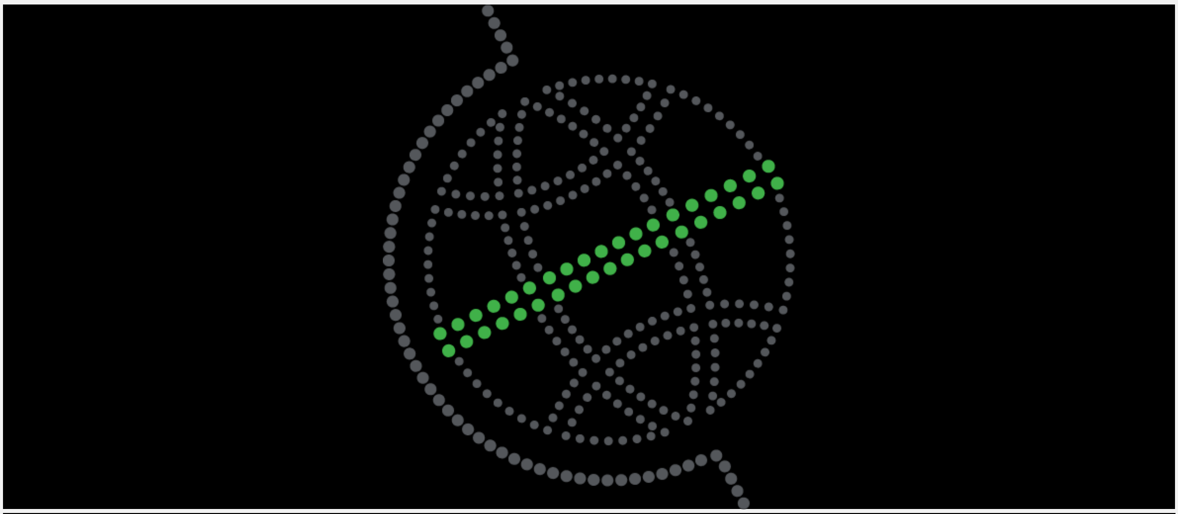
APAC | Tax & Legal | Customs and Global Trade | 8 January 2021



Global Trade Advisory Newsflash

The Regional Comprehensive Economic Partnership (RCEP): 15 Asia-Pacific nations strike one of world's largest trade deals

On 15 November 2020, the Regional Comprehensive Economic Partnership agreement (RCEP) was signed at the Vietnam-hosted virtual ASEAN Summit.

RCEP is a free trade agreement (FTA) between 15 member countries in the Asia-Pacific region: the 10 ASEAN states (i.e., Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam), Australia, China, Japan, New Zealand, and South Korea.

RCEP will take effect after at least six ASEAN countries and three non-ASEAN countries ratify the agreement.

Significance of RCEP

Building upon the existing FTAs and economic linkages between the member countries, the practical effect of RCEP is to combine them into a single, Asia-Pacific regional, multilateral pact.

This is also the first FTA to connect China and Japan (Asia's largest and second largest economies respectively) on the one hand, and Japan and South Korea on the other, laying the foundation for deeper cooperation between the three countries in the future.

RCEP is designed to eliminate as much as 90% of the tariffs on goods traded between its signatories within 20 years of the agreement coming into effect.

RCEP coverage and highlights from a trade perspective

The RCEP agreement consists of 20 Chapters, 17 Annexes, and 54 Market Access Schedules. RCEP includes, amongst others, chapters on trade in goods, services, investments, and other horizontal provisions designed to improve the business environment around e-commerce, government procurement, intellectual property, small[1] and medium enterprises (SMEs), economic cooperation and others.

Market access

RCEP requires the 15 member countries to commit to lower tariffs, open markets, and reduced barriers to trade. From a trade in goods perspective, once the agreement enters into force, more than 90% of tariff lines will eventually reduce to zero (either upon entry into force or within the committed timeframes of the individual member countries).

From a trade in services perspective, it is expected that at least 65% of all services sectors will be fully opened with increased foreign shareholding limits, including in areas such as professional services, telecommunications services, financial services, computer related services, and in the distribution and logistics sector. Member countries have agreed to both a 'positive-list' and 'negative-list' approach, based on the existing comfort level of each individual member country.

From an investment perspective, RCEP contains prohibitions against member countries imposing performance requirements on investors as conditions for entering, expanding or operating within such member countries. Investor state dispute settlement (ISDS) provisions are also worked in to ensure investors have an avenue against member countries who are in breach of the commitments provided under the agreement.

Expanded scope against other FTAs

In addition to additional commitments provided from a trade in goods, services and investments perspective over the existing ASEAN+1 FTAs, RCEP further expands the scope of the original ASEAN+1 FTAs to include horizontal provisions on e-commerce, government procurement, intellectual property, competition, assistance to SMEs and additional cooperation on the economic and technological fronts.

Rules of origin

In order to qualify for preferential tariff treatment under RCEP, goods must comply with certain origin criteria set out in the agreement.

The rules of origin (ROO) under RCEP provide that goods are considered as qualifying if they meet any of the following conditions:

a) Wholly obtained or produced in a member country;
b) Produced in a member country exclusively from originating materials from one or more of the member countries; or
c) Produced in a member country using non-originating materials, provided the good satisfies the applicable requirements set out in the Product Specific Rules (PSR)[2].

The PSR, applied against goods of specific HS[3] codes, include a regional value content (RVC) based rule of origin, a change in tariff classification (CTC) based rule of origin, a specific manufacturing or processing operation requirement, or a combination of these rules.

Where a choice of rule is provided under the PSR, an exporter can choose the most favourable rule applicable to it in determining whether its good qualifies as an originating good under the Agreement.

One of the main features of RCEP is that it allows regional content cumulation between all 15 member countries. The regional cumulation rule will be most helpful in terms of allowing manufacturers the choice of sourcing inputs from the most efficient and cost-effective source within the region.

RCEP also provides exporters the flexibility of either obtaining physical certificates of origin (CO) or providing declarations of origin (DO) to accompany the goods exported. This can either take the form of pre-registered exporters (i.e., approved exporters in accordance with Article 3.21 of the Operational Certification Procedures (OCP) to RCEP, who have amongst other matters, shown satisfactory levels of experience and understanding of rules of origin and have good compliance records), or any exporter meeting the requirements under Article 3.18(b) of the OCP to RCEP.

With regard to the latter, it should be noted that 12 of the RCEP countries (other than Cambodia, Laos, and Myanmar (CLM)) have up to 10 years to implement the full self-declaration system, whilst the CLM countries have up to 20 years to do the same.

Trade facilitation

RCEP's trade facilitation measures were designed to go beyond the commitments provided by member countries under the WTO Trade Facilitation Agreement, in terms of further simplifying customs procedures and expediting customs clearance of goods, ensuring also that member countries have national legislation allowing importers to apply for advance rulings from the national customs authorities.

Amongst the commitments made by member states under RCEP are that perishable goods should be released in the shortest possible time and to the extent possible in less than six hours after arrival of the goods, including allowing importers to arrange or designate storage facilities to keep such goods pending their release by customs authorities.

Article 4.15 (on express consignments) also includes a requirement for member countries to implement customs procedures to expedite clearance of express consignments by allowing pre-arrival declarations, single submissions of information covering all goods contained within an express consignment, minimization of documents required to be submitted, and customs release as rapidly as possible within six hours of arrival.

Other commitments are also given with respect to additional facilitation measures for authorised economic operators (AEOs), the use of information technology to support customs operations and expedite customs clearance (move towards paperless trade), and the ability for importers to file appeals against customs decisions, both by way of administrative appeals and judicial appeals.

Annex 4A contains the time period given to member countries to implement all of the trade facilitation commitments under Article 4, with the earliest being 31 December 2021 (e.g., Article 4.16 on post-clearance audits) to periods of between 3 and 5 years for many of the other commitments on trade facilitation measures.

[1] Including micro enterprises.
[2] The specific rule, or specific set of rules, applicable to a particular good.
[3] The Harmonized Commodity Description and Coding System, also known as the Harmonized System (HS) of tariff nomenclature is an internationally standardized system of names and numbers to classify traded products.

Regional impact insights

ASEAN
RCEP builds on ASEAN's existing bilateral agreements with its +1 partners, namely Australia, China, Japan, New Zealand and South Korea where the streamlining of the existing bilateral agreements will help consolidate ASEAN's vision of being a key location for firms to invest more in terms of building supply chains in the region. This will help promote growth in the ASEAN member states looking to attract more foreign direct investment whether in the goods or services sectors and will ultimately result in jobs generation and overall economic growth for the region. Specifically from a country perspective, select country responses are as follows: **Indonesia**: – RCEP complements the recently passed Omnibus Law in achieving structural reform in Indonesia and is important to continue with the multilateralism agenda and boosting of the national economy due to the COVID-19 pandemic. – RCEP has the potential to increase Indonesia's exports to other member countries by up to 11% and investment into Indonesia by up to 22%. – Reducing regional trade barriers is a necessary step to sustain trade and uphold competition and efficiency and increased foreign direct investment (FDI) into the country, aligned with the President's call for more FDI inflows to Indonesia where non-tariff barriers continue to be the source of many issues faced by companies in Indonesia. **Malaysia**: – The services commitments under RCEP are of particular interest to Malaysian companies in line with the country's progress towards the services sector contributing a larger percentage of Malaysia's GDP composition. – As a relatively open economy that is also home to many MNC subsidiaries with export-based manufacturing facilities, RCEP is exciting: by allowing more intra-regional sourcing of raw materials, finished goods manufactured in Malaysia will be more competitive when exported to the other 14 member countries. **Philippines**: – The RCEP is expected to lower tariffs on 98.1% of goods in the Philippines and will benefit sectors such as the semiconductor industry. This will benefit local manufacturers and businesses as they will be able to import raw materials and intermediate goods at a reduced tariff rate. – The potential surge in imports is something that local companies will need to manage as a trade-off for market access into other countries, although products exempted from preferential access such as rice and industrial products like cement and auto parts will shield some of these industries from immediate impact. – Exports to China are expected to increase with RCEP.

Singapore:

- RCEP will complement Singapore's existing network of FTAs and boost trade and investment flows. It will further broaden and deepen Singapore's economic linkages and connectivity with the region which is of key importance to Singapore.
- Beyond the economic value derived from it, RCEP is also a statement of all member countries' strategic intent to have a shared interest in each other's prosperity and success which will bode well for the security of the region.

Thailand:

- RCEP will complement the ASEAN Economic Community agenda and will offer more market diversification to local champions going abroad and foreign direct investments into Thailand.
- RCEP is a good opportunity for both MNCs and local entities alike given that RCEP is an ASEAN-centered agreement wherein Thailand will be able to continue being the regional destination location for investors within the automotive and automotive parts sector, petrochemicals, agriculture and related products, food, tourism and the retail industries sector.

Vietnam:

- RCEP will help establish ASEAN as a long-term stable production and export market in the context of risky and uncertain global supply chains.
- RCEP will benefit Vietnam by facilitating supply chains in terms of imports of electronic chips and related materials from Japan and South Korea, and various other materials from China, allowing Vietnam to produce goods domestically for export to other countries and take advantage of tariff preferences provided under RCEP.
- RCEP is expected to benefit Vietnam's telecommunications, ICT, textiles, footwear, agriculture, and automobiles sectors.

Australia

- RCEP provides a single set of rules and procedures for Australian goods exporters to utilize RCEP's preferential tariff outcomes across the region, and increased opportunities for Australian business to access regional value chains by allowing goods made in another RCEP party from Australian inputs to benefit from tariff preferences under RCEP when exported to a third RCEP party.
- RCEP provides avenues for tackling non-tariff barriers, including in areas such as quarantine and technical standards, by promoting compliance with WTO rules and further improving cooperation and transparency. Its rules on intellectual property and e-commerce will help create an enabling environment for business to trade digitally in the region and support consumer confidence in the online environment.
- New market access commitments for service suppliers and investors into China and ASEAN markets such as Malaysia, the Philippines and Thailand will provide additional avenues through which exporters can access those markets as Australia already enjoys high quality FTA commitments with countries such as Japan, New Zealand, Korea, and Singapore.

China
- The total trade volume between China and RCEP member countries currently accounts for about one-third of China's total foreign trade volume, and the investment amount from RCEP member countries accounts for more than 10% of China's total foreign investment amount. RCEP will further promote intra-regional trade and investment in the future.   - With RCEP, China has signed 19 free trade agreements with 26 free trade partners.   - RCEP is the first free trade framework for China and Japan, which may pave the way for further trade negotiations in the future. Japan will eliminate 56% of tariffs on agriculture imports from China.   - RCEP is expected to provide long-term strategic gains for the country.   - RCEP should provide a boost to China's e-commerce platform operators selling to customers in the region, particularly within South East Asia. Chapter 12 of the RCEP agreement specifically outlines electronic commerce as a key sector.   - Elements such as the facilitation of paperless trading, electronic authentication and electronic signatures, as well as online consumer protection and online personal information protection will provide a more conducive trade environment for cross-border online operators.
Japan
- RCEP is Japan's first free trade agreement with vital trading partners China and South Korea, both of which are regarded as very important trade partners for Japan considering annual trade volumes and the extensive supply chain interaction between all three countries.   - Tariffs on Japanese consumer goods, industrial goods and Japanese wines will reduce under RCEP. Japan also expects more export of industrial goods, 91.5% of which will benefit from duty exemption.   - Tariff-free exports from Japan to South Korea will rise from 19% of items currently to 92%.   - Tariffs on 86% of Japan’s exports to China are expected to be removed, a significant increase from the 8% of goods which are currently tariff-free.
South Korea
- Korea has existing FTAs with all countries except for Japan. It is expected that RCEP will bring increased trade volume with Japan.   - The key industries that will benefit under RCEP in Korea are automobile, parts and steel industries.   - Under the RCEP, the level of tariff elimination between Korea and Japan is the same at 83% based on the number of items. Considering the sensitivity of the industry, Korea excluded sensitive items such as automobiles and rice from the tariff concession list, while parts and materials for automobiles and electronics were included in the list. Other products such as clothes, cosmetics were also included in the list.

New Zealand
Whilst New Zealand already has a number of FTAs in place with RCEP members, key benefits for the country include: • Increase to New Zealand's GDP by around NZD 2 billion (overall); • Increased opportunities for New Zealand exporters to access regional markets; • Reduced red tape, and one set of trade rules across the Asia Pacific region; and • New government procurement, competition policy and electronic commerce offers New Zealand exporters increased business opportunities.

Ratification processes

ASEAN
Indonesia: Approval from the House of Representatives will be needed for Indonesia to ratify the RCEP. The Ministry of Trade expects the ratification process to take 90 days from when the government submits the RCEP to the House, and this process is expected to finish by early 2021. **Malaysia:** There has been no confirmed timeline for the ratification of RCEP in Malaysia but the new Trade Minister has given his commitment to ratify RCEP as quickly as possible. **Philippines:** While there is no confirmed timeline for the ratification of RECP, it has been noted that it could take up to two years. **Singapore:** According to Singapore's Minister of Trade and Industry, ratification of RCEP will happen within the next 12 months. **Thailand:** The Thai Ministry of Commerce is looking to expedite RECP ratification, and hopes to benefit from the new agreement from mid-2021. **Vietnam:** Vietnam has not indicated a timeline for ratification of RCEP but given the major progress the country has made with the negotiations and subsequent entry into force of the EU-Vietnam FTA, the ratification of RCEP is not likely to present major challenges.
Australia
Ratification will likely take some time as the RCEP agreement will need to go before a Joint Parliamentary Committee on Treaties for approval and then enabling legislation needs to be introduced into parliament and passed by both the House of

Representatives and the Senate. Although it is not guaranteed, past experience suggests it is likely that RCEP will be ratified, probably around late 2021/early 2022.
China
The ratification process in China differs according to different FTAs. Based on past experience, the timeframe for ratification of bilateral agreements is around six months. Given RCEP's significance to China, it is anticipated the timeframe would not exceed six months.
Japan
Ratification is now unlikely during the next parliamentary session, which will start from January 2021. The ratification will be during the parliamentary session which will start from autumn 2021 at earliest.
South Korea
The schedule for ratification at the National Assembly has not yet been confirmed, but it is reported that it can be ratified during the session which is to be held early next year.
New Zealand
After New Zealand has completed the Parliamentary Treaty Examination process and implemented the necessary domestic legislative changes, it will deposit its instrument of ratification. Ratification will likely take some time.

Recommendations Opportunities

From a trade in goods perspective, the implementation of unified rules of origin under RCEP will contribute towards greater flexibility for companies to source from a larger pool of suppliers and the choice of where to centralize manufacturing location, resulting in more cost efficient supply chains and more trade connectivity within the region. This will be supported by the increased trade facilitation measures within RCEP that build on the WTO Trade Facilitation Agreement commitments.

From a trade in services perspective, the commitments made by member countries to liberalise services sectors and sub-sectors will encourage more service suppliers who have seen market saturation in their home country to venture out into overseas markets, comforted by regulatory changes that will formally allow market entry into the desired areas. This will further result in greater trade connectivity and integration of businesses operating within the 15 member countries.

Similarly, increased overseas investments are likely in the relevant sectors committed for opening under the investment chapters, whether via direct equity shareholdings or joint ventures with domestic partners. Commitments around freer capital flows will also provide the assurance for companies to venture abroad into markets of the other member countries.

Deloitte's Global Trade Advisory specialists are part of a global network of trade professionals who can provide specialized assistance to companies that would like to understand the opportunities presented by RCEP for their business. Our professionals would be able to assist in identifying opportunities under RCEP in several ways, including:

- Deploying Global Trade Radar, a proprietary Deloitte tool, to carry out data analytics of current supply chain and trade flows to map out companies' existing regional footprint, looking at import/export data filed with customs authorities (i.e., export countries, import countries, product(s) traded, FTAs utilized, opportunities missed, potential compliance areas for companies and others);

- Based on results generated, identifying opportunities under RCEP and the steps required to realise them, whether structural or processes changes are required and other strategic considerations;

- Reviewing production processes, value-adding and other ancillary activities along the supply chain to determine whether goods satisfy the relevant rules of origin prescribed under RCEP, or changes to existing processes and activities are required to benefit from RCEP;

- Obtaining binding rulings from customs authorities in the relevant member countries in respect of matters such as HS classification, valuation, meeting relevant rule of origin requirements, etc., in order to obtain certainty about eligibility for preferential tariffs before RCEP takes effect;

- Carrying out other customs and trade related reviews including opportunities to benefit from other trade facilitation measures available under RCEP (e.g., certified exporter registration, AEO certification, harmonized technical standards);

- Assisting with other ancillary matters that may arise during RCEP planning, whether pertaining to tariff or non-tariff barriers, the imposition of trade remedy measures, and the use of technology to simplify increasing compliance needs such as deploying GTA Review Smart (a Deloitte proprietary web-based health check tool), Trade Compass (FTA and tariff planning finder) and Trade Classifier (an AI based HS classification solution).

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