommunications Services**

36. The Chapter on Telecommunications Services builds on the commitments made in AANZFTA and on WTO rules (the WTO Telecommunications Reference Paper) in relation to the regulation of major telecommunications service suppliers that control essential facilities or have a dominant position in the market. Parties are required to prevent anti-competitive conduct and ensure that major suppliers provide interconnection; access to facilities; leased circuit services; and co-location of equipment on reasonable, non-discriminatory terms and conditions.

37. The Chapter contains a number of 'AANZFTA-plus' commitments, including on

- Competitive safeguards.
- The allocation of spectrum and other scarce resources (to facilitate fair and equitable access to Malaysia's mobile telephone and internet spectrum and vice versa).
- Number portability (enables a user to carry across their existing telephone number to another service provider in the same country).
- Submarine cable systems.
- Access to public telecommunications networks).

38. The Chapter on Telecommunications Services contains provisions on transparency, including in relation to licensing and review of regulatory decisions. Regulators must be independent and impartial, and must publish or otherwise make available any regulatory decision together with the basis for the decision. The Parties must ensure telecommunications suppliers can seek timely review of any disputes, including independent judicial review of regulatory decisions. The Chapter also contains commitments to facilitate industry involvement in regulation of the telecommunications sector.

## **Chapter 10 - Movement of Natural Persons**

39. The Chapter on Movement of Natural Persons (MNP) provides a framework for commitments on the temporary movement of natural persons who are business visitors (including investors and goods sellers); contractual services suppliers; executives; intra-corporate transferees; or installers and servicers. Each Party has a Schedule of MNP Commitments in an annex to MAFTA, setting out commitments on specific categories of natural persons, in accordance with its temporary entry regime. Commitments in relation to the movement of natural persons to supply services (mode 4) are set out in each Party's Schedule of MNP Commitments rather than in their respective Schedule of Specific Services Commitments.

40. The Chapter on MNP contains obligations which require the Parties to publish information on temporary entry requirements, promptly process completed applications for temporary entry and stay, and grant temporary entry or extension of stay to natural persons who meet relevant eligibility requirements. The Chapter preserves each Party's right to protect the integrity of its borders and to ensure the orderly movement of persons across them.

41. The Chapter on MNP contains a number of 'AANZFTA-plus' regulatory commitments, including:

- To allow the spouses and dependants of an applicant to enter, and under certain conditions to work, in the territory of a Party for the same period as the applicant (Malaysia has not made commitments on spouses and dependants in AANZFTA; this will make it easier and more practical for families to relocate to Malaysia to accompany a family member taking a short-term employment opportunity).
- To notify applicants of the outcome of an application before the applicant arrives in the Party's territory (AANZFTA does not contain a commitment to notify applicants prior to their arrival in country, and this issue was identified by business groups as an issue to be addressed in MAFTA).
- To establish mechanisms for responding to enquiries from interested persons about measures affecting temporary entry and stay (no commitment in AANZFTA that the Parties will respond to such enquiries).

42. The Parties are obliged to attempt to settle any differences arising out of implementation of the Chapter through consultations. Dispute settlement under MAFTA is available where there has been a refusal to grant temporary entry, but only when the matter involves a pattern of practice and the natural persons affected have exhausted the available domestic remedies regarding the matter.

## **Chapter 11 - Framework on Mutual Recognition Arrangements**

43. The Chapter on a Framework on Mutual Recognition Arrangements (MRAs) establishes a mechanism for developing mutual recognition arrangements on qualifications, registration, licensing and certification requirements for professional services suppliers.

44. The Parties have agreed to encourage competent authorities for professional services within their respective territories to develop arrangements for mutual recognition of qualifications, registration and standards. This will be achieved through exchange of information, promoting acceptable international standards and maintaining lists of mutual recognition arrangements.

## Chapter 12 - Investment

45. The Chapter on Investment, like its AANZFTA counterpart, includes a range of obligations on Parties aimed at enhancing legal protection and certainty in relation to investment. The obligations are directed primarily at the post-establishment stage of investment. These include, among other things, requirements on Parties to:

- Apply fair and equitable treatment and full protection and security (the minimum standard of treatment at customary international law) to investments.
- Ensure non-discriminatory treatment in relation to measures for investors that have suffered losses due to armed conflict, civil strife or states of emergency.
- Allow funds of an investor relating to an investment to be transferred freely and without delay, subject to specified exceptions.
- Ensure that any expropriation or nationalisation of an investment is only for a public purpose; applied in a non-discriminatory manner; is in accordance with due process of law; and is accompanied by payment of prompt, adequate and effective compensation.

46. The Chapter uses a broad, non-exhaustive, 'asset-based' definition of investment covering every kind of asset owned or controlled, directly or indirectly, by an investor, including, inter alia, shares, property, and business concessions conferred by law or contract, including any concession to search for, cultivate, extract or exploit natural resources.

47. The Chapter contains a number of 'AANZFTA-plus' provisions, including:

- Inclusion of most-favoured-nation treatment of future market access commitments, which are the subject of a work program.

- Additional obligations on governments to ensure that they fully compensate investors upon the expropriation of an investment: under MAFTA the compensation provided for the expropriation of an investment must be 'fully realisable' whereas AANZFTA only required it to be 'effectively realisable'.

48. The Chapter does not contain market access commitments on investments in non-services sectors but provides for a work program to enter into discussions on market access schedules, covering issues such as foreign equity limits, to commence within three years of entry into force of MAFTA and to conclude no later than five years from entry into force. The development of these schedules will be based on a most-favoured-nation treatment obligation as well as a national treatment obligation and a two-annex 'negative listing' approach to scheduling, set out in the Chapter. This is the same approach, including on a market access work program, as undertaken in AANZFTA.

49. The Chapter does not contain a provision for investor state dispute settlement, consistent with the Australian Government's Trade Policy Statement of April 2011.

### **Chapter 13 - Intellectual Property**

50. The Chapter on Intellectual Property (IP) reinforces the Parties' existing rights and obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and builds on them in a number of areas.

51. The Parties are obliged to accord national treatment in relation to the protection of IP rights, subject to the exceptions provided for in the TRIPS Agreement and in multilateral agreements concluded under the auspices of the World Intellectual Property Organization (WIPO).

52. The Chapter contains a number of specific obligations on protection of intellectual property rights including in regard to patents and trademarks, geographical indications and common names, copyright and copyright rights management information, effective technological measures, service provider liability, national government use of software, protection of encrypted programme-carrying satellite signals, border measures and enforcement of IP rights. There are also provisions for cooperation between the Parties, including on enforcement, to assist in the implementation of the Chapter.

### **Chapter 14 - Competition Policy**

53. The Chapter on Competition Policy establishes a framework for the promotion of competition and the curtailment of anti-competitive practices. The Chapter includes commitments on the promotion of competition and the application of competition-related measures to curtail anti-competitive practices. It also contains provisions intended to enhance cooperation and coordination, including on the enforcement of competition laws and policies.

## **Chapter 15 - Electronic Commerce**

54. The Chapter on Electronic Commerce establishes a framework for cooperation and coordination on electronic commerce. Parties are obliged to maintain domestic regulatory frameworks for electronic commerce that are based on relevant international standards, including in relation to electronic authentication of documents and transactions and minimise the regulatory burden on electronic commerce.

55. The Chapter includes provisions on online consumer protection, online personal data protection, paperless trading, and unsolicited commercial electronic messages. The Parties are to encourage cooperation in research and training activities that will enhance the development of e-commerce.

## **Chapter 16 - Economic and Technical Cooperation**

56. The Chapter on Economic and Technical Cooperation establishes a framework for economic and technical cooperation and for the promotion of capacity building activities in areas of mutual interest. It identifies five areas of cooperation for particular attention: automotive; agriculture; tourism; clean coal technology; and e-commerce. It notes that other areas may be included, subject to agreement between the Parties.

57. Cooperation is to be implemented subject to the availability of funds and other resources. Costs are to be shared equitably as agreed between the Parties. The FTA Joint Commission is to oversee, review and facilitate cooperation under this Chapter.

## **Chapter 17 - Transparency**

58. The Chapter on Transparency requires the prompt publication of all laws, regulations, procedures and administrative rulings of general application in respect of any matter covered by MAFTA, to better allow traders and investors to be aware of them before they are adopted by a Party. To the extent possible, the Parties must also notify each other of any proposed or actual measure they might take that could materially affect the operation of MAFTA or otherwise substantially affect the other Party's interests under MAFTA.

59. The Chapter also contains provisions in respect of the fair conduct of any administrative proceedings undertaken in regard to laws, regulations, procedures and administrative rulings of general application in respect of any matter covered by MAFTA. It also requires each Party to provide impartial and independent review and appeal processes for final administrative actions regarding matters covered by MAFTA.

## **Chapter 18 - General Provisions and Exceptions**

60. The Chapter on General Provisions and Exceptions sets out a number of provisions and exceptions which apply to some or all chapters of MAFTA. The WTO-style general and security exceptions specify that nothing in certain chapters of MAFTA precludes the adoption by a Party of certain measures, for example, to protect human, animal or plant life or health, as provided for in these exceptions.

61. The Chapter also carves out application of MAFTA to a Party's taxation measures except where specifically intended. The Chapter also includes a WTO-style article allowing a party in serious balance-of-payments and external financial difficulties (or a threat thereof) to take restrictive measures in prescribed circumstances.

## **Chapter 19 - Institutional Provisions**

62. The Chapter on Institutional Provisions establishes the FTA Joint Commission, consisting of representatives of the Parties, to oversee implementation and operation of MAFTA and supervise and coordinate the work of subsidiary bodies. Unless the Parties otherwise agree, the FTA Joint Commission shall meet within one year after MAFTA enters into force, and thereafter as the Parties mutually agree, and as necessary to discharge its functions. The FTA Joint Commission reports to the Joint Trade Committee. The Chapter also establishes contact points for each Party to facilitate communication on any matter relating to MAFTA. These contact points are additional to subject matter-specific contact points established in other chapters.

## **Chapter 20 - Consultations and Dispute Settlement**

63. The Chapter on Consultations and Dispute Settlement establishes a process for consultations and for settlement of disputes arising under the FTA. The Chapter does not apply to disputes arising under the Chapter on Sanitary and Phytosanitary Measures, the Chapter on Electronic Commerce, the Chapter on Economic and Technical Cooperation and the Chapter on Competition Policy.

64. The Chapter sets out procedures and timelines for consultations on disputes arising under the FTA and, should such consultations be unsuccessful in resolving the matter, additional rules for the establishment, functions, composition, proceedings and reports of arbitral tribunals. The Chapter also contains provisions for the implementation of the findings of the arbitral tribunal, including where Parties disagree as to compliance. Remedies, such as compensation and suspension of concessions are also covered by the Chapter. An Annex to the Chapter also sets out Rules of Procedure to govern arbitral tribunals.

65. The Chapter also contains commitments on non-violation complaints which will provide for consultations between the Parties in the event that any measures are taken by a Party which, while not inconsistent with MAFTA, have the effect of nullifying and impairing benefits that could reasonably have been expected to

accrue to the other Party under the Chapters on Trade in Goods, Rules of Origin, and Trade in Services. Should the Parties not be able to resolve the matter through consultations, the matter may be referred to the FTA Joint Commission, which may meet at Ministerial level.

## **Chapter 21 - Final Provisions**

66. The Chapter on Final Provisions governs the way in which MAFTA operates as a treaty. It sets out the relationship of MAFTA to other international agreements to which Australia and Malaysia are both Parties, including the WTO Agreement. In particular it states that MAFTA does not derogate from the WTO Agreement or other agreements to which the Parties are party, and the Parties will consult in the event of any inconsistencies with such other agreements.

67. The Chapter provides that entry into force shall occur 45 days after Australia and Malaysia have notified each other of completion of their necessary domestic procedures and also provides a procedure for termination of the treaty.

68. The Chapter also contains a clause mandating a general review of MAFTA within five years after entry into force, and at least every five years thereafter.

69. In addition, the Chapter provides general confidentiality and disclosure provisions to apply across MAFTA, unless other Chapters apply their own specific requirements.