Trade Talk

The Trans-Pacific Partnership: What Lies Ahead?

Introduction

The Trans-Pacific Partnership (**"TPP**") is a free trade agreement (**"FTA**") which seeks to liberalise global trade and investments in 12 countries, namely, Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States of America ("**US**") and Vietnam (**"Member Countries**"). The TPP aims to reduce trade barriers by strengthening economic ties between the 12 nations and eliminating tariffs. According to the Peterson Institute, the TPP will create a global annual benefit of USD$295 billion for the world economy.

The negotiations for the TPP had concluded on 5 October 2015, after 8 years of negotiations, and is pending ratification by each Member Country. Malaysia became the first Member Country to approve the signing and the ratification of the TPP on 28 January 2016. On 4 February 2016, the TPP was signed by all 12 countries, collectively commanding 40% of the world's economy.

In order to implement the TPP, the TPP agreement must be ratified by February 2018 by at least 6 countries, which account for 85% of the Members Countries' collective economic output, and must include the US due to the size of the US economy.

Current Status of the TPP

Since the signing of the TPP, the Member Countries have been in talks to prepare their domestic laws, regulations and policies to ensure compliance with the TPP provisions.

On 23 January 2017, US President Donald Trump signed an executive order formally withdrawing the US from the TPP. Mr. Trump had, throughout his election campaign, declared his intention to withdraw from the TPP trade deal, calling it "a potential disaster" for the US. As an alternative, Mr. Trump had indicated that he will be negotiating fair bilateral trade deals with terms more favourable to the US to bring jobs and industry back to the US.

The official announcement in relation to the withdrawal of the US from the TPP is seen by many to be the "death of the TPP".

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Impact on Other Countries

The majority of the Member Countries will stand to lose out on potential benefits from the demise of the TPP. Singapore was one of the co-founders of the TPP's predecessor, the Trans-Pacific Strategic Economic Partnership, and was a big supporter of the TPP in the region. Having one of the biggest ports of the region, Singapore relies on trade for its economy to grow. The implementation of the TPP would have allowed Singapore to enjoy an increase in services such as shipping and trade financing due to a more regional and global trade.

Vietnam and Malaysia were set to gain the most from the TPP as the TPP would have granted these countries access to the US markets where these countries were hoping to enjoy tariff-free exports. Some estimates previously indicated that Vietnam would have enjoyed an economic boost of 10% by 2025 under the TPP and the economy in Malaysia was expected to grow by 5.5% as the TPP grants Malaysia access to the US for its palm oil exports. The World Bank had also forecasted a growth of 8% in Malaysia's GDP by 2030 as a result of it being a party to the TPP.

On the other hand, it is anticipated that China, being the largest economy in the Regional Comprehensive Economic Partnership ("**RCEP**") bloc and the second largest economy in the world, is expected to gain the most from the death of the TPP. It has long been touted by critics that the reason behind the TPP was an American scheme to counter the perceived economic threat of China, by entering into trade agreements with key growth markets in Asia Pacific before China. Without the TPP, China could fill the void in the trade and economic space with its regional trade deal, the RCEP, and its grand One Belt One Road ("**OBOR**") initiative which aims to build transportation infrastructure through most of Asia.

What Lies Ahead?

Following the announcement of the US' withdrawal from the TPP, some of the other Member Countries remain cautiously optimistic, suggesting to continue with an 11-member partnership of the TPP without the US. Representatives from Australia, New Zealand and Malaysia have indicated, in one way or another, the intention to remain in communication with other Member Countries to consider available options before planning the next steps.

In the event that the TPP does fall through, Member Countries may still hope to access the US market through other routes, such as by leveraging on Canada's relationship with the US. This could be done with free trade arrangements with Canada, thus allowing Member Countries to have indirect access to the US market via the North American Free Trade Agreement ("**NAFTA**"), assuming that the US does not erode the fundamentals of NAFTA given President Trump's public statements of his intent to renegotiate NAFTA.

The Beijing-backed RCEP is also generally considered as another alternative to the TPP. However, the TPP without the participation of the US is approximately half the size of RCEP in terms of global GDP and trade share.

In Malaysia, the Minister of International Trade and Industry had also indicated that Malaysia will look to the possibility of pursuing bilateral free trade agreements with some Member Countries and continue to prioritise the strengthening of economic integration within ASEAN via the ASEAN Economic Community.

While there are alternatives to the TPP, it is clear that, at present, there is no other trade agreement that has as great a potential to impact global trade as the TPP. Having said this, even if the TPP were ratified by the US and came into effect, there were still numerous hurdles to be overcome, ranging from the need for countries to change their laws, to uniformity in implementation across Member Countries, and whether companies in each Member Country would actually take advantage of and use the TPP for their and their country's benefit.

What Should Companies Do Now?

Since the 11 TPP leaders have made comments that they were eager to salvage the TPP in some form, local firms and businesses which have taken steps to prepare for the implementation of the TPP may consider amending rather than discarding these implemented measures completely. However, even if all the (other) Member Countries went to adopt the TPP, the "new TPP" will not have the impact of the original as, without US involvement, the economic benefits of the "new TPP" would be significantly reduced.

Given the Member Countries' eagerness to possibly continue with a "new TPP", companies could take this opportunity to identify key areas of concerns, especially on trade related matters, and bring it to the attention of the various stakeholders for the purpose of renegotiations of this "new TPP".

For example, companies could encourage Member Countries to re-look sections relating to intellectual property rights, as such clauses were introduced primarily at the insistence of US companies. The TPP would have imposed US copyright laws, which stipulates for a minimum protection of 10 years for trademarks and copyright until 70 years after the creator's death. Any such change to the intellectual property rights would impact the pharmaceutical industry greatly as the availability of cheap generic drugs may not be as severely restricted by the "new TPP".

Companies could also consider evaluating the potential impact of the demise of the TPP and a "new TPP" on their business. Given the uncertainties on the future of the TPP, it may not presently be feasible for companies to draw up a detailed plan. However, by analysing where potential concerns and opportunities may lie, companies could have a head-start on strategizing and providing input on any variations to the TPP as the Member Countries decide their next step.

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ASEAN Economic Community Portal

The launch of the ASEAN Economic Community ("AEC") in December 2015, businesses looking to tap the opportunities presented by the integrated markets of the AEC can now get help a click away. Rajah & Tann Asia, United Overseas Bank and RSM Chio Lim Stone Forest, have teamed up to launch "Business in ASEAN", a portal that provides companies with a single platform that helps businesses navigate the complexities of setting up operations in ASEAN.

By tapping into the professional knowledge and resources of the three organisations through this portal, small- and medium-sized enterprises across the 10-member economic grouping can equip themselves with the tools and know-how to navigate ASEAN's business landscape. Of particular interest to businesses is the "Ask a Question" feature of the portal which enables companies to pose questions to the three organisations which have an extensive network in the region. The portal can be accessed at http://www.businessinasean.com.

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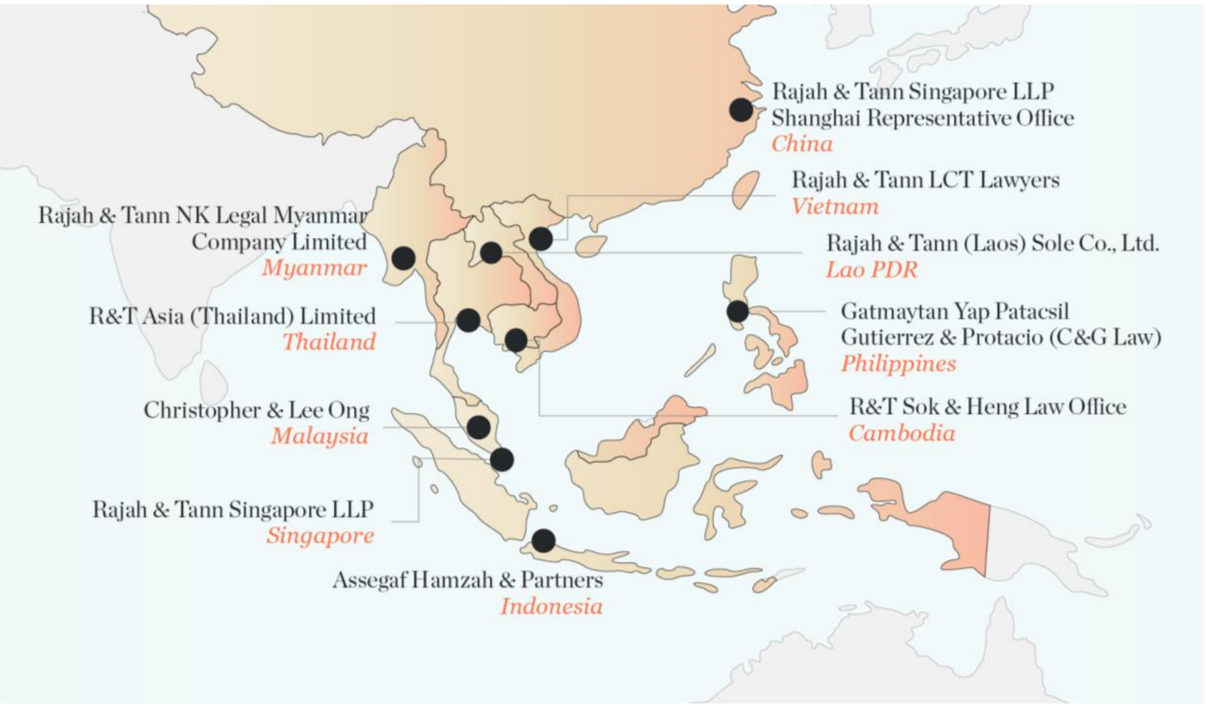

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