

IPEF: TRADE PILLAR: GOOD REGULATORY PRACTICES	ASSESSMENT	MY POSITION & RECOMMENDATION (1st & 2nd Round)	MY POSITION & RECOMMENDATION 3 <sup>RD</sup> ROUND NEGOTIATION	MPC assessment on selected Chapter under pillar 1 for the GRP text and positive list alignment.
Article X.1: Definitions	<ul style="list-style-type: none"> <li>The scope and definition of regulation and regulatory authority proposed in the IPEF are consistent with the scope and definition outlined in Malaysia's NPGRP</li> </ul>	<ul style="list-style-type: none"> <li>Use a 'positive list' approach and same scope with Article 25.1: Definitions of CPTPP. This will avoid the risk of regulations that are not included in exception (Annex X-A)</li> </ul>		Chapter Agriculture
	<ul style="list-style-type: none"> <li>IPEF approach is using negative list compared to CPTPP using positive list where the scope of regulation can be determined by each Party (Article 25.3). Positive list can reduce by default measures are regulations.</li> </ul>			Art.X.6(6) - Annex B of the SPS Agreement in a manner that is documented and provides the other Parties and interested persons of the Parties an <b>opportunity to comment</b> , in a manner to be determined by that Party.
For the purposes of this Chapter:	<ul style="list-style-type: none"> <li>Regulatory cooperation - The term 'unnecessary regulatory differences' in the proposed definition of regulatory cooperation may require further elaboration to ensure clarity and avoid ambiguity. It would be helpful to specify which types of regulatory differences are considered unnecessary and how they would be identified or assessed in practice.</li> </ul>	<ul style="list-style-type: none"> <li>change 'adopt' to 'implement' and support on the term use 'or' because it will provide flexibility in Malaysia context where it can be a different agency for develop regulation and enforce regulation.</li> </ul>		Art.X.13(2) - An audit must <b>be systems-based and designed to check the effectiveness of the regulatory controls</b> of the competent authorities of the exporting Party.
				Art.X.14 - If the emergency measure is maintained after the review because the reason for its adoption remains, the Party should <b>review the measure periodically</b> .
<b>regulation</b> means a measure of general application adopted, issued, or maintained by a regulatory authority with which compliance is mandatory, except as set forth in Annex X-A (Additional Provisions Concerning the Scope of "Regulations" and "Regulatory Authorities");		<ul style="list-style-type: none"> <li>use the term 'unnecessary regulatory burden' instead of 'regulatory difference'. This would better capture the intention of regulatory cooperation to address unnecessary or excessive regulatory requirements that create unnecessary costs or barriers to trade, investment, and economic growth.</li> </ul>		Chapter Agriculture Tranche
				Article X.X: Objectives - (d) ensure <b>transparency of regulatory processes and procedures</b> ;
<b>regulatory authority</b> means an administrative authority or agency at the Party's central level of government that develops, proposes, or adopts a regulation, and does not include legislatures or courts; and	<u>Malaysia's GRP practice - National Policy on Good Regulatory Practice (NPGRP)</u>			
	3.2 Definition of Regulation	Oppose regulatory and suggest		Chapter CTF
<b>regulatory cooperation</b> means an effort between the Parties to prevent, reduce, or eliminate unnecessary regulatory differences to facilitate international trade and investment and promote economic growth, while maintaining or enhancing standards of public health and safety and environmental protection.	Regulations are measures of general application in various forms that are undertaken by regulators at various levels for which compliance is mandatory. Regulations include primary legislations (Acts of Parliament, Enactments and Ordinances) and subsidiary legislations (Regulations, Rules, Bylaws, Orders) and Guidelines.			Article X.2: Online Publication
				(b) <b>publish import/export regulation</b>

	2.4.4 Regulator			(g) judicial or administrative procedures available to <b>challenge regulations</b>
<b>covered regulatory measure</b> means the regulatory measure determined by each Party to be subject to this Chapter in accordance with Article XX (Scope of Covered Regulatory Measures)	Regulator consists of Government agencies such as Ministries, Departments, Statutory Bodies, Regulatory Commissions, etc. that are responsible for developing, maintaining and enforcing regulatory programmes. Regulators are to adhere to the NPGRP and comply with the requirements of the Regulatory Process Management System (RPMS).		Malaysia ratified the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (CPTPP) on Friday, September 30, 2022.  Positive list not yet identified - (PIC MITI Bah. Strategik & Korporat)	
				<b>Chapter Labor</b>
				Article X.16: <b>Public Engagement</b>
	Malaysia's commitment in CPTPP			
	Article 25.1: Definitions			
	<b>covered regulatory measure</b> means the regulatory measure determined by each Party to be subject to this Chapter in accordance with Article 25.3 (Scope of Covered Regulatory Measures); and			
	<b>regulatory measure</b> means a measure of general application related to any matter covered by this Agreement adopted by regulatory agencies with which compliance is mandatory.			
<b>Article X.2: Subject Matter and General Provisions</b>	· Article X.2 of the IPEF, which calls for the implementation of government-wide practices to promote regulatory quality and transparency, is consistent with both Malaysia's National Policy on Good Regulatory Practice (NPGRP) and the CPTPP (25.2).	· Propose considering a more general statement in alignment with the CPTPP.	· MY recommend for alignment with the topic of inclusivity.	

1. The Parties recognize that implementation of government-wide practices to promote regulatory quality through greater transparency, objective analysis, accountability, and predictability can facilitate international trade and investment and promote economic growth, while contributing to each Party's ability to achieve its public policy objectives (including health, safety, labor, environmental, and sustainability goals) at the level it considers appropriate. The application of good regulatory practices can support greater regulatory compatibility among the Parties, which can reduce or eliminate, as appropriate, unnecessarily burdensome or duplicative regulatory requirements and encourage cooperation to address shared transboundary and global challenges.	<ul style="list-style-type: none"><li>However, the IPEF goes further by specifically highlighting the importance of engaging interested persons, including individuals who may be historically disadvantaged, vulnerable, or marginalized, in the regulatory process.</li></ul>	<ul style="list-style-type: none"><li>This would allow for a more flexible and accommodating diverse perspectives and interests.</li></ul>	<ul style="list-style-type: none"><li>TH do not have definition for Indigenous Peoples. TH will propose attribution in inclusivity chapter.</li></ul>	
2. The Parties also recognize the importance of transparency in the regulatory development process and the need to engage persons that may have an interest, including small enterprises, workers' organizations, rural communities, and individuals that may be historically disadvantaged, vulnerable, or marginalized, such as women, minorities, and Indigenous people.	<ul style="list-style-type: none"><li>Thailand expressed concern regarding the legal definition of indigenous and requested more flexible terminology.</li></ul>	<ul style="list-style-type: none"><li>To align with ministerial statement and inclusivity chapter.</li></ul>		
3. Accordingly, this Chapter sets out obligations and other provisions with respect to good regulatory practices, including practices relating to the planning, design, issuance, implementation, and review of each Party's regulations.	<ul style="list-style-type: none"><li>Australia recommended alignment with the topic of inclusivity.</li></ul>			
4. For greater certainty, this Chapter does not prevent a Party from:				
(a) pursuing its public policy objectives (including health, safety, labor, environmental, and sustainability goals) at the level it considers to be appropriate;				
(b) determining the appropriate method of implementing its obligations in this Chapter within the framework of its own legal system and institutions; or				
(c) adopting good regulatory practices in addition to those that are set out in this Chapter.				
			PARA 3. ID/US/KR propose to change 'obligation' to 'commitment'.	

			However, KR prefer to opt to obligation because there are some provisions using SHALL.	
			US clarify sustainability goals not referring to SDG.	
			PH proposed to include ‘SECURITY’ in (including health, safety...)	
			FJ/ID propose SDG to replace sustainability goals	
Article X.3: Central Regulatory Coordinating Bodies or Mechanisms	<div>Article X.3 is consistent with the NPGRP (Section 2.4.2: Role of Malaysia Productivity Corporation) and CPTPP Article 25.4, which pertain to coordination and review processes or mechanisms.</div>	The proposed text is okay and no comment. – fulfil obligation for this article.		
	<div>The article emphasizes the importance of central regulatory coordinating bodies for cooperation and coordination among regulatory authorities to achieve good regulatory practices and enhance regulatory quality.</div>			
Recognizing that institutional arrangements are particular to each Party’s system of governance, the Parties note the important role of central regulatory coordinating bodies and mechanisms in promoting good regulatory practices; performing key advisory, coordination, and review functions to improve the quality of regulations; and developing improvements to their regulatory systems. Each Party intends to establish or maintain its central regulatory coordinating bodies or mechanisms, within its mandates and consistent with the Party’s laws.	<div>For Malaysia, MPC is the oversight agency responsible for promoting and supporting the implementation of good regulatory practices.</div>			
	<div>Mechanism is defined as any form of arrangement that not coordinating bodies such as committee that play role as coordinating bodies.</div>			
	NPGRP			

	MPC is an oversight agency on implementing GRP. (Section 2.4.2 Malaysia Productivity Corporation (MPC) MPC will be responsible to promote and support the implementation of the NPGRP which includes undertaking outreach and promotion and providing advisory and training to assist regulators in complying with the national policy.			
Article X.4: Internal Consultation, Coordination, and Review				
	<ul style="list-style-type: none"><li>The IPEF proposes using the term 'shall' to indicate mandatory compliance, while the NPGRP and CPTPP use 'should' to provide a persuasive approach.</li></ul>	<ul style="list-style-type: none"><li>Change the term 'shall' to 'should'</li></ul>		
1. Each Party shall adopt or maintain processes or mechanisms to pursue, among others, the following objectives:				
	<b>NPGRP</b>	<ul style="list-style-type: none"><li>This will allow for a more flexible and accommodating GRP level of development by IPEF members</li></ul>		
(a) promoting government-wide adherence to good regulatory practices, including those set forth in this Chapter;	Section 3.3.1 General Responsibility			
	In adopting and meeting the requirements of the RPMS as set out in this section, regulators should be proactive and collaborative in order to achieve policy coherence and the whole-of-government approach.	<ul style="list-style-type: none"><li>Oppose shall and suggest should.</li></ul>		
(b) identifying and developing improvements to government-wide regulatory processes;				
(c) identifying potential overlap or duplication between proposed and existing regulations and preventing the creation of inconsistent requirements across regulatory authorities;	<b>CPTPP</b>			
	Article 25.5: Implementation of Core Good Regulatory Practices			
(d) reviewing regulations early in the development process to take into account compliance with international trade and investment obligations, including, as appropriate, review of the use of relevant international standards, guides, and recommendations;	<ul style="list-style-type: none"><li>IPEF used “SHALL” compared to CPTPP “SHOULD” for implementation of internal consultation.</li></ul>			
(e) promoting consideration of regulatory impacts, including burdens on small enterprises, of information collection and implementation; and				

(f) encouraging regulatory approaches that promote job creation, innovation, and competition in the marketplace.				
2. Each Party shall make publicly available online a description of the processes or mechanisms referred to in paragraph 1. Parties are encouraged to provide that information on a website described in Article X.7 or through links from that website.				
Article X.5: Information Quality				
	<div><div></div><div>The use of "shall" instead of "should" in IPEF's approach to implementing information quality could lead to a more rigid and inflexible approach.</div></div>	<div><div></div><div>To change ‘shall’ to ‘should’ for Para (2)</div></div>		
1. Each Party shall adopt or maintain publicly available guidance or mechanisms that encourage its regulatory authorities when developing a regulation to:				
	<div><div></div><div>The requirement to "identify sources of information in a transparent manner" could be challenging as some information received may not be disclosed to the public, such as the names of individuals or companies.</div></div>			
(a) seek the best, reasonably obtainable information, including scientific, technical, economic, or other information, relevant to the regulation it is developing;		<div><div></div><div>Oppose shall and suggest shall endeavour</div></div>		
	<div><div></div><div>US respond the privacy and confidentiality has different chapter and the countries do not oblige to publish it if it is under P&amp;C.</div></div>			
(b) rely on information that is appropriate for the context in which it is used; and		<div><div></div><div>To cross check with legal text. AGC</div></div>	Example of guidance or mechanism - <a href="https://georgewbush-whitehouse.archives.gov/omb/inforeg/statpolicy/summary_stat_surveys.pdf">https://georgewbush-whitehouse.archives.gov/omb/inforeg/statpolicy/summary_stat_surveys.pdf</a>	
(c) identify sources of information in a transparent manner, as well as any significant assumptions and limitations.		<div><div></div><div>To clarify transparent manner</div></div>		
2. If a regulatory authority of a Party systematically collects information from members of the public through identical questions in a survey for use in developing a regulation, the Party shall provide that the authority shall:				
(a) use sound statistical methodologies before drawing generalized conclusions concerning the impact of the regulation on the population affected by the regulation; and				

(b) avoid unnecessary duplication and otherwise minimize unnecessary burdens on those being surveyed.				
			Art. 5.1.(c) - identify sources of information in a transparent manner – referring to evidence based that need to be provided / legitimate sources of information or evidence.	
Article X.6: Early Planning				
	NPGRP	· Malaysia supports Japan proposal to change the term 'shall' to 'should, in a manner it deems appropriate, and consistent with its laws and regulations'		
1. Each Party shall make publicly available online annually a list of regulations that it reasonably expects to adopt or propose to adopt within the following 12 months. Each regulation identified in the list shall be accompanied by:	Ministry/Agency are require to submit Annual regulatory plan and MPC are not publish the Annual regulatory plan are not mandatory to be published.		Regulators practice is quite varied. For example, using a general email address like allwto@miti.gov.my instead of a specific one like mukmin@miti.gov.my can offer more leeway and adaptability.	
		· This will allow for a more flexibility and accommodating GRP level of development by IPEF members.	Art.X.6 - adopt within the following 12 months... US clarify depend on Members practices.	
(a) a concise description of the planned regulation;	NPGRP - Terms of Reference Regulatory Coordinator			
	3. Submit annual reporting to MPC, comprises:	· To clarify how 12 months. is it jan-dec or open time frame?	within the following 12 months	
(b) a point of contact for a knowledgeable individual in the regulatory authority responsible for the regulation; and	• Annual regulatory plan, which contains the proposal for amendments of the existing regulations and/or development of new regulations, for the current year;		MY oppose "a point of contact..."	
	• Fulfilment of and compliance with the requirements stipulated in NPGRP; and	· To delete “expected significant effect on international trade or investment.”		
(c) an indication, if known, of sectors to be affected and whether there is any expected significant effect on international trade or investment.	• List of new regulations and amended regulations completed in the previous year.			
		· To clarify understand part 2 – what malaysia need to do including those providing opportunities for public comment under Article X.9.		
2. Entries in the list should also include, to the extent available, timetables for subsequent actions, including those providing opportunities for public comment under Article X.9 (Transparent Development of Regulations).			ArtX.6.(b) JP/MY oppose the requirements ‘knowledgeable individual’ -	

3. Parties are encouraged to provide the information in paragraphs 1 and 2 on the website described in Article X.7.3 or through links from that website.			Cross cutting issue - Article [X].3: Development and Administration of Measures for Supply of a Service Other than a Financial Service	
			1. Provisions of this Article apply in addition to the provisions of Chapter [X] (Good Regulatory Practices). This Article does not apply to measures affecting the supply of a financial service.	
Article X.7: Regulatory Transparency Tools				
	· Para (2) ...final regulations published and maintained on a single website is in line with Malaysia's practice on Federal Legislation Portal ( <a href="https://lom.agc.gov.my/">https://lom.agc.gov.my/</a> )	· To change 'shall' to 'should'		
1. The Parties recognize that using information technology can enhance processes for developing and implementing regulations, improve a regulatory authority's operational performance, provide greater access to information, and increase participation in the regulatory process. Accordingly, each Party, where appropriate, shall use information technology tools that increase transparency and efficiency.	· Para (3) is referring to a single portal for publishing RIA which is equivalent to MPC RIS publish website. However, New Zealand has concern on this due to their regulatory stewardship – respective agencies responsible to manage their regulatory review	· To clarify and check what we need to “regulatory authority or regulatory area to allow for ease of use”		
	· Para (4) submission of comment through a single web portal is similar to UPC portal.	· What regulatory area?		
2. Each Party shall ensure that final regulations are published and maintained on a single, free, publicly available website. <b>On the website, each Party shall endeavor to organize</b> the regulations by regulatory authority or regulatory area to allow for ease of use, including searchability.	· ‘shall allow for the acceptance of digital signatures and digital record submissions for regulatory approvals and compliance documentation’ – some of our regulators still using manual application.			
3. Each Party shall maintain a single, free, publicly available website that, to the extent practicable, contains all information that it is required to publish pursuant to Article X.9 (Transparent Development of Regulations).	NPGRP	Take max position – propose to delete part 5 - Each Party, where appropriate, shall allow for the acceptance of digital signatures and digital record submissions for regulatory approvals and compliance documentation.		



	1.Section 3.4(i) - There is a requirement to use the Digital Regulatory Notification (DRN) Assessment when Regulator intends to notify MPC on any proposals to create or amend regulations. Other than this, there is no requirement in NPGRP to use information technology tools to increase transparency and efficiency.			
4. A Party may comply with paragraph 3 by making publicly available information on, and providing for the submission of comments through, more than one website, provided the information can be accessed, and submissions can be made, from a single web portal that links to other websites.				
	In fact, for public consultation, all Ministries and Government agencies are only strongly encouraged to use of Unified Public Consultation (UPC) portal, which was developed by the Malaysia Productivity Corporation (MPC) for public consultation in RIA.			
5. Each Party, where appropriate, shall allow for the acceptance of digital signatures and digital record submissions for regulatory approvals and compliance documentation.			The article in question is not part of the Regulatory Coherence chapter in the CPTPP, and it's unclear whether this obligation applies to regulators (G2G), interested parties (B2G), or both.	
	2.IPEF use the term shall which makes it mandatory for members in IPEF to ensure that final regulations are published and maintained on a single, free, publicly available website.			
	It is also stated in IPEF that on the website, each Party shall endeavour to organize the regulations to be available for searching and user friendly. The legal effect of the term SHALL does not match/correspond to the legal effect of the term endeavour.			
	The term SHALL as a legal term is an imperative command and indicates that the actions are mandatory, and not permissive, whilst the 'endeavours' clause in legal documents is generally construed as not imposing an absolute obligation to achieve a result.			

	A more appropriate term to emphasize “endeavour” is BEST ENDEAVOURS, which commonly used in legal documents/contracts as referring to an obligation to take all steps that a prudent and determined person acting in their own interests and desiring the result would take.			
	<u>NPGRP</u>			
	There is no requirement in NPGRP, for final regulations to be published and maintained on a single, free, publicly available website			
	<ul style="list-style-type: none"><li>“shall allow for the acceptance of digital signatures and digital record submissions for regulatory approvals and compliance documentation” – some of our regulators still using manual application.</li></ul>			
	The term SHALL which carries mandatory enforcement might not be viable for members of IPEF.			
	<u>NPGRP</u>			
	There is no specific mentioned for the usage of digital signatures in NPGRP but the Digital Signature Act 1997 (DSA 1997) legalize the use of the use of digital signature in Malaysia, certificates issued by licensed Certification Authority (CA).			
	<ul style="list-style-type: none"><li>Federal Legislation – final regulation portal (<a href="https://lom.agc.gov.my/">https://lom.agc.gov.my/</a>)</li></ul>			
			US clarify regulation not include license and permit.	
			MY provide attribution propose to ‘oppose’ Art.X.7(5)	

Article X.8: Use of Plain Language	<ul style="list-style-type: none"> <li>The current practice is to draft legislation in both the national and English languages, following legislative syntax and grammatical norms in compliance with Section 6 of the National Language Act 1963/67.</li> </ul>	<ul style="list-style-type: none"> <li>Malaysia could consider gradually implementing the use of plain language in regulations, while ensuring that legal accuracy is not compromised.</li> </ul>	<p>US clarification on 'Issued or Modified' - covered new and regulatory review</p> <p>AU/NZ/MY proposed for scope is final regulation not the propose draft legislation</p>	
		<ul style="list-style-type: none"> <li>This could include providing explanatory guides and summaries in addition to the legal language of the regulation.</li> </ul>		
Each Party should provide that proposed and final regulations are written using plain language to ensure that regulations are written in a clear, concise, and well-organized manner, recognizing that some regulations address technical issues and that relevant expertise may be required to understand or apply them.	<ul style="list-style-type: none"> <li>Although Article X.8, which requires the use of plain language in proposed and final regulations, is not mandatory, it is still a good practice that Malaysia should consider adopting. The current drafting practices often rely on legal terms and jargon, making it difficult for stakeholders to understand and comply with the regulations.</li> </ul>	<ul style="list-style-type: none"> <li>Clarify what malaysia need to do – consulting with line agency (is it partially)</li> </ul>	MY support the Alt proposal (AU/NZ) - is in line with Regulatory Coherence chapter in the CPTPP, Article 25.5 (2)(4): Implementation of Core Good Regulatory Practices.	
	<ul style="list-style-type: none"> <li>While it is important to maintain the legal integrity and accuracy of the regulations, using plain language can enhance accessibility and understanding for stakeholders. Countries such as the US and Korea have already implemented this practice successfully.</li> </ul>			
Article X.9: Transparent Development of Regulations		<ul style="list-style-type: none"> <li>Follow CPTPP's 'Article 26.2: Publication' defines proposed regulations more broadly.</li> </ul>	US reference: <a href="https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf">https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf</a>	
	<ul style="list-style-type: none"> <li>Current practise, it is not allowed to publish the draft text of a regulation until it is presented to the Cabinet. The proposed Article would breach the Official Secrets Act 1972.</li> </ul>	<ul style="list-style-type: none"> <li>Approval from policy makers/cabinet is required to allow for the publishing of the proposed text of the regulation and regulatory impact assessment before it is finalized.</li> </ul>		
1. During the period described in paragraph 2, when a regulatory authority is developing a regulation, the Party shall, under normal circumstances, publish:	<ul style="list-style-type: none"> <li>In contrast, the CPTPP's 'Article 26.2: Publication' defines proposed regulations more broadly as policy proposals, discussion documents, summaries of the regulation, or other documents, which is more practical and flexible.</li> </ul>			
	<ul style="list-style-type: none"> <li>Requirement consultation period “not less than 60 days” is similar with CPTPP and “not less than four weeks” is similar with NPGRP requirement minimum 1 month.</li> </ul>	<ul style="list-style-type: none"> <li>To change ‘shall’ to ‘should’</li> </ul>		
(a) the proposed text of the regulation along with its regulatory impact assessment, if any;	<ul style="list-style-type: none"> <li>However, NPGRP did not has specific requirement on consultation period “not less than 60 days” for proposed regulation that have a significant impact on international trade or investment.</li> </ul>		Require Cabinet decision and subjected to Scope of Covered Regulatory Measures.	
	<ul style="list-style-type: none"> <li>MPC action – to develop guideline on proposed regulation impact to trade or investment.</li> </ul>	<ul style="list-style-type: none"> <li>To seek AGC advice on Malaysia’s practice for “finalizes it work”</li> </ul>		

(b) an explanation of the regulation, including its objectives, how the regulation achieves those objectives, the rationale for the material features of the regulation, and any major alternatives being considered;	· a regulatory authority “finalizes it work” on a regulation when... For the United States, a regulatory authority “finalizes its work” on a regulation when a final rule is signed and published in the <i>Federal Register</i> . For Thailand, a regulatory authority “finalizes its work” on a regulation when a final regulation is signed and published in the <i>Government Gazette</i> .			
	· shall also normally make publicly available online a list, docket, or other form of compilation, identifying persons, according to their self-identification” – so far UPC don’t have docket system	· To oppose “the proposed text”		
(c) an explanation of the data, other information, and analyses the regulatory authority relied upon to support the regulation; and				
		· To clarify “regardless of domicile”		
(d) the name and contact information of an individual official from the regulatory authority with lead responsibility for developing the regulation who may be contacted concerning questions regarding the regulation.	<b>OSA Act 1972</b>		MY oppose ‘an individual official from...’	
	The proposed text of the regulation or RUU is Cabinet Document and treated as official document under OSA Act 1972.	· To clarify – seek 25.2.4 lpef 9.4.a		
At the same time the Party publishes the information listed in subparagraphs (a) through (d), the Party shall also make publicly available data, other information, and scientific and technical analyses its regulatory authority relied upon in support of the regulation, including any risk assessment.				
		· Define interested person		
2. Each Party shall publish the items required to be published under paragraph 1 before the regulatory authority finalizes its work on a regulation and at a time that will enable the regulatory authority to take into account the comments received and, as appropriate, make revisions to the text of the regulation published under paragraph 1(a).	<b>NPGRP - 3.13 Publication of Regulatory Impact Statement (RIS)</b>			
			MY oppose ‘on terms no less favorable than those afforded to a person of the Party’	

3. After the items identified in paragraph 1 have been published, the Party shall ensure that any interested person, regardless of domicile, has an opportunity, on terms no less favorable than those afforded to a person of the Party, to submit written comments on the items identified in paragraph 1 for consideration by the relevant regulatory authority of the Party. Each Party shall allow interested persons to submit any comments or other input electronically and may also allow written submissions by mail to a published address or through another technology.	A RIS is to be published on the GRP Portal as soon as practicable from the date of the official announcement of the decision to proceed with the development of a proposed regulation or a proposed regulatory amendment.	To clarify “regardless of domicile”	US clarify on 'regardless of domicile, has an opportunity, on terms no less favorable' - party obliged to allow anyone to submit comments on regulation not on the obligation for all interested parties (domicile) to be notify or inform on the consultation.	
			KR oppose 'on term no less favorable than those afforded to a person of the party.	
4. If a Party expects a proposed regulation to have a significant impact on international trade or investment, the Party should normally provide a time period to submit written comments or other input on the items published in accordance with paragraph 1 that is:	<b>Parliament legislative process</b>		US is considering to propose transition period in GRP text	
	In the legislative process, during the second reading, the presented will be distributed to all the members of Parliament and there will be a debate on the proposed law followed by voting. Whole discussion regarding the proposed /amended laws are disclosed in the parliamentary debate (Hansard) which is available for public via the Parliamentary website.			
(a) not less than 60 days from the date the items identified in paragraph 1 are published; or	However, there are no specific details on name and contact information of individual official from the regulatory authority with lead responsibility for developing the regulation who may be contacted concerning questions regarding the regulation.		MPC need to update UPC guideline to adopt 60 days time period	
(b) a longer time period, as appropriate due to the nature and complexity of the regulation, in order to provide interested persons adequate opportunity to understand how the regulation may affect their interests and to develop informed responses.	<b>Public Consultation</b>			
	Requirement consultation period “not less than 60 days” is similar with CPTPP and “not less than four weeks” is similar with NPGRP requirement minimum 1 month.			

5. With respect to proposed regulations not covered by paragraph 4, each Party shall endeavor, under normal circumstances, to provide a time period to submit written comments or other input on the information published in accordance with paragraph 1 that is not less than four weeks from the date the items identified in paragraph 1 are published.				
	“shall also normally make publicly available online a list, docket, or other form of compilation, identifying persons, according to their self-identification” – to date, UPC don’t have docket system.			
6. Each Party shall consider reasonable requests to extend the comment period under paragraph 4 or 5 to submit written comments or other input on a proposed regulation.				
7. Each Party shall, without undue delay, make publicly available online any written comments it receives, except to the extent necessary to protect confidential information or withhold personal identifying information or inappropriate content. If it is impracticable to make publicly available online all the comments on the website provided for in Article X.7.3, a regulatory authority of a Party shall endeavor to make those comments publicly available on its own website. Each Party shall also normally make publicly available online a list, docket, or other form of compilation, identifying persons, according to their self-identification, that have submitted public comments.				
8. Before finalizing its work on a regulation, a regulatory authority of a Party shall evaluate any relevant information provided in written comments received during the comment period.				
9. When a regulatory authority of a Party finalizes its work on a regulation, the Party shall, without undue delay, make publicly available online the text of the regulation, any final regulatory impact assessment, and other items as set out in Article X.12 (Final Publication).				

10. The Parties are encouraged to publish government-generated items identified in this Article in a format that can be read and digitally processed through word searches and data mining by a computer or other technology.				
Article X.10: Expert Advisory Groups and Bodies			Article X.10 is not part of the Regulatory Coherence chapter in the CPTPP.	
	<ul style="list-style-type: none"><li>In practice, Regulators will engage expert advisory group either unofficial (direct engagement) or through official appointment by the government.</li></ul>	<ul style="list-style-type: none"><li>Please share practices on the expert advisory groups and bodies</li></ul>	US reference: <a href="https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/committee/definitions">https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/committee/definitions</a>	
1. The Parties recognize that their respective regulatory authorities may seek expert advice and recommendations with respect to the preparation or implementation of regulations from groups or bodies that include non-governmental persons. The Parties also recognize that obtaining that advice and those recommendations should be a complement to, rather than a substitute for, the procedures for seeking public comment pursuant to Article X.9.3 (Transparent Development of Regulations).		<ul style="list-style-type: none"><li>To change 'shall' to 'should'</li></ul>	MPC assessment on other IPEF chapter (SDR – n/a; Labor - Article X.16: Public Engagement, advisory group; CTF – working group)	
	<ul style="list-style-type: none"><li>In practice, during the RIA process of public consultation, cost and benefit analysis, the subject matter experts' views and advise are gathered to identify options and also to make the recommendation.</li></ul>		MY oppose Art.X.10	
2. For the purposes of this Article, an expert group or body means a group or body:				
	<ul style="list-style-type: none"><li>It is not a common practices by Ministry/Agency with regard to item [(4),(5), (6)]</li></ul>			
(a) established by a Party at the central level of government;		Question to clarify- Does this applicable to malaysia if we don't have expert?		
	<ul style="list-style-type: none"><li>The criteria of Expert Advisory Groups and Bodies need to be clarified.</li></ul>			
(b) the membership of which includes persons who are not employees or contractors of the Party; and		Do malaysia need to establish this expert?		
	<ul style="list-style-type: none"><li>In addition, CPTPP also did not have article on the Expert Advisory Groups and Bodies</li></ul>			
(c) the function of which includes providing advice or recommendations, including of a scientific or technical nature, to a regulatory authority of the Party with respect to the preparation or implementation of regulations.		To check with other asean members practice		

This Article does not apply to a group or body that is established to enhance intergovernmental coordination or to provide advice related to international affairs or national security.				
3. Each Party shall ensure that the membership of any expert group or body established by its regulatory authorities includes a range and diversity of views and interests, as appropriate to the particular context.				
4. Recognizing the importance of keeping the public informed with respect to the purpose, membership, and activities of expert groups and bodies, and that those expert groups or bodies can provide an important additional perspective or expertise on matters affecting government operations, each Party shall ensure that each of its regulatory authorities provides public notice of:				
(a) the name of any expert group or body it creates or uses, and the names of the members of the group or body and their affiliations;				
(b) the mandate and functions of the expert group or body;				
(c) information about upcoming meetings of an expert group or body;				
(d) a summary of the outcome of any meeting of an expert group or body; and				
(e) a summary of the final outcome on any substantive matter considered by an expert group or body.				
5. Each Party shall make publicly available, preferably on the relevant regulatory authority's website, any final documents made available to or prepared for or by the expert group or body, except to the extent necessary to protect confidential information or withhold personal identifying information.				
6. Each Party shall provide a means for interested persons to provide input to expert groups or bodies, including by allowing interested persons to:				
(a) attend or appear before meetings of an expert group or body; or				



(b) submit written comments to an expert group or body.				
Article X.11: Regulatory Analysis	<ul style="list-style-type: none"><li>IPEF Article X.11 is part of CPTPP 25.5</li></ul>			
1. The Parties recognize that a regulatory authority of a Party may analyze a proposed regulation to anticipate and evaluate its likely consequences.			US reference: <a href="https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/06/executive-order-on-modernizing-regulatory-review/">https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/06/executive-order-on-modernizing-regulatory-review/</a>	
2. Each Party shall consider procedures that encourage a regulatory authority of a Party to examine the following when developing regulations that have anticipated costs or impacts exceeding certain levels established by the Party:			MY support AU/NZ alternative proposal for Article X.11	
(a) the need for a proposed regulation, including a description of the nature and significance of the problem the regulation is intended to address;				
(b) feasible and appropriate regulatory and non-regulatory alternatives that would address the need identified in subparagraph (a), including alternatives to direct regulation;				
(c) anticipated impacts of the selected and other feasible alternatives (such as economic costs and benefits, social, equity, environmental, public health, and safety effects), as well as risks and distributional effects over time, recognizing that some costs and benefits are difficult to quantify or monetize due to inadequate information. A Party's analysis of these impacts may vary according to the complexity of the issue as well as the available data and information; and				
(d) the grounds for concluding that the selected alternative is preferable.				
3. Each Party should consider whether a proposed regulation may have significant adverse economic effects on a substantial number of small enterprises. If so, the Party should consider potential steps to minimize those adverse economic impacts, while allowing the Party to fulfill its objectives.				
Article X.12: Final Publication		<ul style="list-style-type: none"><li>Max position – porpose delete “a point of contact for a knowledgeable individual in the regulatory authority responsible for implementing the regulation who may be contacted concerning questions regarding the regulation.”</li></ul>		
	<ul style="list-style-type: none"><li>New Zealand, Australia and Malaysia same similar concern on the point of contact for a knowledgeable individual for final publication.</li></ul>		<ul style="list-style-type: none"><li>Party finalizes its work on a regulation refering to ArtX.9</li></ul> item a-g carried the same obligation in other GRP Art.X	

When a regulatory authority of a Party finalizes its work on a regulation, the Party shall, without undue delay, publish in the text of the regulation, in the final regulatory impact assessment, or in another document:			
	<b>Publication</b>		
(a) the date by which compliance is required;	<u>Malaysian legislation is published and can be accessed from federal legislation portal</u> ( <a href="https://lom.agc.gov.my/index.php">https://lom.agc.gov.my/index.php</a> )		
(b) an explanation of how the regulation achieves the Party's objectives, the rationale for the material features of the regulation (to the extent different than the explanation provided for in Article X.9 (Transparent Development of Regulations), and the nature of and reasons for any significant revisions made since making the regulation available for public comment;			
	<b>NPGRP</b>		
(c) the regulatory authority's views on any substantive issues raised in timely submitted comments;	3.13 Publication of Regulatory Impact Statement (RIS)		
	A RIS is to be published on the GRP Portal as soon as practicable from the date of the official announcement of the decision to proceed with the development of a proposed regulation or a proposed regulatory amendment.		
(d) major alternatives, if any, that the regulatory authority considered in developing the regulation and reasons supporting the alternative that it selected;			
(e) the relationship between the regulation and the key evidence, data, and other information the regulatory authority considered in finalizing its work on the regulation;			
(f) to the extent possible, make publicly available online any forms or documents required to comply with the regulation and indication of their expected availability; and			
(g) a point of contact for a knowledgeable individual in the regulatory authority responsible for implementing the regulation who may be contacted concerning questions regarding the regulation.			
<b>Article X.13: Review of Regulations Currently in Effect</b>			

1. If a Party reviews a regulation currently in effect, the Party should consider, as appropriate:	<ul style="list-style-type: none"> <li>IPEF Article X.11 is part of CPTPP 25.5 Implementation of Core Good Regulatory Practices</li> </ul>	<ul style="list-style-type: none"> <li>Suggest to change 'regulatory differences' to 'regulatory barriers'</li> </ul>
		<ul style="list-style-type: none"> <li>Clarify regulatory differences</li> </ul>
	<ul style="list-style-type: none"> <li>"transboundary and global challenges" – required explanation and example</li> </ul>	
(a) the effectiveness of the regulation in meeting its initial stated objectives;	<ul style="list-style-type: none"> <li>There Parties' institutional, social, cultural, legal and developmental circumstances may</li> </ul>	
	<ul style="list-style-type: none"> <li>US explained that 'regulatory review procedures and mechanisms more agile' is similar to agile regulation approach such as sandbox. US how to make regulatory review procedures and mechanisms more agile</li> </ul>	
(b) any circumstances that have changed since the development of the regulation, including availability of new information;		
(c) impacts on small enterprises;		
(d) ways to address regulatory differences between the Parties with a view to avoiding unnecessary disruptions to international trade and investment; and		
(e) relevant suggestions from any interested persons submitted pursuant to Article X.14 (Suggestions for Improvement).		
2. Each Party should make publicly available online, to the extent available and appropriate, any official plans or results of a review.		
3. Each Party should consider how to make regulatory review procedures and mechanisms more agile, especially when facing shared transboundary and global challenges.		
<b>Article X.14: Suggestions for Improvement</b>		
	Malaysia Mudah (#MyMudah) is an initiative by the Malaysian government to reduce unnecessary regulatory burdens for businesses. ( <a href="https://mymudah.gov.my/">https://mymudah.gov.my/</a> )	in accordance with the Article

[illegible]

Each Party shall provide the opportunity for any interested person to submit for consideration to a regulatory authority of the Party written suggestions for the issuance, modification, or repeal of a regulation. The basis for those suggestions may include, for example, that in the view of the interested person, the regulation has become ineffective at protecting health, safety, welfare or the environment has become more burdensome than necessary to achieve its objective (for example with respect to its impact on international trade and investment), fails to take into account changed circumstances (such as fundamental changes in technology, or relevant scientific and technical developments, or relevant international standards), or relies on incorrect or outdated information.				
<b>Article X.15: Information About Regulatory Processes and Authorities</b>			<a href="http://www.reginfo.gov">www.reginfo.gov</a>  US Reference: <a href="https://www.reginfo.gov/public/reginfo/Regmap/REG_MAP_2020.pdf">https://www.reginfo.gov/public/reginfo/Regmap/REG_MAP_2020.pdf</a>  MY attribution considering 'employed by each of its regulatory authorities'	
	<ul style="list-style-type: none"><li>Item 1 covered under the NPGRP Section 3 - Regulatory Process Management System (RPMS).</li></ul>	<ul style="list-style-type: none"><li>To oppose the requirement under Article X.15 to make information about the judicial or administrative procedures available to challenge regulations publicly transparent.</li></ul>	US Reference: <a href="https://www.reginfo.gov/public/reginfo/Regmap/REG_MAP_2020.pdf">https://www.reginfo.gov/public/reginfo/Regmap/REG_MAP_2020.pdf</a>	
1. Each Party shall publish online a description of the processes and mechanisms employed by each of its regulatory authorities to prepare, evaluate, or review regulations. The description shall identify the applicable guidelines, rules, or procedures, including those regarding opportunities for the public to provide input.			MY attribution considering 'employed by each of its regulatory authorities'	
		<ul style="list-style-type: none"><li>However, if the article is to be maintained, further analysis and engagement with key stakeholders would be necessary to better understand the impact of implementing this requirement.</li></ul>		
2. Each Party shall also make publicly available online:	<ul style="list-style-type: none"><li>All Ministries websites provides information [2.(a), (b), (c), &amp; (e)] which are relevant to them.</li></ul>			

(a) a description of the functions and organization of each of its regulatory authorities, including the appropriate offices through which persons can obtain information, make submissions or requests, or obtain decisions;	<ul style="list-style-type: none"><li>Item 2(d) is already covered under the Order 53 of the Rules of Court 2012 statute - The judicial or administrative procedures can be challenge by applying for judicial review. Judicial review is a court action specifically designed to challenge “decisions, actions or omissions” of public bodies. Any person who is adversely affected may apply for judicial review. The law recognises the concept of “public interest litigation”, whereby the Court will entertain complaint to redress public injury, enforce a public duty, protect social rights and vindicate public interest.</li></ul>			
(b) any procedural requirements or forms promulgated or utilized by any of its regulatory authorities;	<ul style="list-style-type: none"><li>Although Article X.15 may not be mandatory if there are no procedures to challenge regulations, it is still an aspirational requirement that Malaysia should aim to achieve.</li></ul>			
(c) the legal authority for verification, inspection, and compliance activities by its regulatory authorities;	<ul style="list-style-type: none"><li>Currently, the procedures for challenging regulations in Malaysia are not published by the regulators, and businesses typically engage lawyers to do so.</li></ul>			
(d) information concerning the judicial or administrative procedures available to challenge regulations; and	<ul style="list-style-type: none"><li>However, publishing the procedures could imply that regulations can be challenged, which may lead to increased legal challenges and disputes regarding regulations. Therefore, it is important for Malaysia to balance the need for transparency with the potential consequences of making such information publicly available.</li></ul>		challenge regulation referring to i) challengging regulatory decision and also ii) challenging GRP process not in the CPTPP chapter US reference: <a href="https://www.fsis.usda.gov/policy/federal-register-rulemaking/executive-orders-small-business-protection-laws-other-guidance">https://www.fsis.usda.gov/policy/federal-register-rulemaking/executive-orders-small-business-protection-laws-other-guidance</a>	
(e) any fees charged by a regulatory authority to a person of any Party for services rendered in connection with the implementation of a regulation, including for licensing, inspections, audits, and other administrative actions required under the Party's law to import, export, sell, buy, market, or use, as appropriate, either a good or a service.				
Each Party shall, without undue delay, publish online any material changes to this information as well as any changes, or any proposals to make changes, to its regulatory system.				

Article X.16: Encouragement of Regulatory Compatibility and Cooperation	<ul style="list-style-type: none"> <li>IPEF Article X.16 is similar with CPTPP 25.7</li> </ul>	<ul style="list-style-type: none"> <li>USA to define compatibility</li> </ul>	<ul style="list-style-type: none"> <li></li> </ul>	
	<ul style="list-style-type: none"> <li>Concern - “regulatory compatibility” –</li> </ul>			
1. The Parties recognize that regulatory compatibility and cooperation can contribute to achieving shared regulatory objectives and assisting the Parties in meeting shared transboundary and global challenges. Accordingly, where appropriate, each Party should encourage its regulatory authorities to engage in mutually beneficial regulatory cooperation activities with relevant counterparts of the other Parties in appropriate circumstances to achieve these objectives.	<ul style="list-style-type: none"> <li>Suggest adding in technical assistance and capacity building under this article.</li> </ul>	<ul style="list-style-type: none"> <li>To clarify - Each Party should encourage input from members of the public to identify promising avenues for cooperation activities. – what input?</li> </ul>		
2. The Parties recognize that effective regulatory cooperation requires the participation of regulatory authorities that possess the authority and technical expertise to develop, adopt, and implement regulations. Each Party should encourage input from members of the public to identify promising avenues for cooperation activities.		<ul style="list-style-type: none"> <li>To clarify the Marrakesh Agreement Establishing the World Trade Organization</li> </ul>	US Propose Marrakesh Agreement Establishing the World Trade Organization to change to WTO Agreement	
3. The Parties recognize that a broad range of mechanisms, including those set forth in the Marrakesh Agreement Establishing the World Trade Organization, exists to help minimize unnecessary regulatory differences and to avoid unnecessary disruptions to international trade and investment, while contributing to each Party’s ability to meet its public policy objectives.				
Article X.17: Committee on Good Regulatory Practices				
	<ul style="list-style-type: none"> <li>The committee on GRP is a committee at IPEF level not at individual of each IPEF countries</li> </ul>	<ul style="list-style-type: none"> <li>MITI to be the GRP committee member.</li> </ul>	<ul style="list-style-type: none"> <li>MPC to be the GRP committee member.</li> </ul>	
1. The Parties hereby establish a Committee on Good Regulatory Practices (the GRP Committee) composed of government representatives from each Party, including relevant regulatory authorities and any coordinating bodies.	<ul style="list-style-type: none"> <li>Chairperson for this committee will be based on rotation.</li> </ul>			
2. Through the GRP Committee, the Parties shall enhance their communication and collaboration in matters relating to this Chapter.				
3. The GRP Committee’s functions include:				

(a) monitoring the implementation and operation of this Chapter, including through updates on each Party's regulatory practices and processes;					
(b) exchanging information on effective methods for implementing this Chapter, including with respect to relevant work in international fora;					
(c) consulting on matters and positions in advance of meetings in international fora that are related to the work of this Chapter, including opportunities for workshops, seminars, and other relevant activities to support strengthening of good regulatory practices;					
(d) considering suggestions from a diverse array of stakeholders regarding opportunities to strengthen the application of good regulatory practices;					
(e) considering developments in good regulatory practices with a view to identifying future work for the GRP Committee and improving the operation and implementation of this Chapter;					
(f) exploring opportunities to cooperate to advance the application of good regulatory practices in the Indo-Pacific region; and					
(g) taking any other steps that the Parties consider will assist them in implementing this Chapter.					
4. Each Party shall provide opportunities for persons of that Party to provide views on the implementation of this Chapter.					
5. In carrying out its work, the GRP Committee shall take into account the activities of other committees, working groups, and other subsidiary bodies established under this Agreement in order to avoid duplication of activities.					

6. Unless the Parties decide otherwise, the GRP Committee shall meet at least once a year. The Parties shall endeavor to schedule meetings to permit participation of government representatives engaged in the work of other relevant chapters in this Agreement. The GRP Committee may also invite persons that may have an interest to contribute to its work.				
<b>Article X.18: Contact Points</b>	<ul style="list-style-type: none"><li>Contact points can be a similar person of GRP committee or different people</li></ul>	MPC to be the contact point for this GRP Chapter.	MITI to be the contact point for IPEF Agreement. MPC to be the contact point for GRP Chapter.	
Each Party shall designate and notify a contact point for matters arising under this Chapter, in accordance with Chapter X (Agreement Coordinator and Contact Points). A Party shall without undue delay notify the other Parties of any material changes to its contact point.				
<b>[FJ proposed; AU/ID/MY/NZ/PH considering: Article X.19: Increasing Participation</b>			<b>FJ Proposed; AU/NZ considering: Article X.19: Increasing Participant</b>	
1. The Parties further recognize the existence of asymmetries with respect to the degree of development of regulations and the capacity to immediately implement this Chapter in different countries.				
2. A Party may designate specific disciplines for implementation on a date after a transitional period or subject to specified conditions being met.				
3. Each Party may identify commitments in this Chapter it considers it will be unable to effectively implement without appropriate technical assistance and capacity building and provide a notification to the other Parties of its needs. The Parties agree that these identified commitments may not be implemented until a program able to provide the necessary technical assistance and capacity building is able to be fully delivered.]				
<b>[AU/NZ/SG; TH considering: Article X.X: Relation to Other Chapters</b>			<b>AU/NZ: Article X.X: Relation to Other Chapters</b>	
In the event of any inconsistency between this Chapter and another Chapter of this Agreement, the other Chapter shall prevail to the extent of the inconsistency.]				



[AU/FJ/ID/MY/NZ/SG/TH: Article XX: Non-Application of Dispute Settlement			[AU/MY/NZ: Article XX: Non-Application of Dispute Settlement		
No Party shall have recourse to dispute settlement for any matter arising under this Chapter.]					