

A Mystery Company in Malaysia's French Sub Scandal
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Amid cheers for quick action on some issues, CY looks a bit too close to the masters across the border

Is it just a sign on a Hong Kong door?

For a company that allegedly received at least €36 million from an offshoot of the French defense company DCN, Terasasi (Hong Kong) Ltd is a mysterious company indeed. It is one of at least 142 names listed on the directory on the 19th floor of a skyscraper at 3 Lockhart Road in Hong Kong's Wan Chai district.

The 19th floor's main tenant is a company called Union Alpha, the Hong Kong arm of an accounting firm that provides "professional services to meet clients' daily business needs, both in Hong Kong, Greater China and globally," including auditing and assurance services, management consulting, accountancy and other services, according to the firm's website.

There is no indication of what Terasasi's business is. It is only listed in the Hong Kong Companies Registry as a "local company." Asked about the nature of Terasasi's operations, Monique K.L. Chan, a senior officer at Union Alpha, told Asia Sentinel that "We cannot discuss confidential matters of our clients." She referred Asia Sentinel to her boss, whom she said was in a meeting. He did not immediately answer a request for a phone call.

Terasasi, however, is at the center of allegations that at least some of the €36 million was funneled through its accounts to Malaysian Prime Minister Najib Tun Razak as a commission on the sale of two Scorpene submarines purchased from the French defense company Thales International, also known as Thint Asia.

The two directors of Terasasi Hong Kong, which was first incorporated in Malaysia, are listed in the Hong Kong Companies Registry as Abdul Razak Baginda, formerly one of Najib's closest friends, and Razak Baginda's father, Abdul Malim Baginda. There is no indication, for instance, who Terasasi's bankers might be, but they might be beginning to take notice.

That is because Hong Kong's money-laundering law makes it an offense for bankers, lawyers or accountants to deal with property they know or have reasonable grounds to believe represents the proceeds serious crimes. Offenders are subject to a maximum of 14 years in prison. Records must be kept on any transaction over HK\$8,000, the rough equivalent of US\$1,000.

The Hong Kong Monetary Authority's voluminous guidelines put the onus on banks and other financial institutions and their professional employees to ensure that companies follow legal guidelines on deposits. As required by the guidelines, banks make it a common practice to subject all employees dealing with the transfer of funds to regular, detailed briefings on money-laundering statutes and the penalties involved.

The need to guard against money laundering received new impetus in 2004 when the Hong Kong Monetary Authority urged banks to be especially alert to the possibility of

money laundering as the territory prepared to become an outlet for yuan-denominated deposits. In June of that year, the HKMA issued a supplement to the territory's anti-money laundering guidelines, setting out "Know-Your-Customer" principles, taking account of the requirements of a paper on "Customer Due Diligence for Banks" issued by the Basel Committee on Banking Supervision.

French investigating magistrates Roger Le Loire and Serge Tournaire, who were appointed at the Paris Tribunal de Grande Instance, and who are probing the sale of the submarines, have indicated they would like to interview the Malaysian prime minister as well as Abdul Razak Baginda, who now lives in the UK. However, any possibility that the French authorities could interview the prime minister of a sovereign state concerning bribery allegations is extremely slim – although the question could complicate any of Najib's future plans to vacation in Europe.

It is unknown if French authorities have asked Hong Kong authorities for help into looking into Terasasi's activities. Cecily Chik, a senior press information officer with the Independent Commission Against Corruption in Hong Kong told Asia Sentinel only that the agency does not comment on operational matters.

However, Joseph Breham, a lawyer with the team that started the original investigation into the scandal, told Asia Sentinel, "The Hong Kong authorities can expect to receive an international interrogatory commission from France soon."

In addition to being a close Najib associate, Abdul Razak Baginda is the former head of a Malaysian think tank who was at the center of a 2006 investigation into the notorious death of Mongolian translator and party girl Altantuya Shaariibuu. It was previously revealed on the floor of the Dewan Rakyat, Malaysia's parliament, that a company called Perimekar Sdn Bhd received another €114 million as a commission on the sale of the vessels, from an offshoot of Thales and DCNS called Armaris.

Perimekar at the time was wholly owned by another company, KS Ombak Laut Sdn Bhd, which in turn was also controlled by Razak Baginda and his wife, Mazalinda. Perimekar is now 20 percent each owned by the military retirement system LTAT and Boustead Holdings.

The French news agency Agence France Press recently reported that the probe by the French investigating magistrates involves three contracts for the submarines which were signed on June 5, 2002. According to the documents, the contracts had two components: the sale of two submarines built by Thint and the Spanish shipbuilding firm Izar, for €920 million; and the delivery of "logistical support" from Perimekar Bhd – the €114 million -- to train the first 200 Royal Malaysian Navy personnel although there is no indication that the company had the wherewithal to train them.

The contracts cited by AFP included the €114 million one paid by the Malaysian government to Perimekar. The second, called "C5 contract of engineering business," was concluded in August 2000 between DCNI, a subsidiary of DCN, and Thales International Asia worth some €30 million. The third was the "consulting agreement" signed in October 2000 between Thint Asia and Terasasi.

The French investigators are also studying one of the invoices issued by Terasasi in August 2004 for €359,450 sent to Thint Asia. For investigators, "it appears that... the

amounts paid to Terasasi ultimately benefited Najib, the defense minister, or his adviser Razak Baginda."

French authorities say Terasasi apparently received regular payments from Thint Asia, including one for €360,000 that was accompanied with a handwritten note saying "Razak wants it to be paid quickly." There is no indication if the Razak in question was Najib Tun Razak or Razak Baginda.

The magistrates have documents that show that the money was funneled from Thint Asia to Terasasi -- €3 million when Terasasi was still domiciled in Malaysia, and €33 million after it was incorporated in Hong Kong. There is no indication at this point where the money went. French investigators, however, theorize that it was part of €146 million that may have been funneled to officials of the United Malays National Organization and Najib, who traveled with Abdul Razak Baginda several times to France as defense minister at the time the Malaysians purchased the submarines from DCNS.

On at least one trip in 2004, Altantuya, then Razak Baginda's lover, accompanied him to France as a translator. He later jilted her, impelling her to come to Kuala Lumpur to demand US\$500,000 from him. In a handwritten letter found after her death, she wrote that she was attempting to blackmail him, although she didn't say why. Two of Najib's bodyguards were convicted of shooting her in the head and blowing up her body with plastic explosives in September 2006, possibly to hide the fact that she was pregnant when she was killed.

Because her killing does not appear to be connected to the scandal, French investigators are not looking into the causes of her death or the reasons behind it.

Although Razak Baginda was charged with abetting her murder, he was released without having to put up a defense and fled to the UK. Najib's former bodyguards remain on death row in Malaysia. Their appeal against the death penalty has been delayed, presumably until after national elections that had been expected June this year although elections plans may have been derailed by a massive rally on April 29 calling for election reform.

Under the bribery conventions of the 32-member Organization for Economic Cooperation and Development, the French defense contractors could be liable for criminal sanctions if it is proven that no real services were delivered by the companies. Under French law, violators are liable for up to 10 years in prison.

Breham, a lawyer with Solicitors International Human Rights Group which was engaged by the Malaysian reform NGO Suaram, earlier said that DCNS often budgeted as much as 8 to 12 percent of its total receipts as "commissions" to grease sales of armaments in third-world countries. Breham said Perimekar had received the commission for "supporting the contract," which he said was a euphemism for unexplained costs, and also for "housing the crew" of the submarines in France.

In France, before 2002, any money used to bribe foreign officials was tax deductible. When the former finance director of DCN made a claim for €31 million allegedly used to bribe the Malaysians for the purchase of the Scorpenes, Breham said, the Minister of Budget questioned such a large bribe, although he did eventually authorize the tax

break.

Olivier Metzner, a lawyer for Thales, told the French daily Le Parisien that "we have already demonstrated to investigators that there was no corruption in this case." However, a confidential memorandum made available to Asia Sentinel and the Malaysian website Free Malaysia Today states that: "The beneficiaries of these funds are not difficult to imagine: the family clan and Razak Baginda relations. In addition, these funds will find their way to the dominant political party (Umno)."

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