Malaysian government alters ethnic-based investment laws

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Malaysian Prime Minister Najib Razak last month announced measures to reduce the preferences given to the local ethnic Malay elite in the ownership of companies. The changes have been forced by a deteriorating economy, declining foreign investment and the need to regain political support for the United Malays National Organisation (UMNO)-led coalition government.

Combined with the liberalisation of ownership rules in some sectors of the economy announced in April, the move represents a partial shift from policies that have been a cornerstone of UMNO's 50-year continuous rule.

The new regulations remove the requirement that publicly listed companies must sell 30 percent of their shares to ethnic Malays, a policy directed against the substantial and commercially well-placed Chinese minority and smaller Indian community. Instead, 25 percent will have to be sold to the general public, of which half (12.5 percent) must be to Malays. This requirement will be waived if there is no interest by Malays.

Najib also lifted possible foreign ownership in share-broking companies from 49 to 70 percent, following April's foreign investment liberalisation in 27 economic sectors, including tourism, health, business and technological services. Foreign investors in these sectors no longer require Malay partners, and international investors in non-commercial investment banks and insurers can increase their shareholdings from 49 to 70 percent.

The prime minister announced that the government linked companies (GLCs) must sell their non-core businesses. UMNO-connected enterprises, he claimed, must compete with the private sector on a level playing field. Then, he said, "there would be no issue of the government providing assistance to GLCs by virtue of its shareholding, to the detriment of private sector competition."

Najib indicated that economic circumstances had forced the policy shift. "The pie must be expanded," he said. "There is no point in having a larger share of a shrinking pie." According to current government predictions, the Malaysian economy will shrink by 5 percent in 2009 despite a 67 billion ringgit ($US19 billion) stimulus plan.

Exports declined 29.7 percent in May compared with a year before, the largest year-on-year drop since 1980 and faster than the April decline of 26.3 percent. There have been sharp falls in the value of palm oil and crude oil and continued weak demand in the key electronics export sector.

Net foreign direct investment in Malaysia has been in decline for over a decade. The *Wall Street Journal* noted on July 1: "Malaysia trails Singapore, Thailand, and Indonesia when it comes to the volume of funds raised on its domestic stock market and value of acquisitions by foreign companies in recent years ..."

The *Wall Street Journal*, and the international financial press in general, greeted the new rules as "a step forward" but expressed caution. The London-based *Financial Times* commented that a possible backlash from within UMNO to the rule changes "has provoked scepticism about how far Mr Najib is willing to go in his reforms".

Conscious of likely opposition by sections of UMNO-linked business, Najib said the government was still committed to increasing the ethnic Malay share of corporate equity to 30 percent. He announced a 10 billion ringgit private equity fund to invest in high growth industries and promote Malay business

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ownership.

Former prime minister, Mahathir Mohamad, who retains considerable influence in the ethnic Malay elite, nevertheless denounced Najib and declared that the government should make the expansion of the domestic economy the basis for future growth.

Recognising that Najib's moves will strengthen the Chinese business sector and foreign investors, Mahathir attacked plans to entice Singaporean investment for a new Iskander Development Region as "neo-colonialism". There is little doubt that Mahathir is not just worried about Chinese investors from Singapore. Looming on the horizon is the prospect of investment from China itself, which would further weaken the position of UMNO-connected businesses.

Najib's has his own political motives for the changes, however. He is seeking to undercut the Anwar Ibrahim-led People's Alliance (PR) opposition coalition. Anwar, whom Mahathir expelled from UMNO in 1998 for advocating opening the economy up to foreign investment, has again been placed on trial, on a politically motivated sexual misconduct charge.

The PR is made up of Anwar's People's Justice Party (Keadilan), the Islamist Parti Islam se-Malaysia (PAS) and the ethnic Chinese-based Democratic Action Party (DAP). In last year's national elections, the PR ended the ruling coalition's two-thirds parliamentary majority and UMNO's two main coalition partners, the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC), were decimated. One aspect of Najib's decision to relax the investment rules is to allow the MCA and MIC to regain some of their lost support among the Chinese and Indian business sectors.

The new prosecution of Anwar, which began on July 15, is another demonstration that the UMNO leadership is not just relying on policy changes to maintain its political clout. Earlier this year, it organised a parliamentary coup to oust the PR government in Perak state, one of the five of the 13 Malaysian states that the opposition won in the 2008 elections. In May, when protests developed against the ouster, the government ordered the arrests of dozens of protestors and raided DAP offices.

The original sodomy charge that sent Anwar to jail was overturned in 2004. It has been revived to once again try and railroad the opposition leader to prison. The prosecution resembles the frame-up of a decade ago. It features a vulnerable and easily-manipulated alleged victim, contradictory evidence—much of which has been withheld from the defence lawyers—and the blatant manipulation of the judicial process. The charges have been changed and a new DNA law rushed through to benefit the prosecution—all supervised by an attorney general who is under investigation for misconduct in Anwar's previous trial.

On July 22 the prosecution successfully had the High Court delay the implementation of its own July 16 order that it hand over to Anwar's lawyers the evidence against him, including witness statements, medical case notes and the closed-circuit television image of the house where the sodomy allegedly occurred.

The prosecution is seeking to have the Court of Appeal overturn the July 16 ruling altogether. It is arguing that providing the accused with the evidence would not only jeopardise Anwar's investigation and prosecution but all criminal cases throughout Malaysia.

Malaysian politics has been dominated for the last decade by the issues involved in the 1998 split in UMNO. Mahathir removed Anwar as deputy prime minister and finance minister after Anwar championed International Monetary Fund-inspired austerity and open market measures following the Asian economic crisis of 1997-1998.

Mahathir introduced capital and currency controls designed to protect local business empires, particularly those clustered around UMNO. But Mahathir and his immediate successor Abdullah Badawi were later compelled to make some concessions to foreign capital. Najib took over from Badawi as prime minister on April 3 and has been forced into even greater concessions by the deteriorating economy.

The revived charges against Anwar, combined with Najib's measures, which undermine the basis of UMNO's political domination, express a profound crisis within the Malaysia's ruling elite.

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