

**TURBULENT TIMES FOR
TRADE**

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Welcome!

**TRADE
DAY**



2018



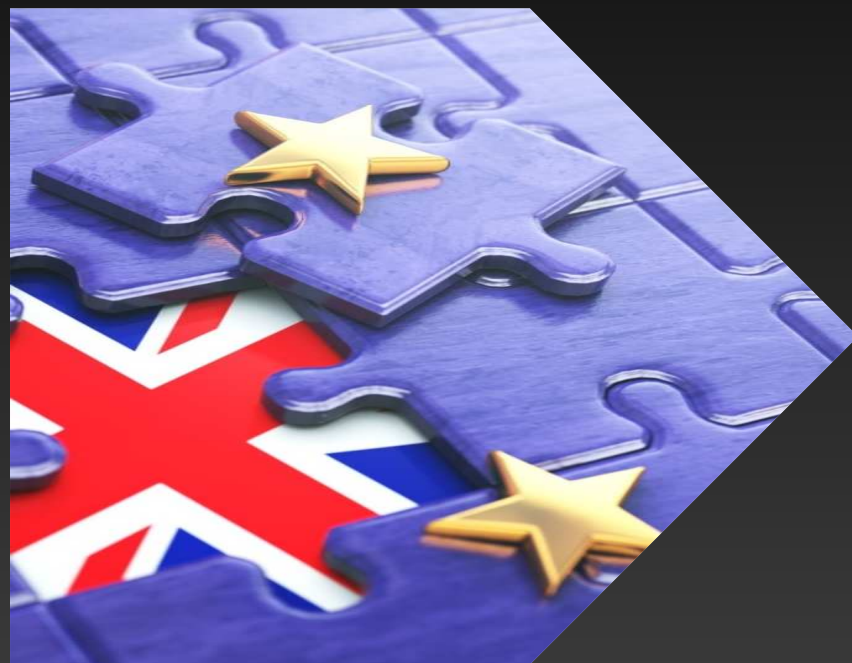
Agenda

- 09:30-09:45 Welcome
Mattias Hedwall
- 09:45-10:15 Export Control Update
Kerry Contini and Olof Johannesson
- 10:15-10:45 Sanctions Update
Kerry Contini and Olof König
- 10:45-11:15 *Coffee break*
- 11:15-12:15 Iran & EU Blocking Regulation
Sven Bates, Kerry Contini and Mattias Hedwall
- 12:15-12:45 Export Control and Sanctions' Impact on Transportation
Mathias Hansson and Olof König
- 12:45-13:45 *Lunch*
- 13:50-14:30 Key note: Trading with China - Risks and Rewards
Frédéric Cho
- 14:30-15:15 Asia Trade Update
Cindy Owens and Sven Bates
- 15:15-15:35 *Coffee break*
- 15:35-16:15 Panel Discussion: Dealing with Trade Compliance, a company perspective
- 16:15-16:30 Concluding Remarks

US Trade War



Brexit



China Belt & Road



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Export Control Update

Kerry Contini and Olof Johannesson

09:45-10:15



The background of the slide is the European Union flag, featuring a blue field with twelve gold stars arranged in a circle. A horizontal red bar is positioned across the lower portion of the slide, containing the title text.

EU Export Controls Update

Recap

EU Dual-Use Regime

- EU Regulation 428/2009
 - Direct application in 28 (current) Member States
 - National licensing and enforcement (varying approaches)
- Exports of Annex I items to outside EU require export licence (Annex IV within EU)
- Intra-EU record-keeping and paperwork requirements
- “Exports” include physical and intangible transfers – broad application
- Key concept of “exporter”
- EU dual-use licences valid throughout the EU
- Brokering controls, limited to problematic end-uses (ML, WMD)
- No re-export or “deemed” export controls (in the US sense; though beware licence conditions)



EU

Proposals to amend Dual-Use Regulation

- Commission proposals for amendment of 28 September 2016; aiming to modernise controls, increase harmonisation and transparency, reduce burden on businesses
- European Parliament agreed amendments on 17 January 2018
- Proposals now with European Council (leaked papers suggest varying views across EU Member States, with strong resistance to certain key changes)
- European Parliament and Council will need to agree before legislation adopted; unclear when and in what form this may occur
- For official updates, check the European Parliament Legislative Observatory:
[http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0295\(COD\)&I=en](http://www.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0295(COD)&I=en)



Proposed human rights end-use control

- European Parliament amendments watered down to cyber-surveillance items as follows:
 - "specially designed to enable the covert intrusion into information and telecommunications systems and/or the monitoring, exfiltrating, collecting and analysing of data and/or incapacitating or damaging the targeted system without the specific, informed and unambiguous authorisation of the owner of the data..."
- Restrictions would apply if the exporter has been informed or becomes aware "while exercising due diligence" that such items are or may be intended:
 - "for use by natural or legal persons in connection with violations of international human rights law or international humanitarian law in countries where serious violations of human rights have been identified by the competent bodies of the UN, the Council of Europe, the Union, or national competent authorities, and there is reason to suspect that this or similar items may be used for the purpose of directing or implementing such violations by the proposed end-user"
- Leaked paper suggests a number of Member States remain opposed to this control; preference for use by individual Member States of Article 8
- Terrorism-related end-use control proposal dropped

Proposed new autonomous Category 10 list

- Proposal for a unilateral EU category 10 control list
- Initial focus on surveillance systems, equipment and components, related software and technology as follows:
 - Lawful interception monitoring centres
 - Event data retention systems and devices
- Carve outs where items specially designed for certain legitimate purposes (e.g. authorised testing or protection of information security systems)
- Leaked paper suggests a number of Member States oppose this addition; concerns this will create an unfair playing field for EU business, and stifle technology development



Other key proposed amendments

- New circumvention control
- Broad controls on "technical assistance" and "brokering" (including to impact subsidiaries/JVs of EU companies) through broadening of definitions
- New definitions of "export" and "exporter", designed to facilitate cloud computing
 - Export to "legal and natural persons ..." outside the EU, not "destinations"
- Broadening of available licences:
 - EU 007: Low value shipments (€5k or less)
 - EU 008: Inter-company transmission of software and technology
 - EU 009: Encryption
 - Availability of large project authorisations (generally up to 4 years)
 - Individual licenses up to 2 years; global licenses up to 4 years (subject to ICP)
- Focus on Internal Compliance Programmes and due diligence

European Commission Consultation on ICPs

- EU draft guidance (non-binding) published on core essential elements of Internal Compliance Programmes (ICPs):
http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157336.pdf
- Consultation open until 15 November:
http://trade.ec.europa.eu/consultations/index.cfm?consul_id=257
- 7 core elements (non-exhaustive “cornerstones” for a company’s tailored ICP):
 1. Top-level management commitment to compliance
 2. Organisation structure, responsibilities and resources
 3. Training and awareness raising
 4. Transaction screening process and procedures
 5. Performance review, audits, reporting and corrective actions
 6. Recordkeeping and documentation
 7. Physical and information security



Potential Implications of Brexit

UK guidance issued in August 2018 on export control implications of a no-deal Brexit

Key issues include:

- EU Dual-Use Regulation likely to be transposed to UK law on date of Brexit
- The movement of dual-use items from the UK to the EU would require an export licence, and vice versa
- Extant export licences issued in the UK would no longer be valid for exporting dual-use items from EU member states, and vice-versa
- UK likely to issue an OGEL to cover dual-use exports to EU Member States
- UK no longer bound by EU dual-use list (but will remain participant to numerous international export control regimes)
- UK will no longer be part of EU regime governing intra-EU transfers of military items (but military exports likely to remain largely unaffected)





US Export Controls Update

US Export Controls: Brief Recap

- Apply to items subject to the Export Administration Regulations (EAR)
- “Items” = goods, software, technology
- “subject to the EAR”:
 - Exported from the United States, or
 - Reexported from abroad and
 - US origin
 - Non-US origin but with greater than *de minimis* levels of controlled US content
 - Foreign direct product of certain kinds of controlled US technology (relatively rare)

US Export Control Reform Act of 2018 (1)

- Part of FY19 National Defense Authorization Act signed into law on August 13, 2018
- First comprehensive export control legislation since 2001
- Mandates the creation of a list of “emerging and foundational technologies” essential to U.S. national security
 - Technologies and related products currently classified under the default category of EAR99
 - Licenses will likely be required for exports to specific countries (China, Russia, etc.)
 - Notice of proposed rulemaking requesting comments on proposed list of such “emerging technologies” currently being prepared by BIS

Export Control Reform Act of 2018 (2)

- Identifies new policy factors for consideration of export license applications
 - Risk of significant interference with or disruption of critical infrastructure
 - Protection of human rights and democracy
 - Preservation of qualitative U.S. military superiority
 - Negative impact on U.S. defense industrial base
- Provides statutory authority for U.S. anti-boycott regulations
- Raises the civil penalty level for violations of the U.S. export controls to US \$300,000, or 2x the value of the items exported



Other Developments

- Additions to Unverified List, Entity List
- BIS may impose restrictions on Chinese entities who have provided surveillance equipment and equipment used for human rights violations against Chinese Uighurs
 - May add Chinese entities to the Entity List
 - May be considering whether to add or update ECCNs

ZTE Settlement

- *March 2016* – ZTE Corporation, ZTE Kangxun, two other entities added to the BIS Entity List; temporary general licenses mitigated the effect
- *March 2017* - \$1.19 billion civil and criminal settlement with BIS, OFAC, and DOJ; 7-year suspended denial order; removed from Entity List
- *April 2018*: BIS activated the denial order based on false statements regarding discipline of ZTE employees; ZTE stops most operations
- *May 2018*: President Trump tweeted "too many jobs in China lost"
- *June 2018*: Superseding Settlement Agreement – removal of denial order; more monetary penalties; external compliance coordinator

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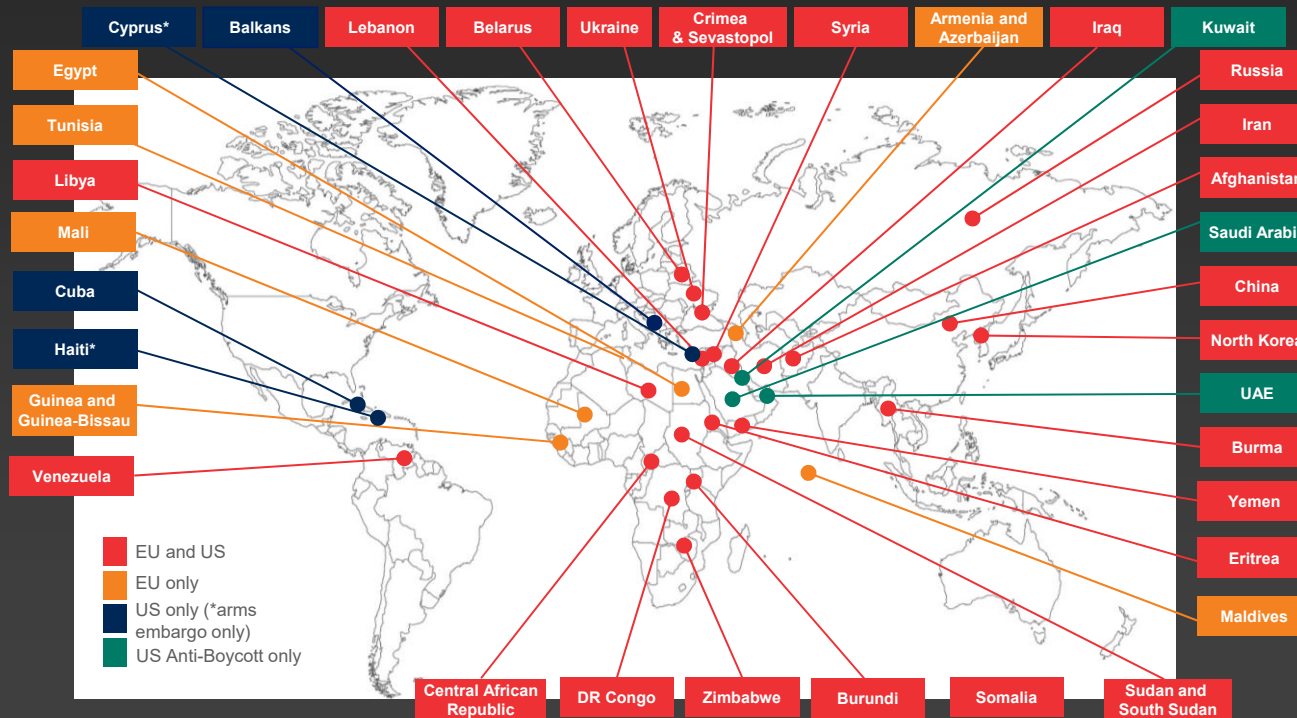
US and EU Sanction Update

Kerry Contini and Olof König

10:15-10:45



Current EU and US Sanctions Targets



UN, EU and US Designated Persons Programmes and TI Rankings

Country	U.N.	E.U.	US	TI 2017 CPI Ranking (total 180 countries)
Afghanistan	■	■		177
Belarus		■	■	=68
Bosnia		■*		=91
Burma/Myanmar		■		=130
Burundi		■	■	=157
DR Congo	■	■	■	=161
Central African Republic	■	■	■	156
Cuba			■	=62
Egypt		■		=117
Eritrea	■	■*		=165
Republic of Guinea		■		=148
Guinea-Bissau	■	■		=171
Iran	■	■	■	=130
Iraq	■	■	■	=169
Lebanon	■	■*	■	=143
Libya	■	■	■	=171
Maldives		■*		=112
Mali	■	■*		=122
North Korea	■	■	■	=171
Russia		■	■	=135
Somalia	■	■	■	180
South Sudan	■	■	■	179
Sudan	■	■	■	=175
Syria		■	■	178
Tunisia		■		=74
Ukraine (incl. Crimea and Sevastopol)		■	■	=130
Venezuela		■	■	=169
Yemen	■	■	■	=175
Zimbabwe		■	■	=157
Balkans and ICT of Yugoslavia			■	N/A
Al-Qaida, ISIS and Terrorists	■	■	■	N/A

* No DPs listed under programme

US Sanctions Target Groupings

> Comprehensively Sanctioned Territories	Crimea, Cuba, Iran, North Korea, Syria
> Significant Sanctions	Russia, Venezuela
> Limited Sanctions	W. Balkans, Belarus, Burundi, Central African Republic, DR Congo, Iraq, Lebanon, Libya, Somalia, Sudan, South Sudan, Ukraine, Yemen, Zimbabwe
> Restricted Persons	<ul style="list-style-type: none">▪ Specially Designated Nationals (“SDNs”)▪ Terrorists, WMD proliferators, human rights violators, malicious cyber-related activities, transnational criminal organizations, narcotics traffickers, Magnitsky, rough diamonds, etc.▪ Foreign Sanctions Evaders, Sectoral Sanctions Entities



US and EU Russia Sanction Update

Russia Sanctions - Recap

- Complete US embargo of Crimea (since December 2014)
- Sanctioned (blocked) parties (SDNs)
 - Includes non-listed entities 50% or more owned by one or more SDNs
 - Targets prominent oligarchs, banks, and military companies, among others
- Sectoral Sanctions – finance, defense, energy
- Export restrictions on items subject to US jurisdiction
 - Certain energy projects
 - Entity List
 - Military end-user/end-use restrictions
- CAATSA Secondary Sanctions

Russia Sanctions – Recent Developments

- April 6 SDN designations and corresponding wind-down general licenses
- Chemical and Biological Weapons Act Sanctions
 - Round 1 imposed already, Round 2 due in November – export or import ban?
- CAATSA secondary sanctions developments
 - Issuance of Executive Order
 - Secondary sanctions imposed on Chinese entity, Equipment Development Department, and its director for significant transactions with Rosoboronexport; 33 persons added to Russian defense and intelligence sector list

Recent Developments

Further DP listings

- Individuals involved in organisation of Russian presidential elections in Crimea and Sevastopol (May 2018)
- Six entities involved in construction of Kerch Bridge (July 2018)



Other developments



Other Notable EU Updates

North Korea

- Expansion of investment ban to cover all EU investments in North Korea, in all sectors
- Numerous DP listings
- Other significant measures

Venezuela

- DP listings
- Arms embargo and sanctions product controls

Myanmar

- Strengthening of arms embargo
- DP listings in relation to serious human rights violations

Other Notable US Updates (1)

General

- New Executive Order imposing sanctions in the event of foreign interference in a United States election (no designations thus far)
- US Government to include digital currency addresses on SDN List
- Global Magnitsky Designations

North Korea

- US Government warns about North Korea links in supply chains and related sanctions risks
- Feb. 2018 sanctions targeting North Korea's shipping industry

Other Notable US Updates (2)

Venezuela

- Executive Order “Prohibiting Certain Additional Transactions with Respect to Venezuela,” intended to prevent the Maduro regime from liquidating Venezuela’s critical assets
- Executive Order “Taking Additional Steps to Address the Situation in Venezuela,” specifically targeting the use of cryptocurrency

Enforcement

- Foreign companies engaged in USD transactions



Russia update

Russian Countermeasures

1. Federal Law No. 127-FZ "On Measures (Countermeasures) in Response to Unfriendly Actions of the USA and (or) other Foreign States" ("**Law**")

2. Draft Bill No. 464757-7 "Complying with Sanctions" or "Contributing to Sanctions"



Qatar update



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Iran & EU Blocking Regulation

Sven Bates, Kerry Contini and Mattias Hedwall

11:15-12:15



Iran

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US Sanctions

Background

- Primary Sanctions (Embargo)
 - US jurisdiction
 - Civil and criminal penalties
 - Complete embargo
- Secondary Sanctions
 - Extraterritorial
 - No traditional penalties but possibility of being sanctioned
 - Target certain sectors and activities
- Joint Comprehensive Plan of Action
 - Signed 2015, implemented January 2016

Trump withdraws the US from the JCPOA



After these consultations, it is clear to me that **we cannot prevent an Iranian nuclear bomb under the decaying and rotten structure of the current agreement.** The Iran deal is defective at its core. If we do nothing, we know exactly what will happen. In just a short period of time, the world's leading state sponsor of terror will be on the cusp of acquiring the world's most dangerous weapons. Therefore, **I am announcing today that the United States will withdraw from the Iran nuclear deal.**

President Donald Trump, May 8, 2018

Snap-back of US Sanctions

- Secondary sanctions
- Revoking general licenses, specific licensing policy
 - *General License H: authorized non-US owned/controlled subsidiaries of US companies to conduct business with Iran*
 - *General License I: authorized US persons to engage in transactions that are ordinarily incident to the negotiation of and entry into, contingent contracts for activities relating to commercial passenger aircraft and related parts and services*
 - *Importation into the US of Iranian-origin foodstuffs and carpets*
- Re-listing of SDNs

What is not changing?

> Ag/Med licenses

> General License D-1

> General License J-1



General License H Wind-Down

- June 27, 2018: General License H revoked and replaced with a limited wind-down authorization
- Only activities "**ordinarily incident and necessary**" to wind-down authorized
- Expires November 4
- OFAC FAQs
 - Payments must be received before November 4
 - Entering into new contracts OK **only** if in furtherance of pre-May contract and "ordinarily incident and necessary" to wind-down

Secondary sanctions wind-down periods

August 6, 2018 – 90 day period	November 4, 2018 – 180 day period
Purchase of US dollar banknotes by the Government of Iran	Iran's port operators, shipping and shipbuilding sectors
Iran's trade in gold or precious metals	Petroleum related transactions, including purchase of petroleum, petroleum products, or petroleum products from Iran
Sale, supply, transfer to or from Iran of graphite, aluminium, steel, coal, and software for integrating industrial processes	Transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions
Significant transactions related to purchase or sale of Iranian rials; or maintenance of significant funds or accounts outside the territory or Iran denominated in Iranian rials	Provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions
Purchase, subscription to, or facilitation of issuance of Iranian sovereign debt	Provision of underwriting services, insurance, or reinsurance
Iran's automotive sector	Iran's energy sector

What Now?

- Enforcement of secondary sanctions?
- Waivers?
- International Court of Justice ruling
 - Interim order for US to lift sanctions related to humanitarian concerns and civil aviation
- Trump demanding a new deal

US Sanctions

Responses to US Announcement

Statements from EU and France/Germany/UK on/after 8 May 2018:

- *“As long as Iran continues to implement its nuclear related commitments, as it is doing so far, the European Union will remain committed to the continued full and effective implementation of the nuclear deal”*
- *“We urge the US to ensure that the structures of the JCPOA can remain intact, and to avoid taking action which obstructs its full implementation by all other parties to the deal”*
- Similar positions from Canada, Russia, Switzerland, Japan and elsewhere

”

Iran statements to the UN and remaining JCPOA participants:

- *“...urge the United Nations to keep the United States accountable for its unilateral and irresponsible conduct which will detrimentally affect the rule of law, multilateralism, and the very foundations of diplomacy”*
- *“..it is Iran’s unquestionable right – recognised also under the JCPOA and UNSCR 2231 to take appropriate action in response to persistent, numerous unlawful acts by the U.S.; particularly its withdrawal and re-imposition of all sanctions”*
- *“If the JCPOA is to survive, the remaining JCPOA participants need to ensure that Iran is unconditionally compensated”*

Possible JCPOA Scenarios

- > Remaining participants to the JCPOA continue its implementation?
- > Iran stops meeting its commitments, JCPOA fails, UN, EU and other sanctions “snap back”?
- > Iran agrees to negotiate revised deal?



EU Ministers' Letter to US

EU Ministers letter to Steve Mnuchin and Mike Pompeo on 4 June 2018:

- *“ We strongly regret the decision... to withdraw from the.. JCPOA”*
- *“As close allies we expect that the extraterritorial effects of US secondary sanctions will not be enforced on EU entities and individuals”*
- Request for the US to (amongst others):
 - *“grant exemptions for EU companies that initiated or concluded their contracts after JCPOA Implementation Day”*
 - *“grant exemptions to allow for economic relationships in key sectors, in particular in the fields of energy, automotive, civil aviation and infrastructure”*
 - *“grant exemptions to maintain banking channels ... with Iran”*
 - *“prolong General License H”*

US rejection of request in July 2018

EU Blocking Regulation: Overview

- EU Blocking Regulation first introduced in 1996 to counter extraterritorial effects of US sanctions
- Primary purpose to act as political signal and protective shield for EU companies, rather than enforcement tool
- Following US decision to reimpose sanctions against Iran and withdraw from JCPOA, European Commission began process to update the Regulation on 6 June 2018
- Revised Annex restricts compliance with the following US Iran sanctions:
 - US primary sanctions against Iran
 - US secondary sanctions against Iran
 - US prohibition on causing a violation of US sanctions
 - US re-export controls applicable to Iran
 - ...or any extraterritorial act of law including judgments based on them
- Updates entered into force on 7 August 2018

EU Blocking Regulation: Application

- > EU entities
- > EU residents
- > EU nationals based outside the EU
- > Other persons located within the EU and acting in a professional capacity

Non-EU subsidiaries of EU entities are not required to comply



Framework and Key Provisions (1)

Blocked US measures



- Iran Sanctions Act of 1996
- Iran Freedom and Counter-Proliferation Act of 2012
- National Defense Authorization Act for Fiscal Year 2012
- Iran Threat Reduction and Syria Human Rights Act of 2012
- Iranian Transactions and Sanctions Regulations

EU Blocking Regulation Framework and Key Provisions (2)



Prohibition on compliance (Article 5)

- Prohibition on compliance directly or indirectly (including through third parties) with the listed US measures (or requirements resulting therefrom)



Entitlement to claim damages (Article 6)

- Entitlement for EU parties to claim damages resulting from loss caused by the listed US measures



Requirement to notify (Article 2)

- Requirement to notify Commission within 30 days where interests are directly/indirectly affected by the listed US measures (or actions/requirements based thereon)

Framework and Key Provisions (3)

Authorisation (Article 5, paragraph 2)



- Ability to seek an exceptional authorization from the Commission permitting compliance with the listed US measures – where risk that “non-compliance would seriously damage their interests or those of the Community”
- Implementing Regulation (EU) 2018/1101 sets out certain non-cumulative criteria to be considered by the Commission, including:
 - Existence of ongoing administrative or judicial investigation against the applicant from, or prior settlement agreement with, the relevant third country
 - Existence of a substantial connecting link with third country (e.g. parent companies or subsidiaries)

EU Blocking Regulation

Key Considerations

- > EU compliance vs. US compliance?
- > Declining Iranian business lawfully with a prospective customer?
- > Enforcing Iran-related contractual restrictions?
- > Messaging of Iran-related policies?



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Export Control and Sanctions' Impact on Transportation

Mathias Hansson and Olof König

12:15-12:45



Transportation by Sea

1. Voyage charters

2. Time charters

3. Bareboat charters

4. Carriage of goods at sea (if a whole ship is not used the transportation is often simply called carriage of goods at sea/freight contract/sea waybill. The merchant/seller hires space on the vessel for a particular transportation of specified goods between two specified ports)

Before Voyage

"The Owners shall not be obliged to comply with any orders or voyage instruction for the employment of the Vessel whether under the terms of this charter party or by reason of bills of lading having been issued under or in connection with this charter party in any carriage, trade or on a voyage which, in the reasonable judgement of the Owners, will expose the Vessel, Owners, managers, crew, the Vessel's insurers, or their re-insurers, to any sanction or prohibition imposed by any State, Supranational or International Governmental Organisation".

During Voyage

"If the Vessel is already performing an employment to which such sanction or prohibition is subsequently applied, the Owners shall have the right to refuse to proceed with the employment and the Charterers shall be obliged to issue alternative voyage orders within 48 hours of receipt of Owners' notification of their refusal to proceed. If the Charterers do not issue such alternative voyage orders the Owners may discharge any cargo already loaded at any safe port (including the port of loading). The Vessel to remain on hire pending completion of Charterers' alternative voyage orders or delivery of cargo by the Owners and Charterers to remain responsible for all additional costs and expenses incurred in connection with such orders/delivery of cargo. If in compliance with this Sub-clause (b) anything is done or not done, such shall not be deemed a deviation".

If no Sanctions Clause

- Force Majeure
- Illegality
- Doctrine of frustration

Unexpected developments

West Coast AB

US SDN

CMCA

Delivery in 6 months
FOB
Performance Guarantee

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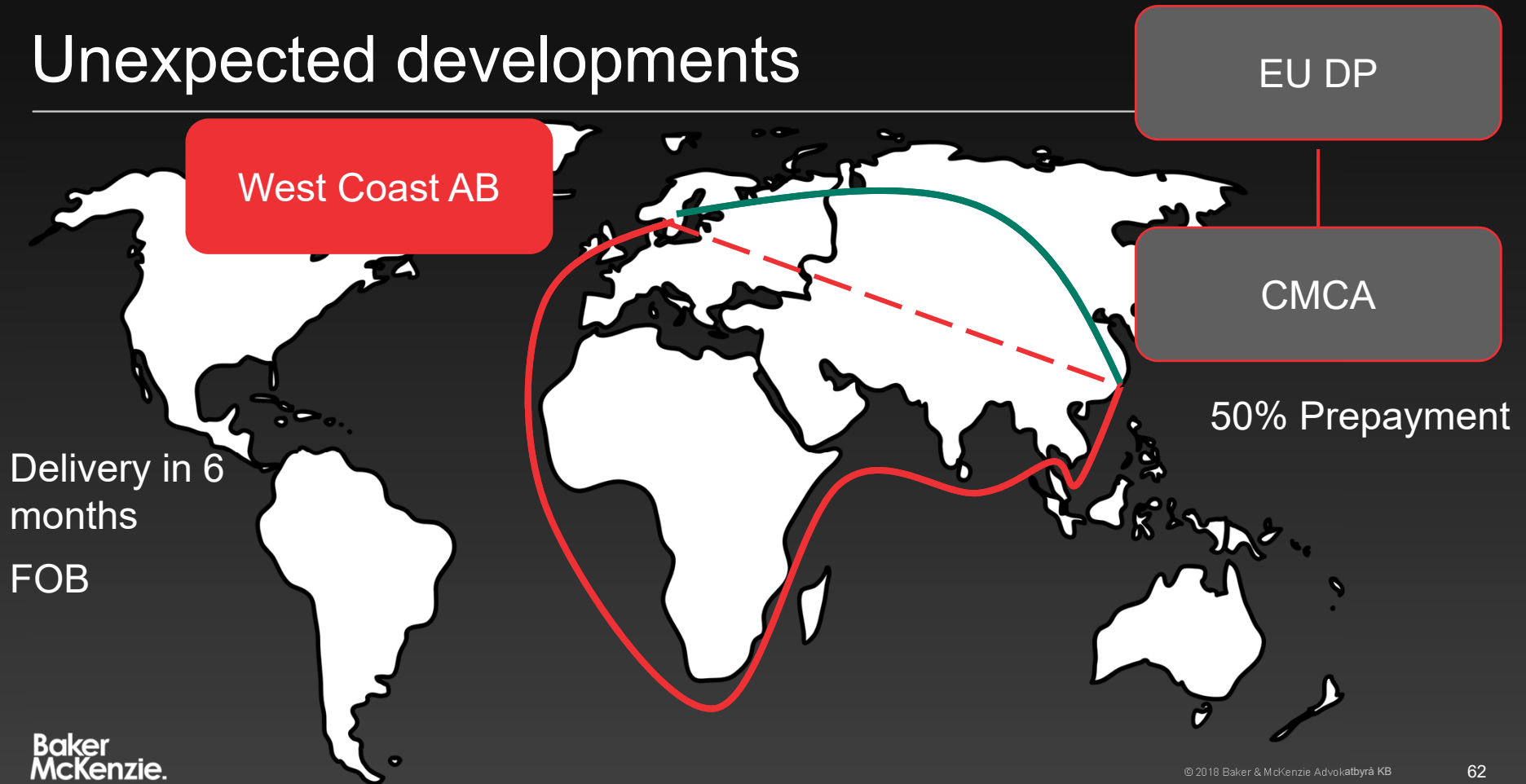
Unexpected developments

What actions can/should West Coast AB take?

- Where do we start?
 - Purchase / Sales Contract
 - Contract of Carriage
 - Bill of Lading
- How should we manage the performance guarantee?



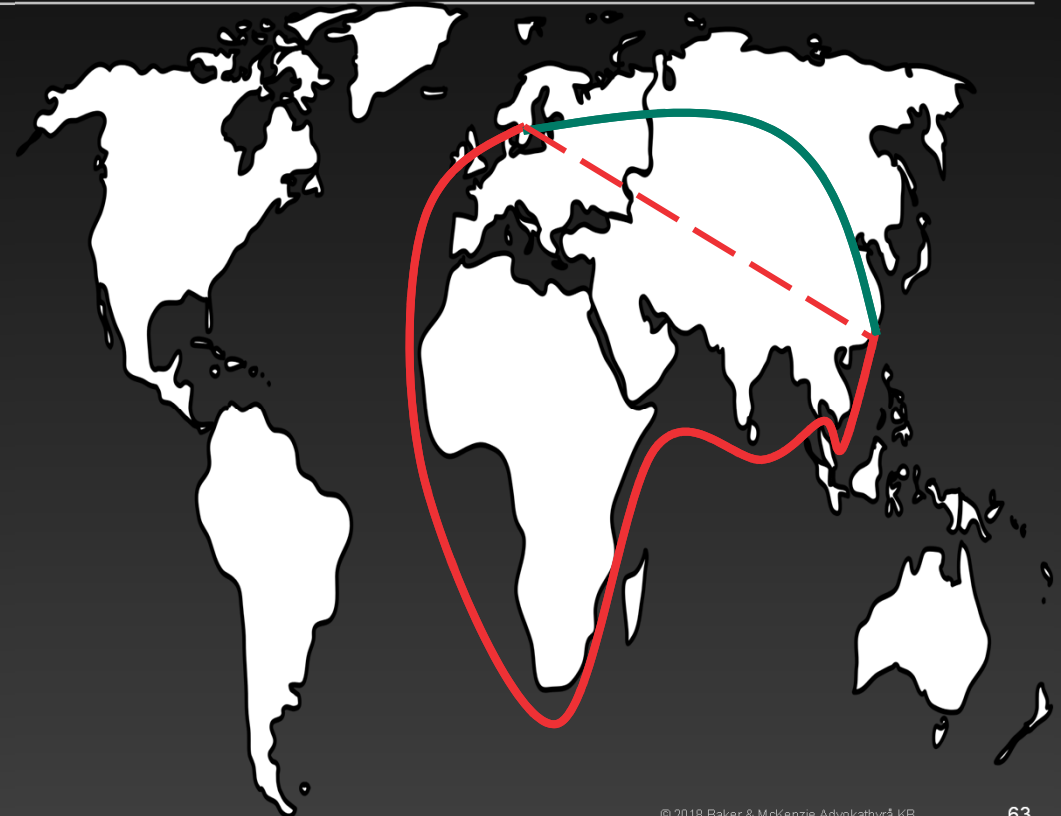
Unexpected developments



Unexpected developments

What actions can/should West Coast AB take?

- Has a sanctions violation taken place?
- Can we stop the delivery?
- How should we treat the prepayment?



Trading with China: risks and rewards

Baker McKenzie Trade Day 2018

181011 Stockholm
Frédéric Cho

Is China “the bull in the China shop”?



Xi Jinping – The core and the eternal leader



Communist Party of China (CPC)

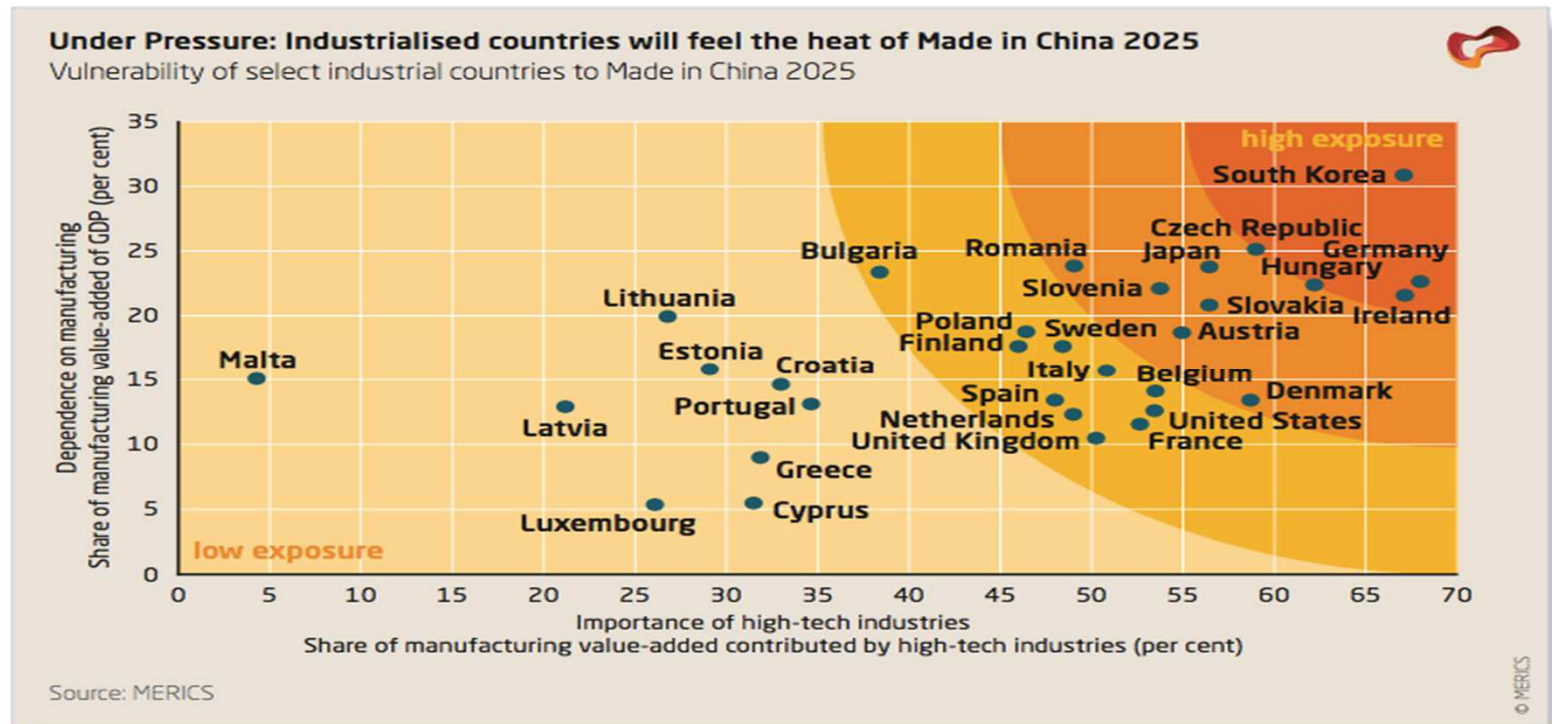
- Rule the country, maintain social stability
- "Socialism with Chinese characteristics for a new era"
- Growth and prosperity to the people, uphold socialist and communist values
- Owner, Arbitor, Consolidator of the economy



13th 5-Year Plan 2016-2020

- Sustainable growth – "The New Normal" – "Around" 6,5 %
- Doubling GDP to 2020 (from 2010) avoid "The Middle Income Trap"
- Quality, productivity, efficiency, risk control, debt reduction, supply side reforms
- SOE reforms while encouraging entrepreneurs and innovation
- "Belt and Road Initiative" (BRI), Asian Infrastructure Investment Bank (AIIB), NDB
- The Environmental Challenge: Paris Agreement, investments in renewables, strict environmental inspections
- Urbanization, Hukou-reforms, Xiong'an New Area osv
- Poverty reduction, social insurance and pension systems, healthcare
- Digitalization, AI, "social credit system", IoT, Robotisation, Automatisations, "Made in China 2025"
- Internationalization of RMB
- Further opening of capital markets: Stock Connect, Bond Connect, Panda Bonds, Green Bonds, MSCI EM-inclusion (first steps taken this year)

Made in China 2025 – global impact



Paradigm shift in governance of the economy

Old Paradigm

- Central Control
- State Capitalism
- Fixed Assets Investments
- Export Driven
- Volume
- Growth at any price

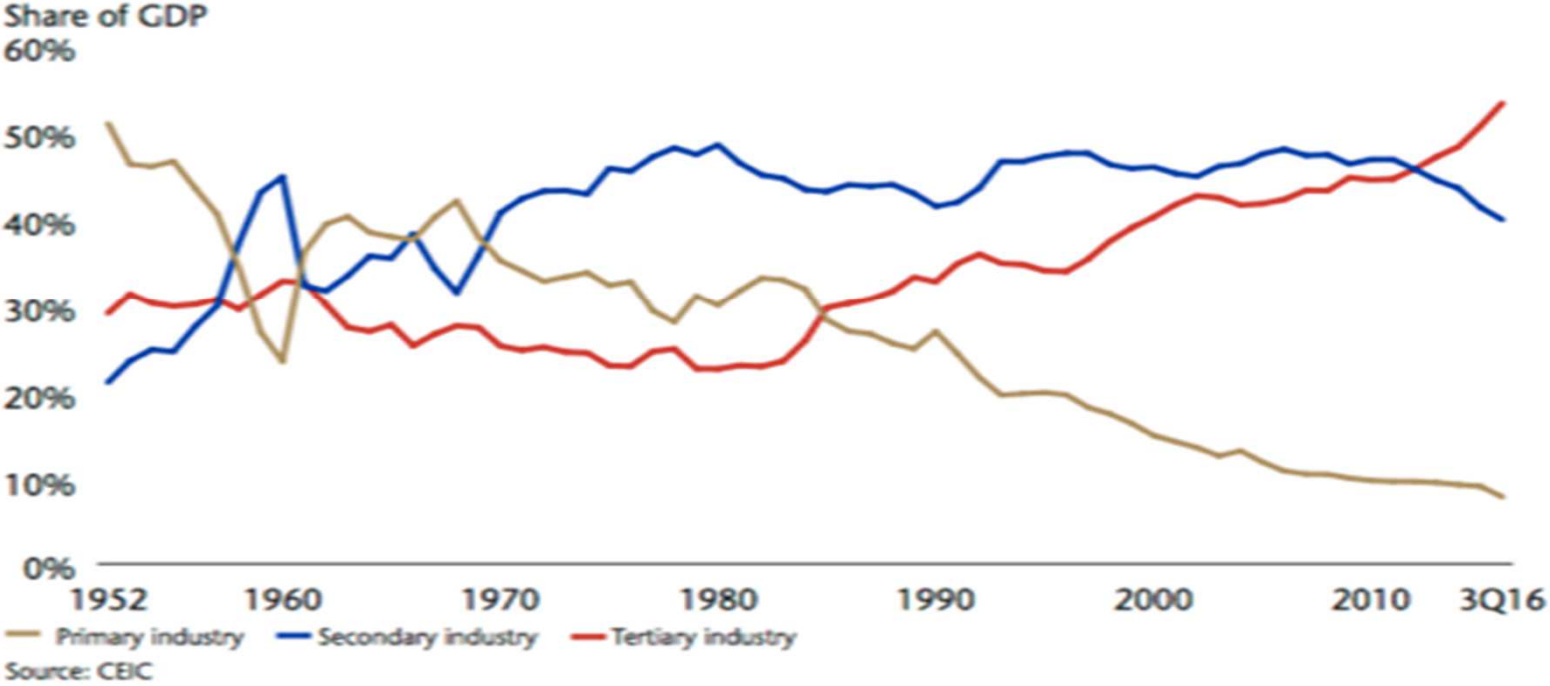


New Paradigm

- Set regulatory frameworks
- Market Economy
- Consumption led growth
- Domestic and organic
- Quality
- Sustainable growth

Services and consumption drive GDP-growth

Figure 2. GDP BY PRODUCTION APPROACH



The growing middle class



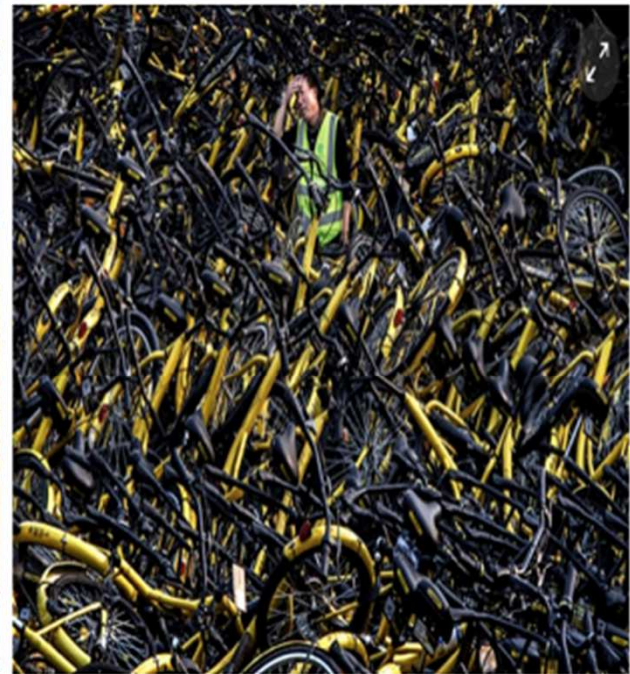
“Singles Day” 11/11 2017



Supply-side reforms: dealing with overcapacity



Thousands of share bikes laid to rest in the south-eastern Chinese city of Xiamen. Photograph: Chen Zixiang for the Guardian



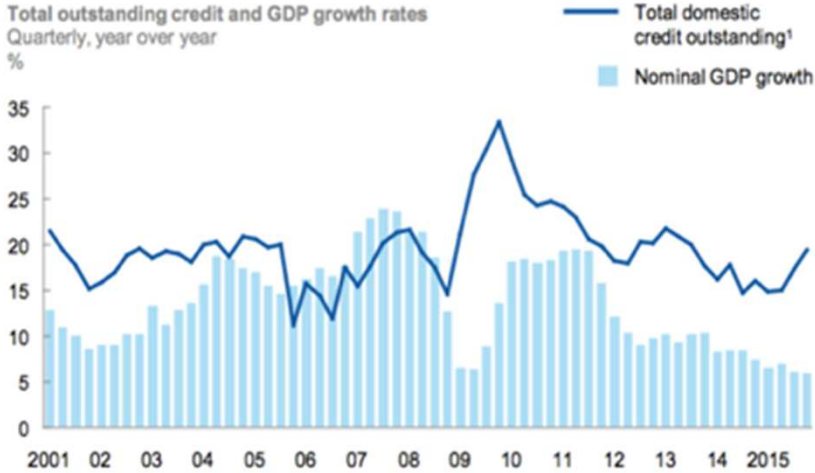
A mechanic from bike share company Ofo stands amongst damaged bicycles needing repair in Beijing. Photograph: Kevin Frayer/Getty Images



Credit growth, debt levels and now risk controls

Exhibit E1

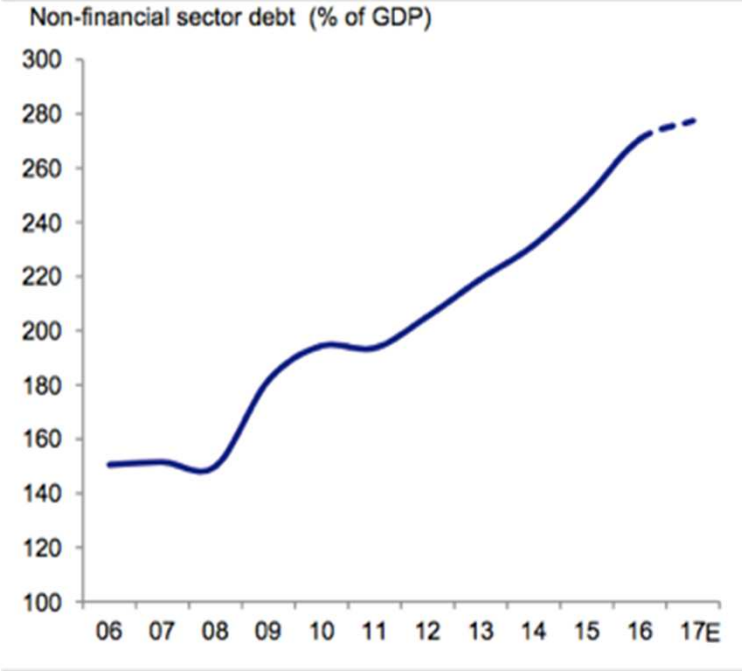
Under the investment-led model, China's credit growth far exceeds GDP



1 Includes total social financing, non-loan bank claims on non-banking financial institutions and on corporations and households, and banks' net claims on government (a portion of the claims data is available only starting in 2005). This measurement includes all outstanding credit in the real economy but excludes interbank credit.

SOURCE: McKinsey Global Institute Debt & Deleveraging database; CEIC; Emerging Advisors Group; McKinsey Global Institute analysis

Figure 1: China's debt kept rising as a share of GDP

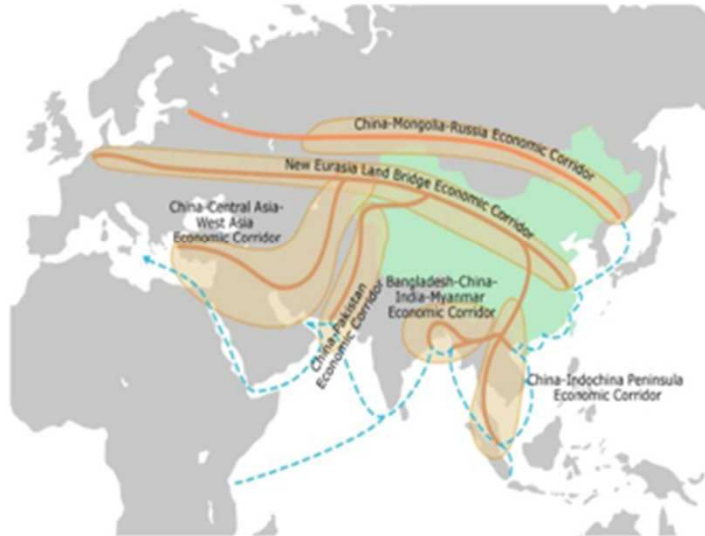


Source: CEIC, UBS estimates

“Belt & Road Initiative” (BRI) & AIIB

Figure 1: Roadmap for the Belt and Road Initiative

The Belt and Road Initiative: Six Economic Corridors Spanning Asia, Europe and Africa



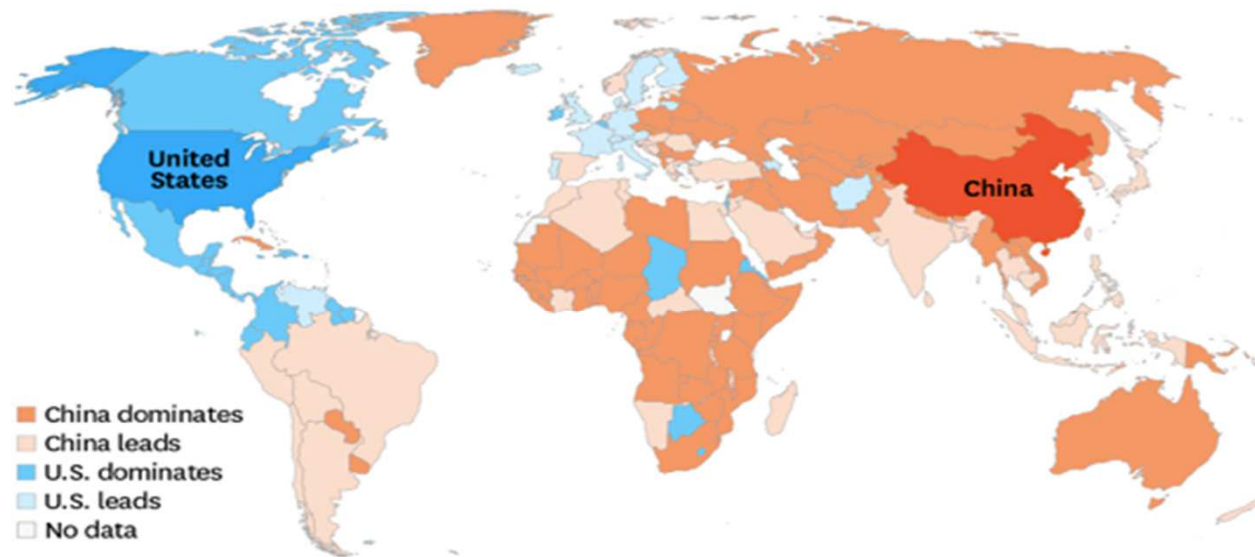
Source: HKTDC Research, <http://china-trade-research.hktdc.com/business-news/article/One-Belt-One-Road/The-Belt-and-Road-Initiative/obor/en/1/1X000000/1X0A36B7.htm>



Asian Infrastructure Investment Bank (AIIB) president Jin Liqun attends the opening ceremony of the first annual meeting of AIIB in Beijing, China, June 25, 2016. REUTERS/Jason Lee.

The world's largest trading nation

U.S. vs. China in Global Merchandise Trade: Who Leads Where?

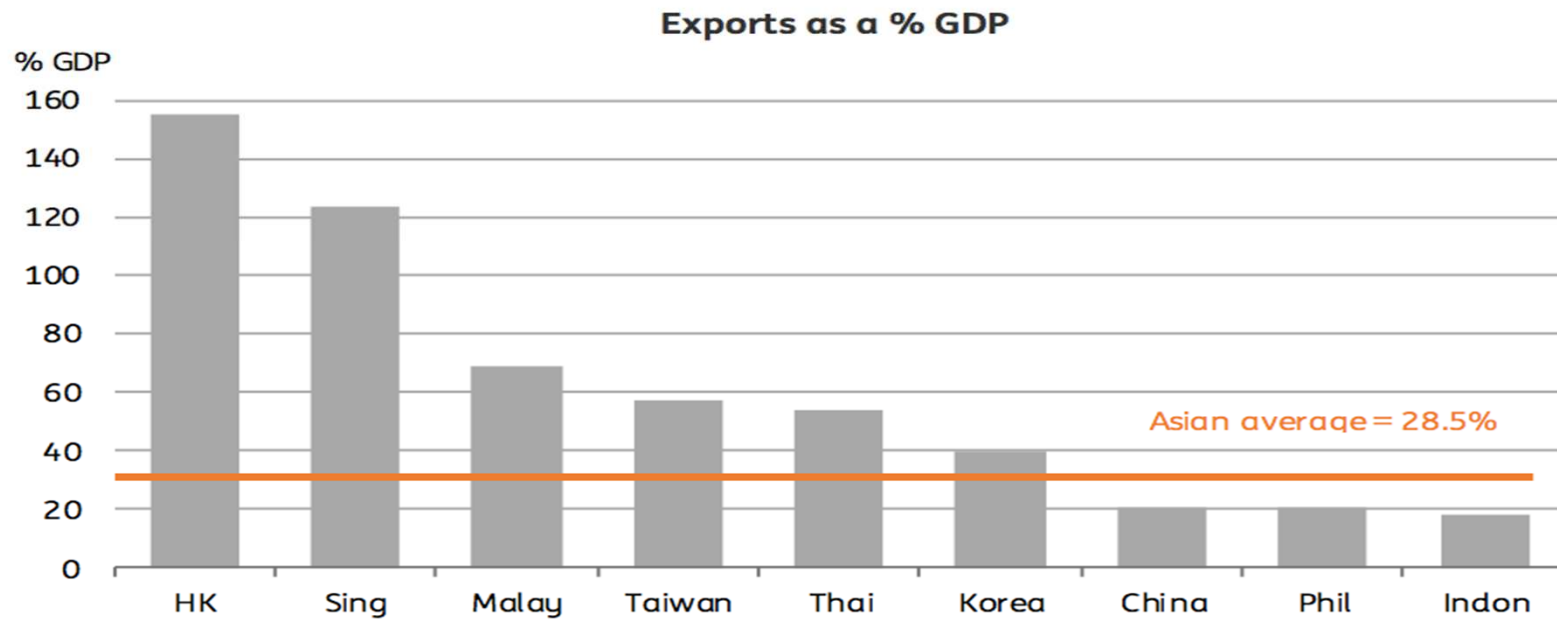


NOTE "CHINA DOMINATES" REFERS TO CHINA HAVING MORE THAN TWICE AS MUCH TRADE AS THE U.S. WITH A THIRD COUNTRY; "CHINA LEADS" REFERS TO CHINA HAVING BETWEEN ONE TO TWO TIMES AS MUCH TRADE AS THE U.S., AND SO ON. SOURCE PANKAJ GHEMAWAT, BASED ON 2015 OR MOST RECENT AVAILABLE DATA FROM IMF DIRECTION OF TRADE STATISTICS AND UN COMTRADE DATABASES

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China decreasing export dependency

Tariffs and growth – also depends on export dependency



The evolving trade war or frictions

The “World” Trade War



● US

● Everyone else on the receiving end

The combatants in this global trade war are centred on 3 main regions:

1. North America
2. EU
3. Asia (China, but also Korea, Japan)
4. Add in Turkey and Iran, (Brazil, Argentina, exempted tariffs but quotas on steel, Aluminium exports)

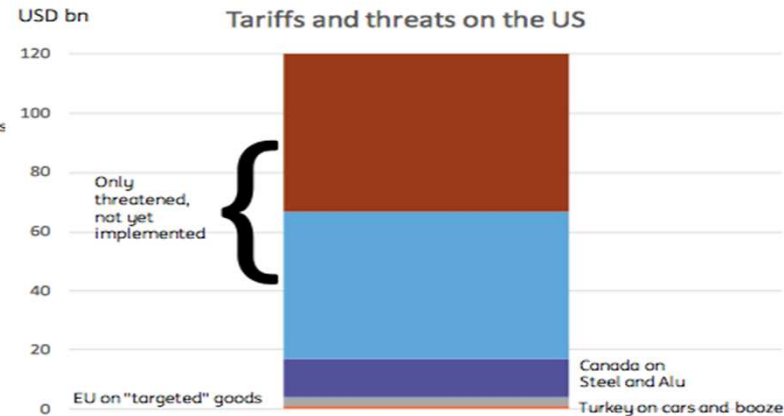
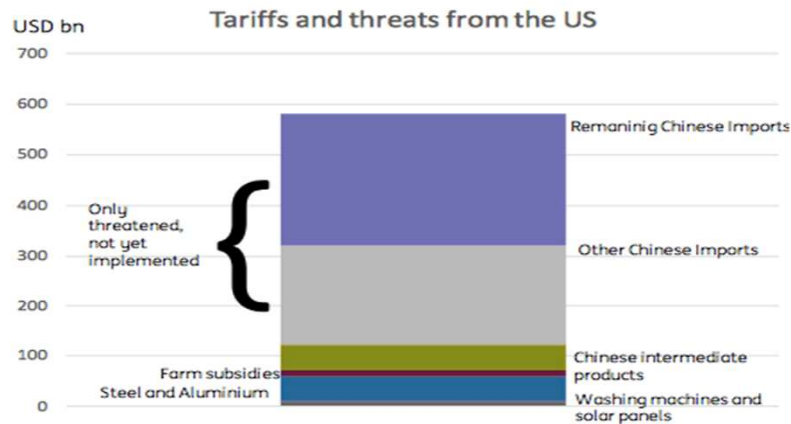
There are four main “battles” in this war (see next slides...)

Tariffs, tariffs, tariffs



Tariffs, tariffs, tariffs

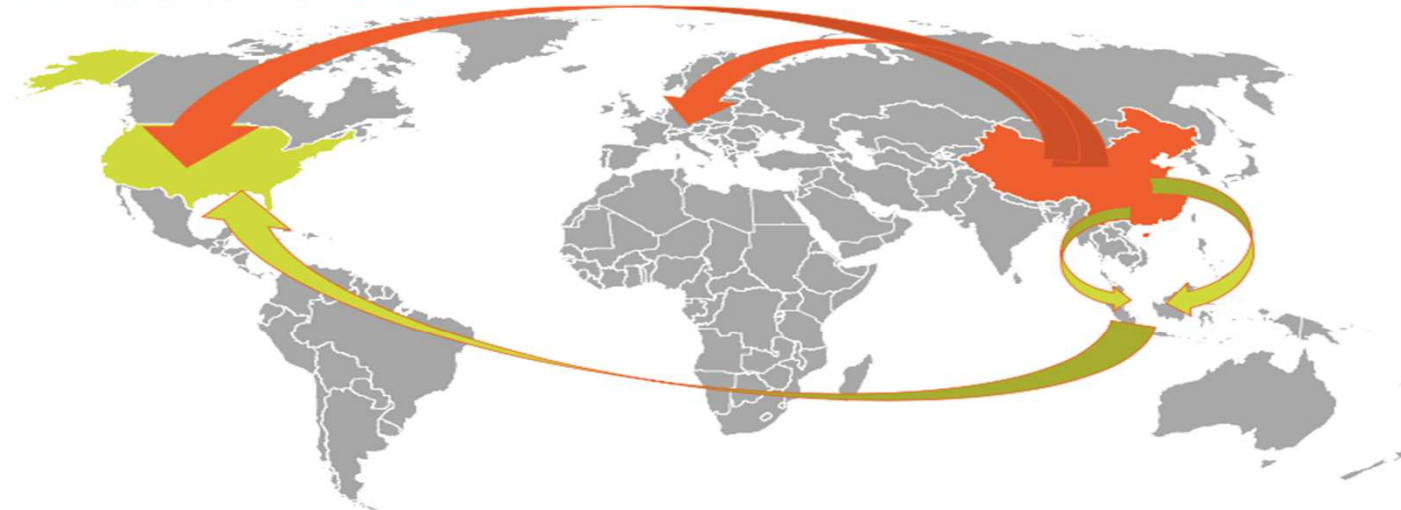
The Scale of the Tariffs



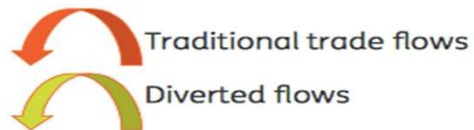
- So far, the trade war is pretty one sided.
- Actual tariffs implemented amount to only about USD \$165bn of trade at tariff rates of between 10% and 25% (excludes the \$200bn Section 301 tariffs)
- Threatened tariffs not yet implemented amount to a further USD\$340bn (plus up to \$200bn of the section 301), at similar tariff rates...
- ... for a total of about USD \$700bn. For comparison, Global GDP is about USD\$80tr so tariffs equivalent to <1% global GDP.

Tariffs creating new trade patterns

Trade diversion



We typically think of China as an exporter of finished goods and intermediate products to the US and to Europe



But as tariffs bite, US trade flows are likely to be diverted

1. To nearby Asian economies (squeeze local production?)
2. To traditional destinations, but indirectly (Asian shipping could benefit) – could “near-China” economies benefit... Vietnam?

How will China-US relations develop?



China-US relations

- USA sees China as a competitor, not only in trade but also in geopolitics, a new "Cold War" in the making?
- Toughening stance on China by Trump and his administration
- CFIUS evolved into the tougher FIRRMA
- China still not given "Market Economy Status" by WTO due to resistance from USA and EU
- NAFTA evolved into USMCA
- Will China retaliate on USA by flashing its "black belt in bureaucracy"?
- China implements deregulations and opening up to foreign participation in different sectors: financial sector, automotive, shipbuilding etc
- Lowering import duties on a wide scale
- China International Import Expo, Shanghai in November 2018

Sweden – China and why Sweden is interesting

- Sweden one of very few EU with a trade surplus (and growing) on China
- Sweden one of the largest recipients of Chinese direct investments into the EU in 2018
- Open economy, free trade tradition
- No or little government interference, in contrast to larger European countries (might change if EU introduces screening of Chinese investments)
- Sweden perceived as a world leading innovation nation – there is a lot to learn!
- Sectors: Technology, life science, healthcare, gaming, consumer brands, machinery, shipping, cleantech, fintech, social security and welfare systems etc

Always remember the "Laundry List"!

- Understand the priorities of the Communist Party of China, today and tomorrow
- Do we know the rules and regulations that apply?
- Pros and Cons for us? SWOT analysis!
- Optimal way to work with China given our existing resources?
- Do we have sufficient financial and personnel resources?
- Be mindful of the different levels of income and development in different parts of China
- No reason to rush through agreements – "the devil is in the details"
- Do you know your Chinese client/counterpart?
- The importance of always getting paid!
- Deals can be done in both good and bad times, what matters is that you understand the risk and can handle it satisfactorily.
- China impresses on a macro level, confuses on a micro level
- Work with China in a multi-dimensional way 1) direct 2) via Hong Kong, Taiwan, Syd Korea, Japan or elsewhere 3) with Chinese companies outside of China

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Asia Trade Update

Cindy Owens and Sven Bates

14:30-15:15





Trade concepts relevant in Asia

The three pillars

1 Tariff classification

- Tariff classification code
- Determines duty rate of product

2 Valuation

- Duty rate applies to the "value" of product
- Challenging areas: royalties and licence fees; assists; transfer pricing

3 Origin and preference

- Reduced duty or duty free imports for goods from Free Trade Agreement (FTA) country or Generalised System Preference (GSP) country
- Applicability of additional tariffs (US, China)

Customs risks – duty shortfall penalties

China	Indonesia	Japan	Malaysia	South Korea	Thailand
30% - 200% of the duty shortfall	100% to 1000% of the duty shortfall	10% of the duty shortfall (plus possible 35% as a "heavy penalty tax" for deficient declarations)	RM 5,000 to RM 500,000 per offense	Up to 500% of the duty shortfall or the value of the relevant goods (whichever is higher)	50% to 400% of the duty shortfall (up to 400% of the value of the relevant goods in smuggling cases)



Trends and updates

Globalization and APAC FTAs

- **TPP-11 / CPTPP**
 - In the process of being ratified
- **USMCA**
 - new template for bilaterals
 - restricts deals with China
- **Regional Comprehensive Economic Partnership (RCEP)**
- **Trade in Services Agreement (TiSA)**
- **ASEAN Economic Community**

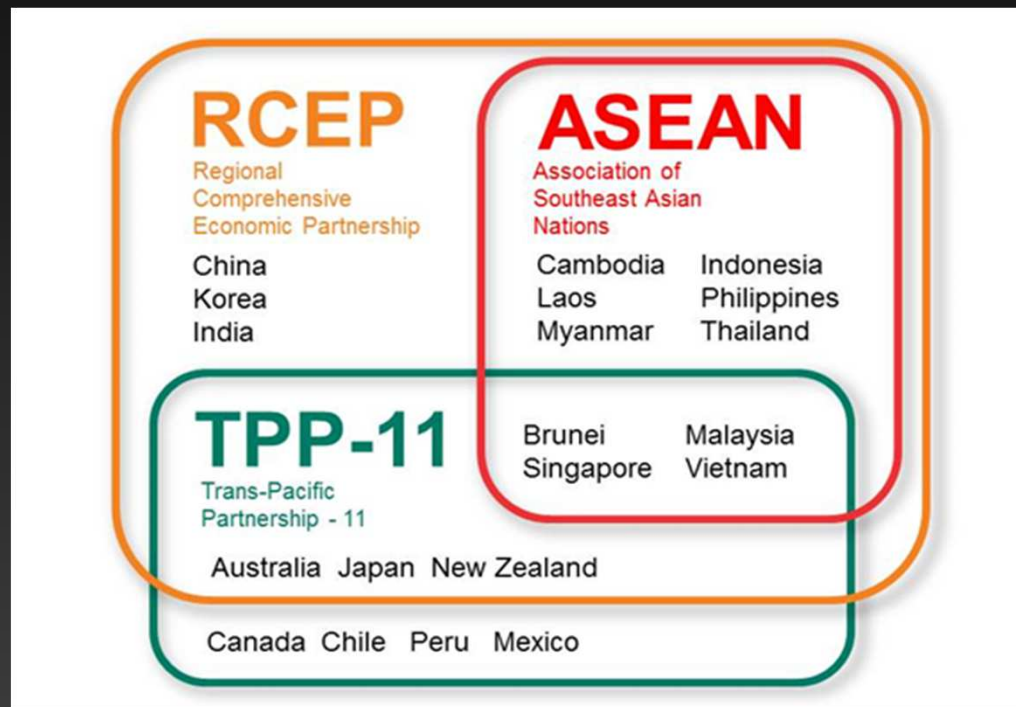


Globalization and APAC FTAs

- **WTO Trade Facilitation Agreement**
 - Entered into force in 2017
- **New trade agreements to be negotiated**
 - Between the UK and everyone
 - EU is active: Japan/EU, Singapore/EU, Vietnam/EU



Asia-Pacific trading blocks



FTA Benefits/Country of origin

Identify the FTAs between trading countries and the duty saving opportunities

Determine the country of origin

Document to prove origin

Apply for preferential treatment

Claim the FTA benefits at the time of import and be prepared to defend them



Trade conflict

Trump trade agenda

- During the election campaign, candidate Trump promised to "Make America Great Again" and establish "America First" policies. He said:
 - He would bring back manufacturing and jobs allegedly lost to bad trade policies
 - He would review, re-negotiate or get out of trade agreements that were not in the best interest of the US
- A few key Trump principles to keep in mind
 - Trade deficits are bad (e.g., China, Germany, Mexico, etc.)
 - Reciprocity ("**free, fair and reciprocal trade**" for duty rates, market access, etc.)

Under President Trump the US has introduced several trade measures to increase tariffs relying on national security and similar reasons

Retaliatory actions

- **WTO cases against the US**
 - Several countries have filed WTO Dispute Settlement Body cases alleging that US new trade measures violate the WTO Safeguards Agreement
 - The US claims the WTO lacks jurisdiction because its measures are national security measures that are exempt from WTO agreements
- **Retaliatory tariffs imposed against the US**
 - Countries have been imposing or threatening to impose retaliatory tariffs against the US

Retaliatory actions

- **WTO cases brought by the US against the retaliatory tariffs**
 - The US has filed cases with the WTO DSB alleging that the retaliatory tariffs imposed by the EU, Canada, Mexico and other countries violates the WTO rules



Emerging export control regimes and sanctions

China

- On 16 June 2017, MOFCOM proposed a new Export Control Law
- Provides a new comprehensive and holistic approach to export control
- Consistent with international standards, such as the Wassenaar Arrangement
- Introduces new concepts to China's existing export control laws, such as "re-export" and "deemed export"
- Establishes a science-based export control listing system and a rigorous management system

India

- In December 2017, the Wassenaar Arrangement agreed to admit India
- India expects its membership will create the grounds for the realignment of India in the export control policy framework
- In January 2018 India was admitted to the Australia Group
- India joined the Missile Technology Control Regime in 2016
- Not a member of the Nuclear Suppliers Group

Hong Kong

- Hong Kong Trade and Industry Department review of strategic commodity pre-classification and import and export license applications
- Strategic commodity enforcement by Hong Kong Customs and Excise Department

Singapore

- On 4 September 2018 Singapore Customs updated the Strategic Goods Control Order (SGCO) containing the control list to be effective 1 November 2018
- SGCO 2018 brings Singapore's strategic goods control list up to date with the 2017 Wassenaar Arrangement and the 2017 EU Dual Use List

Malaysia

- Amendments to the Strategic Trade Act 2010, effective 8 September 2017
- Compound offences
- Limits brokering to transactions outside Malaysia and exclusion of ancillary services
- End-user statements in prescribed form no longer mandatory
- Limits on punishment for certain offences to provide for more trade-facilitative ex. con. laws

Philippines

- Strategic Trade Management Act, 2 December 2015
- No implementing rules and regulations yet
- Adopts EU control list, plus Nationally Controlled Goods
- Controls import, export, re-export and deemed exports
- Permits are required for export, import, re-export, reassignment, transit, transshipment, and provision of related services

Thailand

- New dual-use export control measures to take effect on 1 January 2019
- Test run of e-TMD system (Trade Management System of Dual-Use Items) since 2 April 2017 to facilitate the Self Classification, Self certification, and e-Licensing
- Still, however, there is no rule and regulation regarding export license and relevant requirements

Snapshot of some export control regimes

	Australia	China	Hong Kong	Malaysia	Philippines	Singapore	Thailand
Tangible	✓	✓	✓	✓	✓	✓	✓
Intangible	✓	✓	✗	✓	✓	✓	✗
Wassenaar Participant	✓	Proposed ECL is Wassenaar-like	✗ (follows Wassenaar)	✗ (based on EU list)	✗ (based on EU list)	✗ (adopts EU list)	✗ (follows Wassenaar)
Penalties (fines / imprisonment)	✓	✓	✓	✓ (criminal and death penalty)	✓	✓	✓

APAC sanctions developments

- **Implementation of new measures relating to North Korea**
 - Implementation by APAC jurisdictions of United Nations Security Council additional measures for sanctioned conduct and individuals relating to North Korea. Will impact jurisdictions differently depending on trade with North Korea

APAC sanctions developments

- **Indonesia**
 - Government, specifically Ministry of Trade, now implement (unwritten) policy for importer and exporter to suspend/hold any trade with APAC Sanctioned Countries such as North Korea as well as Israel
 - Visa countermeasures for Israel as per June 2018 Indonesia denied visa for 53 Israel passport holders.
- **Singapore**
 - On 7 November 2017 Singapore prohibited **all** commercially traded goods with North Korea.
 - Singapore recently issued a second Circular on 10 August 2018 stating that there is a strict prohibition on commercially traded goods with North Korea.

APAC sanctions developments

- **Malaysia**
 - 2017 general trade embargo against products imported from / going to Israel
 - Financial countermeasures - no trade without approval with Israeli connected trading partners or using / involving Israeli currency



Tariff and supply chain management

General impact - why tariffs matter

- **Impact of tariffs on a company's financial performance**
 - Higher Costs of Goods Sold
 - Lower gross and operating profit margins
 - Increased consumer prices
 - Less product assortment and availability
 - Fewer resources for marketing, R&D and other competitive activities

How businesses can respond

Strategic Customs and Trade Planning

Order Management and Sourcing

- **Redirect shipments**
- Change and/or cancel orders
- Alternative sources of supply

Product and Supply Chain Restructuring

- **Tariff classification engineering and planning**
- **Country of Origin Management**
- Invest in new production capacity in diverse geographies

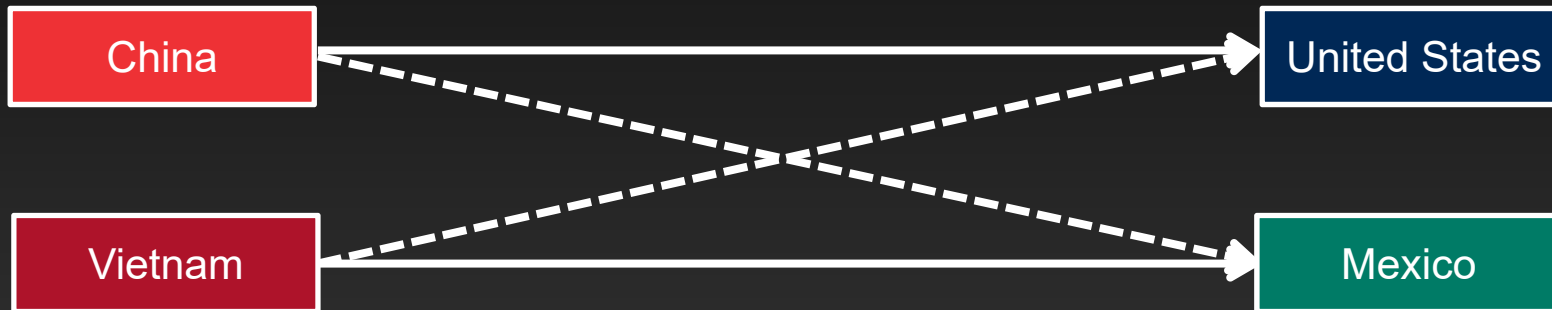
Process Changes

- Customs valuation planning
- Customs audit defense planning
- Improve trade compliance controls and procedures

Redirect shipments

Manufacturer

Importer



Notes

- May require product fungibility
- Possible legal restrictions
- Commercial documentation changes
- Complex logistics exercise

Original Shipment



Redirected Shipment



Tariff classification engineering and planning

- Additional tariffs and retaliatory tariffs apply to products based on their tariff classification
- Common tariff classification engineering and planning approaches
 - Change or add materials
 - Change functional features and characteristics
 - The use of retail sets

Tariff classification engineering and planning

- May require significant time depending on product design, order and production cycles
- Balance with commercial and marketing considerations
- Trade conflict escalation may reduce opportunities for tariff classification engineering and planning as more products are subject to additional and retaliatory tariffs
- Customs rulings and administrative considerations

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Panel Discussion: Dealing with Trade Compliance in a global context

15:35-16:15

Mattias Lövensjö
Sandvik AB

Anna Strömblad Parga
Polystar Group

Johanna Oderstedt
Telia Company AB

Leif Önner
Atlas Copco Group

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Concluding remarks

16:15-16:30

**TRADE
DAY**



2018

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