
National Assembly: Draft Law on Trade Remedies Adopted

On 12 October 2017, the National Assembly of Cambodia adopted the Draft Law on Trade Remedies (“**Law**”), which aims to shield domestic producers from the impact of dumped products. Comprising 45 Articles, the Law sets out principles, mechanisms, procedures, and related rules regarding trade remedies; and is applicable to trade-related activities in the Kingdom of Cambodia such as dumping. It also provides for subsidies and countervailing measures (tax credits) and safeguard measures including, but not limited to, the increase of import tax and import restriction.

The National Committee of Trade Remedies (“**Committee**”) has been created and will be led by the Minister of Commerce, with the involvement of related institutions to fulfill the tasks related to trade remedies. The organization and functioning of the Committee will be determined by a Sub-Decree.

The concepts of dumped product, product’s normal value, and export price are firstly defined in Article 6 to Article 9 of the Law. A product is to be considered as being dumped when it is under an investigation and is introduced into commerce in the Kingdom of Cambodia at the price lower than its normal value in the country of origin’s market. The normal value of the product shall be determined by the Committee based on, among others, the comparable price, which is paid or to be paid, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. Lastly, the export price will normally be based on the price that is settled or to be settled when it is sold from an exporting country to Cambodia.

The Law also sets out the criteria to determine if there is product dumping, and the material injury it creates to the Cambodian industry, by relying on positive evidence and carrying out an objective examination of the volume of the dumped product, the effect of the dumped product on prices in the domestic market for like products, and the consequent impact of these products on domestic producers of such products. The Committee shall consider whether there has been an effect of the dumped products on prices, the domestic industry, and any threat of material injury based on Articles 13, 15, and 17 of the Law, respectively. This is done by showing the causal relationship between the dumped products and the injury based on an examination of all relevant evidence before it.

The Law also points out an investigation process whereby the Committee can initiate the investigation upon a written application by the Cambodian industry, or on its own discretion. The investigation procedures, including the criteria for determining the application submitted by or on behalf of the Cambodian Industry, shall be determined by the Committee. Details on the procedures regarding the initiation and subsequent investigation will be determined by a Sub-Decree.

If the injury found resulted from the dumped products, provisional measure in the form of anti-dumping duty will be imposed, being not greater than the margin of dumping. Such duty will be collected, by rate or by unit price in addition to the import duty, by the Cambodia Customs Administration. A definitive anti-dumping duty is levied on products under investigation that are entered for sale within 90 days prior to the date of application of the provisional measures. Such duty shall lapse in 5 years, counting from the date of imposing the duty or the date of the last review of the continued imposition of the duty.

The Law further provides safeguard measures and procedures concerning the increase of imported products, which brings significantly adverse effect or gives threat to the Cambodian Industry, by relying on the evaluation of all related factors, non-discrimination principal, and the causal relationship between related factors and the effect.

Any related parties subject to the investigation and the review of the imposition of duty by the Committee can appeal to the competent court to review the Committee’s activities or decisions no later than 30 days after the date of issuing the decisions in the Committee’s newsletter. The collection of anti-dumping duty on an alleged dumped products is suspended when the trade remedy measures are being reviewed by the Court.

With regard to the subsidies and countervailing measures, there will be a Sub-Decree determining such measures in accordance with this Law and World Trade Organization’s Agreement on Subsidies and Countervailing Measures.

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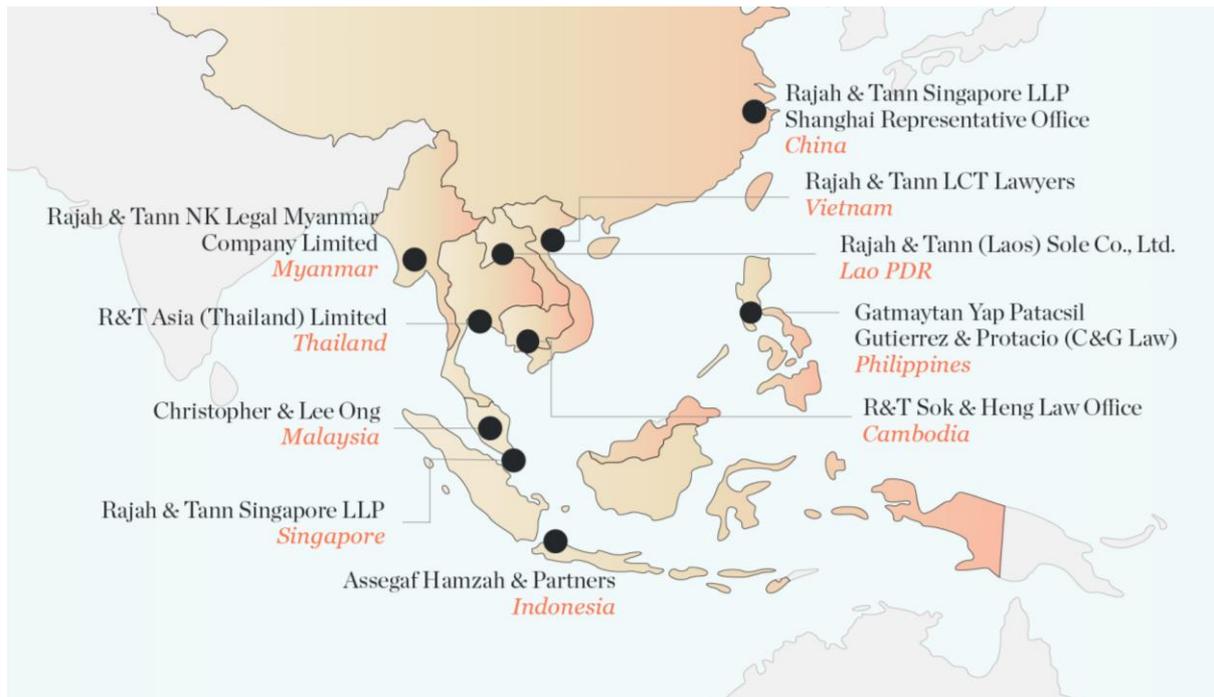
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