

RAJAH & TANN ASIA

LAWYERS WHO KNOW ASIA

REGIONAL TRADE HIGHLIGHTS 2022



RAJAH & TANN ASIA

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OVERVIEW

Dear Friends,

Happy and Prosperous New Year!

2022 has been an interesting year as the world emerged from the pandemic. Hard core restrictions from the pandemic are all but gone and face-to-face meetings are starting to become the norm again. We are not quite at the fervour that we were at pre-pandemic, although the chorus would agree that 2021 remains an exceptional year.

Going into 2023, the prognosis is that it is going to be a challenging year with headwinds. Yet, this may not be the case for trade law related matters, where there have been interesting developments in 2022, and continued supply chain disruptions which are seeing a changing global trade play.

We provide key highlights of developments across Southeast Asia, such as regulatory activity relating to anti-dumping and safeguard measures, developments relating to export/import, free trade agreements, as well as sanctions. Briefly on trade remedies, there are developments in anti-dumping and safeguard duties under Indonesia, Philippines, Thailand, and Vietnam. On trade protectionism which has been creeping into various countries, we highlight Myanmar's rules to curb the outflow of foreign currency, rules on border trade with Thailand and Philippines' introduction of the "Admission Temporaire/Temporary Admission" Carnet System and its imposition of tariffs on certain electric vehicles and parts. On the flip side, to increase trade, we have the World Trade Organization ("WTO") ruling against Indonesia's nickel export ban and updates on the progress of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership. Finally, a major play has been around sanctions, with Singapore introducing sanctions for the first time independent of the United Nations and the addition of Myanmar to the Financial Action Task Force's blacklist of high-risk jurisdictions. Trade has never been more exciting.

The RTA Competition & Antitrust Team continues to be at the forefront of trade issues across Southeast Asia, being the only dedicated practice of its kind entirely based in this region. The Team has done very well in its ranking, maintaining a Tier 1 Ranking in Chambers AsiaPacific as well as ranked in Chambers Global. Our Team members are highly ranked with Melisa Uremovic and Kala Anandarajah cited as leading lawyers. We have also seen several new hires as well as returnees across the different offices. We are especially pleased to have Joshua Seet re-join us and now a partner in the team (bringing the total number of partners to 4 in Competition & Antitrust) in Singapore and over 10 across the region.

All said, businesses are reminded to stay updated on legislative and enforcement developments on trade-related matters, which involves not only legal compliance but also understanding practically how to work with regulators. It is important for your internal trade processes to be continually monitored and updated, and for your employees to be continually trained and skilled. If you would like us to come in and do a training or dialogue with you, we would be happy to do so. We look forward to more opportunities to work and engage with you this year.

As we get into the 2023, we wish you the Very Best for the Year, and look forward to working with you. Our team stands ready to assist in any case or query or just to have a chat.

Yours sincerely,

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OUR ACHIEVEMENTS:

Practice Accolades

Rajah & Tann Asia has been named as a leading Trade Practice across several different jurisdictions across South East Asia by major legal ranking journals, including but not limited to:

<p>Chambers Asia-Pacific 2023</p>  <p>South-East Asia Region – International Trade/WTO Rajah & Tann Asia: Band 1</p> <p>Asia-Pacific Region – International Trade/WTO Rajah & Tann Asia: Band 3</p>	<p>ITR World Tax 2023</p>  <p>Customs R&T Asia (Thailand): Tier 1</p>
<p>Benchmark Litigation Asia-Pacific 2022</p>  <p>Trade and customs R&T Asia (Thailand): Tier 2</p>	<p>WorldECR Awards 2021</p>  <p>Export Controls/Sanctions Law Firm of The Year – Rest of World Rajah & Tann Asia Honorable Mention</p>

OUR ACHIEVEMENTS: Individual Accolades

The members of our Rajah & Tann Asia Trade team have also been individually recognised in various legal ranking journals, including but not limited to:

Chambers Asia-Pacific 2023	Expert Guides International Trade	Asialaw Profiles 2023
 <p>Chambers TOP RANKED Asia-Pacific 2023</p> <p>International Trade/WTO <u>South-East Asia Region</u> <i>Singapore:</i> Kala Anandarajah (Leading Individuals)</p> <p><i>Thailand:</i> Melisa Uremovic (Leading Individuals)</p>	 <p>EXPERTGUIDES THE WORLD'S LEADING LAWYERS CHOSEN BY THEIR PEERS <i>20 years' experience</i></p> <p>International Trade</p> <p><i>Thailand:</i> Melisa Uremovic</p>	 <p>ASIALAW LEADING LAWYERS DISTINGUISHED PRACTITIONER 2023</p> <p>International Trade/WTO</p> <p><i>Thailand:</i> Melisa Uremovic (Distinguished Practitioner)</p>
Who's Who Legal National Guide: Southeast Asia 2022	Who's Who Legal Global Guide 2022	
 <p>WWL Who's Who Legal Trade & Customs</p> <p><i>Malaysia:</i> Tracy Wong</p> <p><i>Singapore:</i> Kala Anandarajah</p> <p><i>Thailand:</i> Supawat Srirungruang Melisa Uremovic</p>	 <p>WWL Who's Who Legal Trade & Customs</p> <p><i>Singapore:</i> Kala Anandarajah</p> <p><i>Thailand:</i> Supawat Srirungruang Melisa Uremovic</p> <p>Trade & Customs - Economists & Anti-Dumping Consultants</p> <p><i>Singapore:</i> Kala Anandarajah Tanya Tang</p>	

ANTI-DUMPING & SAFEGUARDS



In 2022, actions were taken by countries in relation to anti-dumping and safeguard measures. This included anti-dumping and safeguard duties being imposed in countries like Indonesia, Malaysia, Philippines, Thailand, and Vietnam, whereas certain anti-dumping duties were terminated in Malaysia. We share some of these actions taken by the regulators.

In **Indonesia**, under Law No. 34 of 2011 on Anti-Dumping, Countervailing, and Safeguard Measures, the Ministry of Trade initiated investigations into two anti-dumping cases and two safeguard cases between 2021 to 2022.

The anti-dumping investigations involved Polyester Staple Fiber and the hot-rolled coil of other alloys. Certain PSF products originating from India, China, and Taiwan are now subject to anti-dumping duties as stipulated under the Ministry of Finance Regulation No. 176/PMK.010/2022; and are effective from 12 December 2022 to 12 December 2027. Certain hot-rolled coil alloys originating from China are also now subject to anti-dumping duties as stipulated under Ministry of Finance Regulation No. 15/PMK.010/2022, which are effective from 15 March 2022 to 14 March 2026. Additionally, the Ministry of Trade is currently conducting a sunset review over the anti-dumping measures imposed on frit products originating from China, which has been in effect since 2017.

The safeguard investigations involved ceramic tile products and certain steel alloys. Certain ceramic tile products are now subject to safeguard measures as stipulated under Regulation of Ministry of Finance No.156/PMK.010/2021, which are effective from 18 November 2021 to 17 November 2024. Certain steel alloys are now subject to safeguard measures as regulated under Regulation of Ministry of Finance No. 169/PMK.010/2022, which are effective from 22 December 2022 to 21 December 2024.

In **Malaysia**, anti-dumping and safeguard duties are covered under the Countervailing and Anti-Dumping Duties Act 1993, the Countervailing and Anti-Dumping Duties Regulations 1994, and the Safeguards Act 2006 and Safeguards Regulations 2007. Amongst others, we highlight two notices:

- (a) On 10 June 2022, a Notice of Termination came into operation for the expedited review of anti-dumping duties with regard to imports of pre-painted, painted or colour coated steel coils originating or exported from Shandong Ruifeng Composite Material Co. Ltd from China; and
- (b) On 1 August 2022, a Notice of Impending Termination was issued in respect of anti-dumping duties on imports of cold rolled stainless steel in coils sheets or any other form originating from China, Korea, Taipei and Thailand. This had been imposed for the period from 8 Feb 2018 to 7 Feb 2023. In this regard, the Ministry of International Trade and Industry sought public input from interested parties on: (i) whether the continued imposition of the anti-dumping duties is necessary to offset the dumping of the subject merchandise; and (ii) whether the injury is likely to continue or recur if the duties were removed.

In **Philippines**, anti-dumping and safeguard duties are covered under the RA 8800 or the Safeguard Measures Act, RA 8752 or the Anti-Dumping Act of 1999, and RA 8751 which provides for countervailing measures. In 2022, safeguard measures were enforced on the import of products such as cement, High-Density Polyethylene Pellets and Granules (“**HDPE**”), and Linear Low-Density Polyethylene Pellets and Granules, etc. Amongst others, one of these measures was a definitive safeguard duty imposed on imported HDPE pellets and granules from various countries for a period of three years, subject to exclusions for specified related products and for imports originating from specified developing countries.

In **Thailand**, anti-dumping and safeguard measures are covered under the Anti-Dumping and Countervailing Act B.E. 2542 (1999) (“**AD Act**”) and the Safeguard Measures on Increased Imports Act B.E. 2550 (2007). In 2022, the authorities initiated 3 anti-dumping cases on: (i) Biaxially Oriented Polypropylene (BOPP) film in common grade originating from China, Indonesia, and Malaysia; (ii) stainless steel pipes and tubes originating in South Korea, China, Taiwan and Vietnam; and (iii) iron steel pipes and tubes originating in China and Korea. Separately, there are cases in which the Ministry of Commerce waived the imposition of anti-dumping duties. For example, the Ministry of Commerce waived anti-dumping duties for a period of six months on products such as tinplate and tin-free steel from China, South Korea, Taiwan, and the European Union. The exemption was deemed necessary to prevent a negative impact on Thailand’s consumers. This was the third successive six-month duty exemption period for these products and will expire in March 2023.

In **Vietnam**, anti-dumping and safeguard measures are covered under the Law No. 05/2017/QH14 on Foreign Trade Management and its guiding instruments, and international treaties such as the General Agreement on Tariffs and Trade, WTO Anti-Dumping Agreement, WTO Agreement on Subsidies and Countervailing Measures and WTO Agreement on Safeguards. In 2022, Vietnam’s regulators continued to actively apply trade remedies to establish a fair competition environment and to protect the legitimate interests of domestic manufacturing industries. Its Ministry of Industry and Trade initiated investigations on various anti-dumping and safeguard cases, such as its Decision 1991/QD-BCT dated 30 September 2022 that applied anti-dumping duties to imports of specified table and chair products from China; as well as its Decision No. 1624/QD-BCT dated 15 August 2022 that applied anti-dumping duties to specified welding products from Malaysia, Thailand, and China.

Commentary

Regulators continue to actively monitor, investigate and impose anti-dumping and safeguard duties against errant businesses. Potential competitors can raise complains to require these investigations too. Regulatory investigations can potentially disrupt business-as-usual hence it is important that businesses are able to respond in a swift yet accurate manner. Do monitor regulatory and case developments to make any necessary changes to business plans. Always ensure that appropriate pricing and export policies are put in place that are updated per the developments.

EXPORTS & IMPORTS, EXPORT CONTROL, AND OTHERS



There were a variety of developments relating to the export and import of goods in 2022. The developments related to general regulatory changes affecting the export/import of goods, changes in export/import processes, changes in Harmonised System codes, what constitutes dual-use goods under export control rules, and tariffs and duties, etc. Separately, in Myanmar, changes were implemented to curb the outflow of foreign currency, amongst others. We highlight some of these key developments below.

Export & Import: Controlled Goods, Processes, Duties and Tax, Others

In **Indonesia**, the WTO ruled against Indonesia's nickel export ban in November 2022. The WTO deemed that the export ban could not be justified under Article XI(2) of GATT, and therefore is inconsistent with Article XI(1) of GATT. This affirmed the complaint brought by the EU in 2021 against the nickel export ban imposed by Indonesia in 2020. It was recommended in WTO's decision that Indonesia brings its measures into conformity with the GATT 1944. As of December 2022, Indonesia has yet to repeal its nickel export ban. The Indonesian government intends to file an appeal against the WTO's decision.

In **Singapore**, in 2022, the range of controlled goods were expanded to include the importation of drones operating in cellular networks. The import of such drones now requires prior approval from the Infocomm Media Development Authority ("**IMDA**") and dealers intending to import and sell such drones have to apply for a Telecommunication Dealer (Individual) Licence from IMDA.

With effect from 19 June 2022, the new Singapore Trade Classification, Customs and Excise Duties ("**STCCED**") 2022, which incorporates the ASEAN Harmonised Tariff Nomenclature ("**AHTN**") 2022, was implemented. The AHTN 2022

harmonises Harmonised System (“**HS**”) codes at the 8-digit level for use by all ASEAN countries. New permit applications must be submitted using the AHTN 2022 HS Codes.

With effect from 1 January 2023, the GST rate has increased from 7% to 8%. Thus, amongst other things, the new GST rate of 8% will apply to imported goods and goods released from licensed premises for local consumption after 31 Dec 2022. GST will also apply to ‘imported low-value goods’ in respect of business-to-consumer transactions for overseas vendors prescribed under the ‘overseas vendor registration’ regime from 1 January 2023. As a result of the expansion, such vendors have to charge GST on supplies of low-value goods to non-GST registered customers and GST-registered businesses purchasing goods for non-business uses. This policy is intended to level the playing field for Singaporean businesses regardless of whether the low-value goods are procured from overseas or locally.

In **Malaysia**, the Ministry of Finance issued a new Customs Duties Order 2022 (“**CDO 2022**”), which replaces the Customs Duties Order 2017, effective 1 June 2022. The new CDO 2022 is in line with the latest edition of the Harmonised Commodity Description and Coding System adopted by the World Customs Organisation (“**HS 2022**”). In pace with changing trade patterns and growth of technology, 351 sets of amendments were made to the CDO 2022, covering a wide range of goods. In particular, a classification for novel tobacco products, which includes e-cigarette/vapes, was added as a response to challenges faced previously on the proper classification of these products, which saw high monetary value of trade.

Separately, the Trade Descriptions (Amendment) Act 2021 (“**Amendment Act**”) was passed in respect of the Trade Descriptions Act 2011 (“**TDA**”), and came into force on 11 January 2022. The TDA oversees the promotion of good trade practices by prohibiting false trade descriptions and false or misleading statements. Amongst others, the Amendment Act introduced a range of enforcement instruments for the regulator, and more prominently, expanded the overall scope of the TDA to include “prohibiting, restricting or otherwise regulating or controlling the use of any statement, expression or indication which is likely to discriminate or boycott any product or goods or to discourage, forbid, hinder or influence any person from using or consuming any product or goods in the course of trade or business”. Amongst other things, it will result in the prohibition of any statements, expressions, or indications against Malaysia’s major commodities, especially palm oil; e.g. using the expression “no palm oil” in advertisements including food labels, notices, and catalogues. Businesses, including those importing goods into Malaysia, must keep themselves review these developments, especially if these goods compete with their major commodities.

In **Philippines**, the “Admission Temporaire/Temporary Admission” Carnet System (“**ATA Carnet System**”) was introduced in 2022 to further develop export and import processes. The ATA Carnet System allows the free movement of goods across frontiers and their temporary admission into Customs territory with relief from duties and taxes. Under this system, goods are covered by a single document known as the ATA Carnet, which is an international customs document that permits duty-free and tax-free temporary import of certain goods for a specific purpose (e.g., trade shows, scientific or business purpose). On 18 March 2022, the Bureau of Customs issued Customs Administrative Order No. 02-2022, setting out the rules and regulations for the ATA Carnet System.

In **Myanmar**, there have been significant developments in different areas that affected import and export processes in 2022. We highlight some of these below.

In April 2022, the Central Bank of Myanmar (“**CBM**”) implemented certain foreign currency conversion requirements by issuing Notification No. 12/2022 (the “**Notification**”). The Notification stated that foreign exchange account holders can no longer hold their foreign-denominated income for more than one day. Under Directive No. 4/2022, USD must be converted into Myanmar Kyat (“**MMK**”) within one working day with specified banks at a fixed rate of 1,850 MMK for 1 USD at a further service fee. This fixed rate has later been increased to 2,100 MMK for 1 USD. On 5 August 2022, the CBM issued Notification No. 36/2022 (“**Notification 36**”) to relax the foreign currency conversion requirement for export earnings in Myanmar; only 65% and not all of the income received from exportation must be converted to MMK within one day. New rules were later also introduced to instruct specified banks to purchase 65% of the export earnings of exporters to comply with the foreign currency conversion requirement, amongst other things.

Separately, the Foreign Exchange Supervisory Committee (“**FESC**”) was established under Order 28/2022. The FESC is a regulatory body granted with the authority to scrutinize and approve the use of foreign currency primarily for the purposes of supervising the flow of foreign currencies for domestic and foreign investment, manufacturing, exports and imports, and service businesses. Exporters and importers are required to submit applications to the FESC before undertaking import and export license applications at the MOC. With respect to import licenses, MOC issued Newsletter No. 2/2022 on 30 March 2022, which states that an additional 141 items would require import licenses. MOC subsequently relaxed the requirement for import licenses for several items, such as farm machinery, plant or laboratory equipment.

Last, the Ministry of Commerce (“**MOC**”) introduced certain Standard Operating Procedures (“**SOP**”) for payment processes when carrying out border trade by via Newsletter No. 10/2022. From 1 November 2022, all border trade imports between Myanmar and Thailand must be settled through Myanmar’s banking system. Amongst other things, companies applying for an import license must submit credit advice and original bank statements proving the receipt of export earnings or other earnings into their respective bank account(s); and where products do not require an import license, importers must provide these when filling import declarations. Import licenses approved before 1 November 2022 must complete the importation of goods by 30 November 2022, failing which the import license will be nullified.

Export Control: Strategic / Dual-Use Goods

In **Malaysia**, on 10 May 2022, the Strategic Trade (Compounding of Offences) Regulations 2022, which relate to offences under the Strategic Trade Order 2010, was gazetted and came into force on 1 June 2022. Offences committed under the First Schedule of the Regulations are compoundable offences.

As of 1 October 2022, **Singapore** updated its list of strategic goods in the Strategic Goods (Control) Order by passing the Strategic Goods (Control) Amendment Order 2022. This brings it in line with the 2021 EU’s List of Dual-Use Items. For example, the updated list amends the definition of “superalloys”, specifying the ultimate tensile strength that an alloy must have to constitute a superalloy. In addition, the Strategic Goods (Control) Regulations have been updated to include new goods under the Fourth and Fifth Schedules, including goods like radiation hardened ‘detectors’, and ‘star trackers’ and its components. Businesses must review the updated wordings and ensure their exports remain in compliance with the amended regulations.

Preferential Tariffs and Duties

In **Philippines**, on 24 November 2022, the National Economic and Development Authority Board endorsed an Executive Order (“**EO**”) to implement tariff modification on certain electric vehicles (“**EV**”) and their parts. The EO modified tariff rates on certain EVs, such as passenger cars, buses, mini-buses, vans, trucks, motorcycles, tricycles, scooters, and bicycles among others, as well as EV parts and components. Once approved by the President, the EO will temporarily reduce the Most Favoured Nation tariff rates to 0% for five years on Completely Built Up units of certain EVs, except for hybrid-type EVs. The EO would also reduce tariffs on certain parts and components of EVs from 5% to 1% for five years.

In **Vietnam**, imported goods are subject to import taxes such as ordinary, preferential and special preferential import tax. With respect to oil and petroleum products, the Government issued Decree 51/2022/ND-CP on 8 August 2022 to amend preferential import tariff rates on petroleum products under HS Codes with the heading of 27.10 from 20% to 10% to encourage the importation of the product. With respect to preferential and special preferential import and/or export tariffs relating to bilateral/regional trade agreements, notably, on 10 March 2022, Decree No. 21/2022/ND-CP was issued to amend articles of Decree 57/2019/ND-CP on Vietnam’s special preferential import tariff schedule for implementation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership for the period of 2019 to 2022. Separately, on 1 June 2022, a Circular 10/2022/TT-BCT was issued to amend various circulars on the regulations on origin of goods under ASEAN Trade in Goods Agreement (ATIGA). This Circular provides a new form for Form D C/O, replaces the regulations on the issuance and checking of C/O, and provides guidance for the filling of C/O under Circular 22/2016/TT-BCT, with a new set of regulations and guidance.

In **Indonesia**, the government is in the midst of preparing a nickel export tariff regulation, which objective of the proposed regulation is to enable Indonesia to develop its downstream industries. While fixed figures have yet to be determined, it is expected that a 2% export tariff will be imposed on nickel pig iron and ferronickel.

Commentary

Businesses that engage in the export and import of goods must familiarise themselves with the myriad of issues that can arise in trade law and be apprised of the quick paced developments, so that they can make the necessary changes to comply with new or amended laws and regulations. For example, it is particularly important for businesses to check whether they are using the correct HS codes in their permit applications or whether the goods that they carry are considered as dual-use goods in the country that they are exporting from. Failure to do so can result in heavy penalties. Importantly, we also remind businesses that local export control rules are not identical to those issued by the US and EU and thus, businesses must be careful against assuming as such. It is hence important for businesses to have and maintain a robust internal compliance programme and provide adequate training to their employees to equip them with the requisite knowledge to detect potential issues.

FREE TRADE AGREEMENTS



In 2022, there were numerous developments in the negotiation and conclusion of various free trade agreements (“FTA”). FTAs promote increased trade and investment flows and are key to business growth. Increasingly, there has also been an emphasis on digital trade and e-commerce in newer FTAs and agreements. These are growth areas and businesses can take advantage of them.

On 1 January 2022, the Regional Comprehensive Economic Partnership Agreement (“**RCEP**”) entered into force with 10 Parties (Brunei, Cambodia, Lao PDR, Singapore, Thailand, Viet Nam, Australia, China, Japan, and New Zealand) immediately ratifying the RCEP. By March 2022, Korea, Myanmar and Malaysia had ratified the RCEP as well. The RCEP remains the world’s largest FTA to date, covering around 30% of the global GDP (US \$26 trillion) and nearly a third of the world population. The RCEP offers about 92% tariff elimination for goods traded amongst the signatories and allows businesses to benefit from additional preferential market access for products, including mineral fuels, plastics, chemical products, miscellaneous food preparation and beverages. The RCEP also streamlines the rules of origin and regional cumulation provisions, allowing businesses to tap on regional supply chains more easily. The RCEP includes new areas such as Intellectual Property, Competition Policy, e-Commerce, Government Procurement and Small and Medium Enterprises (“**SMEs**”). Please refer to our earlier regional Client Update on the signing of the RCEP [here](#).

In addition to the RCEP, there were also further developments in relation to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“**CPTPP**”), which is a multilateral FTA involving various Southeast Asian countries such as Brunei, Malaysia, Singapore and Vietnam. On 18 February 2022, UK commenced the final market access stage of its accession under the CPTPP. It is anticipated that UK’s accession of the CPTPP will increase exports from UK to other CPTPP countries. On 30 September 2022, Malaysia announced its completion of all legal procedures to ratify the CPTPP, with the CPTPP coming into force on 29 November 2022. Various CPTPP committees had also met in 2022, including a first meeting of the E-Commerce Committee to commission a study on domestic laws in the CPTPP countries and the implementation of the CPTPP E-Commerce Chapter to facilitate digital trade between them.

In addition to the CPTPP, ASEAN, Australia and New Zealand substantially concluded negotiations to upgrade the ASEAN-Australia-New Zealand Free Trade Area ("**AANZFTA**") on 13 November 2022. This is the first upgrade of its kind agreed by ASEAN and builds upon the relationships between the nations under the RCEP. The upgrades introduce commitments towards continued flow of essential goods during any global crisis, increased support for bulk breaking operations, education service cooperation and greater synergy between trade and sustainability goals.

In addition to the above regional developments, there have also been developments in individual countries' advancement of FTAs. We highlight some of these below.

In **Malaysia**, the existing Malaysia-Turkey Free Trade Agreement ("**MTFTA**") is set to be expanded. The MTFTA has been in force since 1 August 2015 and sets out a shared commitment to progressively reduce or eliminate tariffs on a substantial number of products between Turkey (now known as Turkiye) and Malaysia and for both countries to develop opportunities including providing technical assistance, capacity building and the facilitation of market access for products of interest. On 29 September 2022, it was decided during an inaugural joint economic and trade council meeting that 99% of Turkish exports to Malaysia shall enjoy duty-free treatment, while 86% of Malaysia's exports to Turkiye shall enjoy a similar advantage under the MTFTA effective 1 January 2023. The expansion is expected to enhance cross-flows of investments and foster greater consumer confidence in online transactions through the harmonisation of rules and adoption of facilitation mechanisms to benefit micro, small and medium enterprises in terms of their participation in international trade.

In **Philippines**, the signing of the Philippines-Korea Free Trade Agreement ("**PH-KR FTA**"), which was aimed to be signed on February 2022, has been moved to the first quarter of 2023. It is expected that there will be improved market access for agricultural products such as bananas and other tropical fruits, as well as industrial products and other services. According to the Department of Trade and Industry, Philippines was able to secure tariff elimination for bananas and improved tariff treatment for processed pineapples. Tariffs on some imports of South Korean automotive parts will also be eliminated in five years. The PH-KR FTA, which will complement the ASEAN-Korea FTA ("**AKFTA**") and RCEP, is also expected to improve the balance of trade between the Philippines and Korea more generally through enhanced trade flows, facilitating the movement of natural persons, generating more investment and, consequently, increased job generation opportunities.

In **Singapore**, there have been developments in various types of trade agreements, including FTAs, digital trade agreements and information sharing agreements, amongst others. We outline some of these below. Singapore signed the Pacific Alliance-Singapore Free Trade Agreement ("**PASFTA**") on 27 January 2022. The PASFTA is intended to exponentially increase business opportunities for Singapore and the Pacific Alliance countries. Singaporean companies can now access the eighth-largest combined economy in the world, with Chile, Colombia, Mexico and Peru having a combined GDP of over US\$2 trillion in 2021. In this regard, Pacific Alliance companies now also have greater access to Singapore and can use it as a base to access the marketplaces of various ASEAN nations. Additionally, Singapore is also in the process of negotiating the MERCOSUR-Singapore FTA ("**MSFTA**") and the Eurasian Economic Union – Singapore FTA ("**EAEUSFTA**"). Singapore has substantively concluded negotiations on the MSFTA on 21 July 2022, while negotiations on the EAEUSFTA have likely been put on hold due to the Russia-Ukraine war.

Singapore also made significant strides in signing digital trade agreements. These agreements improve cross-border data flow and allow digital collaboration between signatories, introducing digital trade rules that result in a more secure digital environment for businesses and consumers. Some highlights are:

- On 25 February 2022, Singapore and UK signed the UK-Singapore Digital Economy Agreement ("**UKSDEA**"), which came into force on 14 June 2022. The UKSDEA includes binding disciplines on key areas of the digital economy, such as data, as well as cooperative elements in a wide range of emerging and innovative areas such as Artificial Intelligence, fintech and regtech, digital identities and legal technology. SGTech and techUK (foremost tech industry

associations in Singapore and UK) have also signed an MOU on 25 February 2022 to formalise the obligations under the UKSDEA.

- On 21 November 2022, Singapore signed the Korea-Singapore Digital Partnership Agreement, which is the first digital trade agreement between Singapore and another Asian country. The agreement aims to deepen bilateral cooperation in new emerging areas such as Personal Data Protection, E-payments, Artificial Intelligence and Source Code protection.
- On 13 June 2022, Singapore and China signed an MOU to enhance digital economy cooperation. On 25 November 2022, Singapore and China signed another MOU regarding the recognition of electronic Bills of Lading as Singapore and China move further towards paperless cross-border trade and financing. A new project titled “Cross-Border eCommerce Cooperation” was also launched, which aims to increase collaboration between the ecommerce infrastructures of Singapore and China.

Separately, Singapore initiated various information sharing agreements to further facilitate the growth of ecommerce. On 1 June 2022, Singapore’s IMDA and Canada’s International Centre of Expertise of Montreal for the Advancement of Artificial Intelligence signed a MOU on Privacy Enhancing Technology aimed at combating cross-border scams and spam, making this one of the world’s first cross-border collaborations. A similar MOU was signed between the IMDA and the Australian Communications and Media Authority on 18 July 2022 and between the Personal Data Protection Commission of Singapore and the National Privacy Commission of the Philippines on 7 September 2022.

Last, in October 2022, Singapore and Thailand signed a Memorandum of Cooperation on matters relating to Intellectual Property and MOUs on matters relating to Meat trade, electric vehicles, and tourism, amongst others. On 1 November 2022, Singapore hosted Vice Premier Han of China for several bilateral meetings, signing a total of 19 MOUs between Singapore and China covering trade and digital commerce among other things.

In **Vietnam**, the EU-Vietnam Free Trade Agreement has been in effect since 2020. Yet, the related EU-Vietnam Investment Protection Agreement (“**EVIPA**”) is still in the process of gaining approvals from the EU Member States following its signing in 2019 and ratification in 2020. In this regard, Vietnam has been actively discussing with and requesting the approvals required from EU Member States such as Germany, Italy, etc. The EVIPA will replace 21 existing bilateral investment agreements between Vietnam and 21 EU Member States, and will ensure that European investors will receive the best available treatment, without infringing on Vietnam’s right to legislate in its own best interests on issues such as health and safety or the environment. Besides this, Vietnam is in the process of negotiating several other FTAs, including the Vietnam-Israel FTA (officially launched from 2 December 2015) and the Vietnam-EFTA FTA with EFTA States (i.e., Norway, Switzerland, Iceland, and Liechtenstein) (officially launched from May 2012).

In **Indonesia**, two FTAs are under discussion, namely the Indonesia-Iran Preferential Trade Agreement (“**II-PTA**”), and the Indonesia-Canada Comprehensive Economic Partnership Agreement (“**ICA-CEPA**”). The II-PTA builds on Indonesia and Iran’s longstanding relationship as successful trading partners, where, in 2021, Indonesia recorded a trade surplus of USD165.5 million with Iran. Indonesia’s main exports to Iran consist of commodities such as peanuts, palm oil, motorcycles, wood fibre, and industrial monocarboxylic fatty acids, while Indonesia’s main imports from Iran consist of turbo jets and other gas turbines, dates, iron or steel rods, instruments, apparatus and models designed for demonstration purposes, and alkaloids. The ICA-CEPA seeks to optimise Indonesia’s and Canada’s potential as trading partners and open up more opportunities for economic cooperation in the future between them, given increasing trade activity between them in the last three years. In 2021, Indonesia’s main exports to Canada consisted of natural rubber, men’s apparel, motor vehicle accessories, tires and textile footwear, while Indonesia’s main imports from Canada consisted of wheat, fertilizer, wood pulp, soybeans, and iron ore products. Businesses dealing in these commodities may benefit from the FTAs.

In **Thailand**, although no new FTAs were concluded in 2022, discussions on an FTA between Thailand and the European Free Trade Association (“**EFTA**”) were revived after a 16-year hiatus, with parties aiming to conclude negotiations within a 2-year period. The EFTA currently has 4 member countries, including Iceland, Liechtenstein,

Norway and Switzerland. In addition, FTA negotiations with Pakistan, Turkey, and Sri Lanka are ongoing, and frameworks for the Thailand-European Union FTA negotiations are in development.

Commentary

Even as we see increased protectionism, free trade agreements of varying forms remain a stalwart in pushing for greater trade flows across the world. The numerous developments in this space in 2022 is reflective of this. The hope is, even in the current difficult times, for increased trade and investment flows. FTAs have immense promise but will require businesses' attention to properly to exploit the benefits. Do consider the FTAs applicable to your trade and how to optimise them. These can also affect how your global production and supply chains are structured. Planning ahead is hence critical.

TRADE SANCTIONS



Various trade sanctions were introduced by and against Southeast Asian countries in 2022. We discuss these below, and highlight that businesses operating in this part of the world must also be alert to trade sanctions that operate across the world, which are not discussed below.

In **Singapore**, trade sanctions are imposed on imports and exports via various legislation and regulation, including the Regulation of Import and Export Regulations (“**RIER**”). With effect from 16 March 2022, Singapore updated the RIER to ban exportation from, transshipment in, or transit through, Singapore of specified goods which destination is or is intended to be Russia. This involves certain Military Goods and certain Dual-use goods under the Strategic Goods (Control) Order. The ban was aimed at constraining Russian capacity to conduct war in Ukraine and to undermine Ukraine’s sovereignty.

Pursuant to UNSCR 2624 (2022), the UN trade sanctions against Yemen was extended for another year. Further, the Houthis was added to its sanctions list on targeted arms embargo for engaging in acts to threaten the peace, security and stability of Yemen. In this regard, **Singapore** amended its sanctions regime against Yemen to give effect to UNSCR 2624 (2022) by amending its United Nations (Sanctions – Yemen) Regulations 2015 with effect from 22 March 2022.

In **Philippines**, the Department of Trade and Industry–Strategic Trade Management Office informed the public on 4 October 2022 that an individual has been added to the United Nations Security Council’s Sanctions List concerning Yemen.

Commentary

Developments on trade sanctions are ever changing and it is important for businesses to stay updated given that violations can result in serious consequences arising from both domestic and international law. It has become a strong tool through which some countries seek to use to their advantage; yet a useful one to combat the likes of terrorism, amongst others.

For example, in **Singapore**, financial measures were implemented against Russian banks, entities and activities in Russia in 2022, applying to all financial institutions in Singapore, including banks, finance companies, insurers, capital markets intermediaries, securities exchanges, and payment service providers. Digital payment token service providers are also specifically prohibited from facilitating transactions that could aid the circumvention of the financial measures. Separately, on 21 October 2022, the Financial Action Task Force (“**FATF**”) added **Myanmar** to a list of high-risk jurisdictions having significant deficiencies in countering money laundering, terrorist financing, and financing of proliferation. Myanmar is hence subject to a call to action and will remain on the list until the country has implemented an action plan. The FATF also recommended blacklisting Myanmar immediately and be subject to enhanced due diligence by member states; which can potentially have impact on business operations. These are not exhaustive.

Trade sanctions are not to be taken lightly, and does require a constant review.

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