



Signing of Regional Comprehensive Economic Partnership

Impacts for the Asia Pacific region

Overview

On 15 November 2020, and after a reported eight-year period of negotiations, 15 countries have joined together to sign one of the largest ever free trade agreements, known as the Regional Comprehensive Economic Partnership (“RCEP”). In its simplest form, RCEP may be considered as a framework for facilitating free and more streamlined trade arrangements between RCEP countries, recognizing that the countries comprising RCEP consist of both developed and developing countries. It is also highly symbolic, coming at a time of recent trade tensions and tariffs.

RCEP brings together the 10 ASEAN¹ states (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam) with five other partner countries (Australia, China, Japan, New Zealand and South Korea). According to the Joint Leaders’ statement signed on 15 November 2020, RCEP will “cover a market of 2.2 billion people, or almost 30% of the world’s population, with a combined GDP of US\$ 26.2 trillion or about 30% of global GDP, and accounts for nearly 28% of global trade (based on 2019 figures)”.²

At an earlier stage of the negotiating process, India had been a party though it later withdrew, but could potentially re-engage with RCEP in the near future. Interestingly, Hong Kong SAR, China, as a member of the World Trade Organization is not a party in its own right to RCEP as of now, but has expressed a desire to join RCEP as its first new member economy.³

The global pandemic has heightened the need for many businesses to reconsider their supply chains, with a number of key trends emerging such as regionalization, digitalization, near-shoring, reshoring, and rebasing of manufacturing all being evident features. Customs and tariffs, government subsidies, the changing costs of and

access to labor, and taxation are all having an impact on these decisions. RCEP will play a critical role in this assessment process, and even act as a trigger for supply chain reorganizations.

Key features of RCEP – regional impacts

There are several high-level elements of RCEP:

1. In formal terms, RCEP comes into force when at least six ASEAN Member States and three non-ASEAN signatories ratify it into domestic law. Commentators have ranged in their predictions anywhere from six months to two years for this to occur.
2. The primary purpose of RCEP is to serve as an overarching mechanism for the bringing together of free trade between the 15 countries. That is, RCEP brings together a single set of rules and procedures for accessing preferential tariffs across the region.
3. In a practical sense, a key achievement of RCEP is that it harmonizes disparate rules of origin concepts, thereby providing greater levels of certainty and consistency for business in managing their supply chains across the region. More specifically, RCEP provides:
 - Standardized rules of origin for all participating countries – rather than examining individual rules of multiple bilateral agreements;
 - Standardized direct shipment (consignment rules), though in some instances, these rules are more restrictive than existing bilateral agreement consignment rules which may impact on existing regional distribution hub arrangements;
 - An opportunity to include multiple countries in the calculation of origin rules and access to preferential duty rates, which is critical with global supply chains; and
 - Standardized documentation requirements which, once again, may be more prohibitive than some bilateral agreement documentation requirements.



4. The benefits of harmonization should not be underestimated given the complexities of trade within the Asia Pacific region, especially as the trend for manufacturing shifts to less developed economies;
5. A key practical breakthrough with RCEP is the establishment of free trade for the first time between China and Japan, Japan and South Korea.
6. However, in seeking to achieve consensus amongst such a politically and economically diverse group of nations, certain compromises have inevitably occurred. For example, certain commentators have noted that RCEP does not remove tariffs on 39% of ASEAN's food exports, and in particular many of Japan's agricultural tariffs still remain.
7. As against this, the scope of RCEP is very broad and in many respects, seeks to cover more ground than many traditional bilateral free trade agreements. In addition to trade in goods (including customs procedures, trade facilitation and standards, and trade dispute remedies) it also covers trade in services, including sectors such as financial services, telecommunications, professional services, and the temporary movement of business people. RCEP also includes chapters on investment, intellectual property, e-commerce, government procurement and competition (amongst others).
8. Although the immediate benefits of RCEP for the services sector are more modest, the framework of RCEP provides a platform through which foreign service providers are expected to be granted greater levels of market access. This is achieved through a transition from a 'positive list' approach (i.e. where certain services are permissible in a given country) to a 'negative list' approach (i.e. where services are permissible unless specifically excluded).
9. RCEP contains only limited change in the area of intellectual property protection and enforcement. However, in terms of e-commerce RCEP does contain new provisions which are intended to support small to medium enterprise engagement with e-commerce and the flow of data, promote privacy and consumer protection, and enable electronic authentication and electronic signature. Crucially though, the financial services sector is generally excluded from these measures.
10. RCEP does not cover areas such as environmental protection, government subsidies and the use of labor unions.
11. The table below provides a quick snapshot of the existing status of free trade agreements among RCEP countries. As noted, the benefits of RCEP will be most pronounced in jurisdictions which did not already have a bilateral free trade agreement in place, while it does invite comparison and choice with existing free trade agreements to obtain most favourable treatment.

| | ASEAN | Australia | China | Japan | South Korea | New Zealand |
|-------------|-------|-----------|-------|-------|-------------|-------------|
| ASEAN | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Australia | ✓ | | ✓ | ✓ | ✓ | ✓ |
| China | ✓ | ✓ | | | ✓ | ✓ |
| Japan | ✓ | ✓ | | | II | |
| South Korea | ✓ | ✓ | ✓ | II | | ✓ |
| New Zealand | ✓ | ✓ | ✓ | | ✓ | |

✓ FTA concluded, signed and in force II Negotiations paused



Conclusions

Whilst not removing the complexities of free trade agreement access and benefits in the short term, the hope is that RCEP will provide organizations greater long term certainty on the various rules of origin required to satisfy access to preferential duties, allowing them to streamline processes and procedures to qualify for a single agreement across multiple countries. The immediate priorities for organizations should be to examine the benefits (including phased preferential duty rates, documentation and direct shipment requirements) to determine if and when RCEP, once available, will be most advantageous to implement in place of the existing bilateral or multilateral free trade agreements they are currently utilizing.

It remains to be seen whether the benefits of RCEP will truly be realized, with much of this being dependent on future decisions being taken by countries to adhere not only to the 'letter' of the agreements, but also to the 'spirit' and intent of RCEP. While the countries which are parties to RCEP may now account for around 30% of global GDP, this is anticipated⁴ to rise to nearly 50% by 2030. There is thus the potential for RCEP to serve not just as a major platform for global trade, but the major global platform. Perhaps most of all, the timing of RCEP could not have been more perfect, delivering a message of hope amidst a tide of challenges surrounding global trade cooperation.

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1 Source: ASEAN - Association of Southeast Asian Nations. More on asean.org

2 Source: Joint Leaders' Statement on the Regional Comprehensive Economic Partnership (RCEP), 15 November 2020. Posted on asean.com

3 Source: Comments attributed to the Acting Secretary for Commerce and Economic Development, Dr Bernard Chan, in the Legislative Council, 11 December 2019.

4 Source: HSBC report 'Asian nations sign new trade deal', 16 November 2020.