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Commercial Litigation

## Law on Mutual Legal Assistance in Criminal Sector

The Law on Mutual Legal Assistance (“**Law**”) was promulgated on 27 June 2020. The Law lists out requirements and procedures for Cambodian authorities to process legal assistance requests in criminal sector from other nations. The assistance provided under the Law can be in the form of freezing, retention, or confiscation of assets related to criminal activities. The Law applies where there is no pre-existing agreement on the matter.

Any pre-existing agreements (including extradition treaties) between Cambodia and other nations shall supersede the Law with regard to the legal assistance provided between the related nations. However, all internal procedures with regard to any such legal assistance shall be governed by the Law regardless of the existence of any separate agreements unless otherwise stated under any such pre-existing international agreements or as otherwise stated under any other laws of Cambodia. Among other things, the law stipulates that Cambodia’s assistance is extended on the basis of reciprocity. The Ministry of Justice is the central authority that is responsible for any formal communication with respect to providing mutual legal assistance.

The legal assistance provided under this law is limited to the following:

- collection of evidence and testimonies;
- searches and retention;
- evidence presentation in court;
- disclosure of information under the purview of Cambodia;
- liaisons of court documents;
- transfer of detained person for evidence discovery;
- location identification;
- asset identification;
- execution of requested freeze, retention, or confiscation of assets; and
- confiscation of evidentiary equipment from financial institutions.

Based on the Law, request for legal assistance must be refused where: (i) it interferes with national sovereignty, national security, public order/interest, (ii) the matter involves a political or military crime; (iii) it is discriminatory in nature; or (iv) it may lead to torture. Request for legal assistance may be refused where: (i) the underlying charge is not a crime in Cambodia in cases where the act has taken place in Cambodia’s territory; (ii) the assistance would overburden Cambodia’s resources; (iii) the assistance would adversely affect any ongoing criminal investigation or procedures in Cambodia; or (iv) there are any other obvious reasons for refusing legal assistance.

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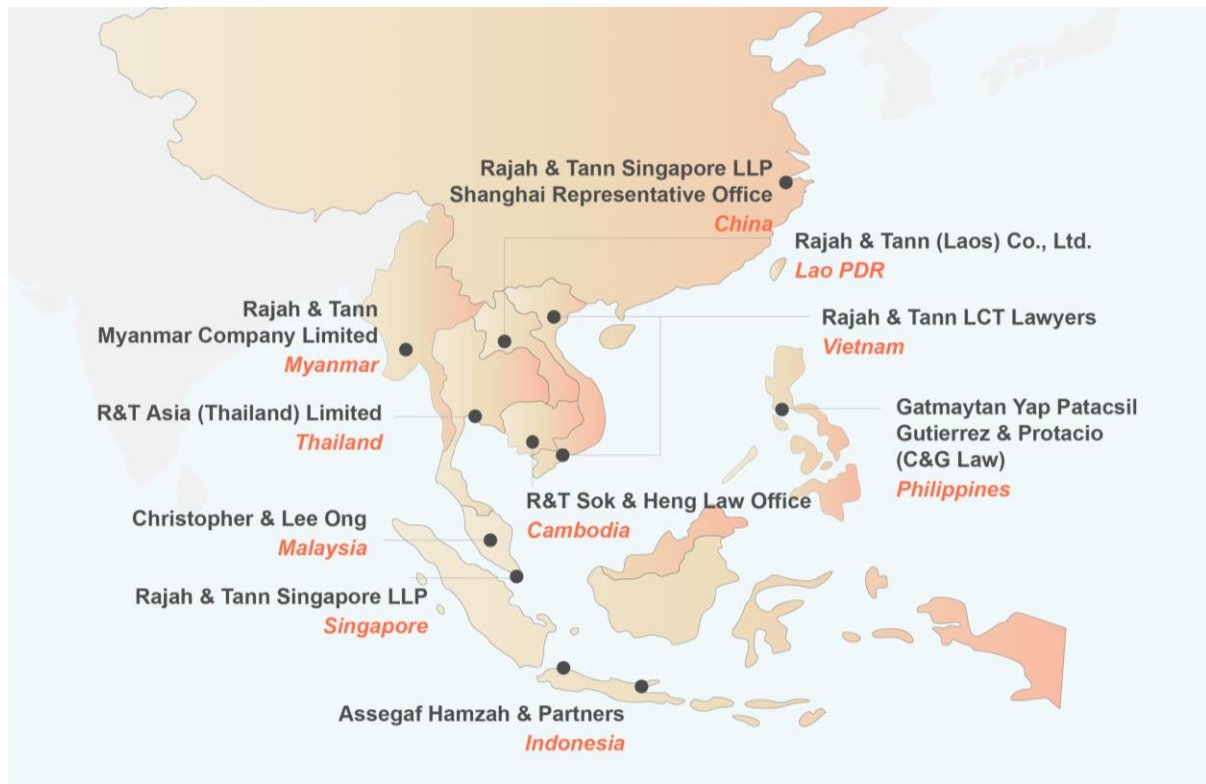
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