

# RCEP: BOOSTING VALUE CHAINS AND FACILITATING TRADE FLOWS

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## Asia International Trade Alert

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*This is the second alert in a four-part series on the Regional Comprehensive Economic Partnership (RCEP). You can read the first alert [here](#).*

The RCEP is the world's largest free trade agreement (FTA) involving ASEAN (the Association of Southeast Asian Nations, comprising Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam), Australia, New Zealand, China, Japan, and the Republic of Korea (ROK). The agreement was signed in November 2020 and is expected to enter into force in 2021.

The RCEP holds significant promise for certain gains in trade, as it brings together 15 of the most active trading economies in the Asia-Pacific region. In this alert, K&L Gates will examine how businesses can look forward to more seamless trade flows and integrated value chains under the RCEP and think about positioning themselves to take advantage of the potential benefits that will flow from this new FTA.

## POTENTIAL FOR CONSOLIDATION OF REGIONAL VALUE CHAINS

Market access for goods does not appear to be very significant under the RCEP, as tariffs on most items are already eliminated under other FTAs; ASEAN, Australia, and New Zealand already have FTAs with all the other RCEP Parties. However, bilateral FTAs have eluded China-Japan and ROK-Japan. Thus, one of the most significant achievements of the RCEP is the economic integration of the three Northeast Asian geopolitical rivals: China, Japan, and the ROK. In 2018, intra-China-Japan-ROK trade made up 19 percent of the three countries' total trade with the world (trade in intermediate goods was 23 percent; trade in final goods was 13 percent). The implementation of RCEP tariff liberalization is expected to expand trade between the three East Asian countries, given that 86 percent of Japanese industrial goods will enjoy preferential tariffs when exported to China, 92 percent for Korean goods.

Even more exciting is the potential for businesses to consolidate their value chains vertically within the RCEP bloc (RCEP-15). The RCEP-15 already trade heavily with one another. In 2018, 40 percent of RCEP-15's total trade was within the bloc; intra-RCEP-15 trade in intermediate goods and final goods were 44 percent and 28 percent respectively of their global trade. The removal of tariff barriers between the RCEP-15 and the origin accumulation rule mean that goods transferred between the RCEP parties at every stage of the value chain will not be subject to import duties.

Furthermore, the trade facilitation and customs-related provisions under the RCEP seek to enhance the transparency and predictability of the trading environment, reducing the costs and time for moving goods across

the region. Although many of the customs-related provisions are found in other trade agreements, the RCEP sets out concrete goals, as set out below.

## **RCEP GOALS**

### **1. Paperless trade with seamless electronic exchange of trade data and documents**

This is an ambitious goal for the RCEP-15, and an expansion of ASEAN's on-going work to implement cross-border paperless trade. According to the United Nations Global Survey on Digital and Sustainable Trade Facilitation, "the ASEAN Single Window is one of the most advanced cross-border paperless trade initiatives in the world."

If the RCEP can achieve the inter-connectivity of the customs import, export, and transit declaration process, and businesses will only need to file customs declaration one time for intra-RCEP trade flow, then, the RCEP will have achieved an elusive goal. Businesses will truly experience greater efficiency and seamless cross-border movement of goods.

### **2. Consistent application of customs regulations**

This is a very important and critical element of the customs and trade process. Many of the developing RCEP Parties have made significant improvement in this area but there is still a lot of work to be done. Myanmar (and surprisingly, China) has requested and been granted a five-year period in which to achieve this obligation. Furthermore, the Parties can invoke the RCEP consultation procedures to request for direct consultation in cases where another Party is not complying with this obligation.

### **3. Transparency**

Parties will need to ensure that businesses are kept fully informed with regularly updated information on the laws, processes, procedures, and documentation required when importing, exporting, or transiting goods into or through their countries. With the exception of Myanmar, all Parties have agreed to achieve this immediately upon implementation of the RCEP; Myanmar has five years to achieve this obligation.

### **4. No more pre-shipment inspections in relation to tariff classification and customs valuation**

While this obligation does not cover pre-shipment inspections for sanitary and phytosanitary purposes, the RCEP precludes the introduction or application of new pre-shipment inspection requirements. Thus, a Party should not use a phytosanitary pre-shipment requirement as pretense for a valuation or tariff classification check.

### **5. Pre-arrival processing to expedite release of goods upon arrival**

The parties are required to adopt or maintain procedures allowing for the submission of documents and other information required for the importation of goods, before the arrival of goods. Cambodia and Myanmar have a five-year extension to meet their obligations, while Vietnam has an extension until 31 December 2023.

### **6. Advanced rulings on customs issues**

Advanced ruling is already an obligation under the World Trade Organization Agreement on Trade Facilitation. Under the RCEP, this obligation specifically refers to advanced rulings on:

tariff classification;

whether the good is originating under the RCEP;

the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts, in accordance with the Customs Valuation Agreement; and

such other matters as the Parties may agree.

While businesses can enjoy the certainty of an advanced ruling, we note that it would only apply in the Party that issued the ruling. In other words, businesses will still need to apply for rulings in each Party. However, we are hopeful that there will be a central RCEP platform for the uploading and sharing of such information and approvals.

### **7. Trade facilitation measures for Authorized Operators (AO)**

A number of the RCEP Parties already have their own AO schemes; the RCEP sets out the impetus for them to negotiate mutual recognition of one another's AO scheme.

### **8. Expedite clearance of express consignments**

The RCEP requires the adoption or maintenance of customs procedures to expedite the clearance of express consignments for at least those goods entered through air cargo facilities. In particular, express consignment should be released under normal circumstances as rapidly as possible, and within six hours when possible, after the arrival of the goods and submission of the information required for release. This would have great benefits for businesses, especially e-commerce flows.

The biggest benefit of the RCEP is that it brings under a single trade agreement 15 of the most active trading economies in the Asia-Pacific region. It provides an opportunity for greater harmonization of customs procedures and the elimination of some of the not-so-transparent practices. In the customs and trade arena, practitioners know that the path to greater transparency, cooperation, conformity, and less documentation is a long and arduous one. We acknowledge that individually, all RCEP Parties have made considerable progress in modernizing their customs practices, procedures, and laws. Despite its complexity, ASEAN has been a driving force in pushing for greater customs connectivity, reducing documentation, and introducing the ASEAN Single Window initiative. Australia and New Zealand have very efficient and effective customs processes that have helped reduce costs of trade. China, ROK, and Japan have continued to be innovative and proactive in their approaches to implementing customs processes and procedures that further facilitate trade. The RCEP introduces a common platform to pool resources and share know-how, and more importantly, to lift the standard of customs practices, procedures and laws of all RCEP Parties. We are optimistic that businesses can look forward to more seamless trade flows and integrated value chains in the Asia-Pacific region.

## **LOOKING BEFORE YOU LEAP**

While the RCEP holds significant promise for certain gains in trade, businesses should conduct reasonable due diligence before finalizing investment plans on the basis of potential opportunities arising from the RCEP. K&L Gates will further explore the implications of RCEP for foreign investors in the next (third) alert of our four-part series on the RCEP.

## KEY CONTACTS



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