Trade Talk

(i) Trump's Executive Order on Trade Enforcement

On 31 March 2017, US President Donald Trump signed a pair of executive orders ramping up trade enforcement. The first executive order concentrates on tougher enforcement of anti-dumping laws and increasing the collection of anti-dumping penalties. The second executive order calls on Trump's administration to examine the causes and culprits behind the US trade deficits of nearly US$50 billion. The administration will have to report to Trump within 90 days on possible actions to reduce deficits and increase exports.

In carrying out the executive orders, analysts will reportedly be looking for evidence of "cheating", inappropriate behaviour, trade deals that have not lived up to their promise, lax enforcement, currency misalignment and "troublesome" World Trade Organization constraints. China, Japan, Germany, Mexico, Ireland, Vietnam, Italy, South Korea, Malaysia, India, Thailand, France Switzerland, Taiwan, Indonesia and Canada have been identified for scrutiny under the executive orders due to the size of the US trade deficit with each of these countries.

Trump has singled out Germany and China for unfair trade policies, accusing them of manipulating their currencies to make their goods less expensive. In response, Germany has criticised the executive orders. Germany's Economy Minister is scheduled to meet with Trump in May, and will be seeking to have a constructive dialogue to explain that the reasons for the US trade deficits are not just due to causes abroad. Germany has repeatedly said that German products were simply better and that the US should focus on producing manufacturers that are more competitive.

Separately, the Trump administration's conclusion following an investigation into the pricing of certain types of steel plate from eight countries, including Germany, which allowed the administration to begin collecting tariffs was objected to by Germany, which claimed that the duties had not been calculated in accordance with international agreements on trade and has urged the European Union to file a complaint about the duties to the World Trade Organization against the US.

Malaysia's Trade and Industry Minister II has also made clear that Malaysia is not taking advantage of the US when it comes to bilateral trade. The Minister explained that the bulk of Malaysia's exports to the US are electronics manufactured by US companies in Malaysia due to its low production cost. He also added that taxes are imposed on goods entering the US as Malaysia does not have a free trade agreement with the US, and therefore exports to the US have always been low.

While Trump administration officials have responded by saying the presence of a trade deficit does not necessarily mean that retaliatory or remedial action would be taken against a particular country especially when the deficit is not related to bad behaviour or trade agreements, Trump's executive orders are nevertheless another clear sign that the US plans to move away from free trade and international agreements. What is perhaps more worrying is that Trump's executive orders may have the effect of starting a trade war which could hurt economic growth and global governance, given the dominant role the US has in global trade. The findings and recommendations of the report, due on 29 June 2017, will undoubtedly be closely watched globally.

Trade Talk

(ii) Effect of UN Resolution on Importation of Coal from North Korea

On 30 November 2016, the United Nations Security Council adopted a resolution to restrict exportation of North Korea's coal to member states of the United Nations ("**Member States**"). Pursuant to the resolution, North Korea's total coal exports to all Member States must not exceed $400,870,018 or 7,500,000 metric tonnes per year, whichever is lower, from 1 January 2017. Each Member State that procures coal from North Korea is required to notify the Sanctions Committee of the monthly aggregate amount of such procurement. Where aggregate coal procurement from North Korea has reached 95% of the yearly amount, all Member States must immediately cease procurement from North Korea for the remainder of the year. The resolution further requires all Member States to inspect cargoes originating from or bound for North Korea.

Since 2011, Malaysia has imported over 2 million metric tonnes of coal annually. Malaysia is one of the few countries in the world that imports coal from North Korea. However, as a Member State, Malaysia is now required to comply with the resolution and ensure that importation of coal from North Korea does not exceed the annual amount.

On 29 March 2017, it was reported that a North Korean ship which carried coal was briefly prevented from entering the port in Penang by the Malaysian Maritime Enforcement Agency, following instructions from the Ministry of Foreign Affairs, because of a suspected breach of the United Nations sanctions. The ship was later allowed to dock but for inspection by officials from the Minerals and Geoscience Department to confirm whether it was indeed carrying coal.

Although the coal was not confiscated after the inspection, the unusual move by Malaysian authorities to stop and inspect the vessel coincides with the recent souring in relationship between Malaysia and North Korea. While it remains to be seen whether Malaysia will follow China's footsteps in halting all coal imports from North Korea following the diplomatic row between Malaysia and North Korea arising from the assassination of a prominent North Korean in Malaysia and the subsequent detention of Malaysian citizens in North Korea, what is clear is that the strength of trade between nations is very much tied to the strength of relationships between countries.

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ASEAN Economic Community Portal

With 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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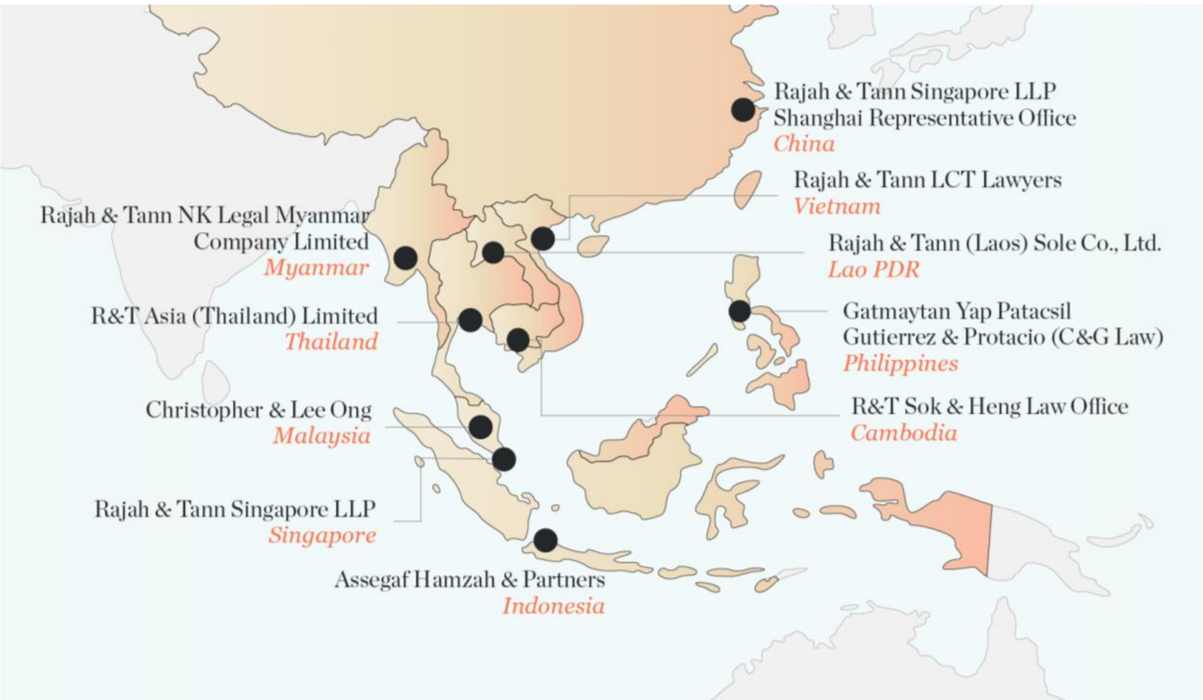

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Christopher & Lee Ong is part of Rajah & Tann Asia, a network of local law firms in Singapore, Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand and Vietnam. Our Asian network also includes regional desks focused on Japan and South Asia.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business or operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Christopher & Lee Ong.