RCEP Recap

Seven Things to Know

Asia Pacific – 19 November 2020

The Regional Comprehensive Economic Partnership (RCEP) was signed on 15 November 2020 by 15 states in the Asia Pacific region. Here are seven things to know about the RCEP.

1. The World's Largest FTA

Fifteen states signed the RCEP, amounting to almost 30% of global GDP and 30% of the world's population – China, Japan, South Korea, Australia, New Zealand and ASEAN. ASEAN consists of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

2. Markets Opened, Protections Reduced, Regulations Regulated

The RCEP opens markets in each state to citizens of the other states, and obliges signatories to reduce or remove protections and support of local industry. It is expected to eliminate 90% of tariffs within 10 years of taking effect. Regulation of services opened to foreign investors is restricted, but competition and consumer protection laws are enhanced.

3. Certain Industries Are Now Regulated

The RCEP includes areas that were not previously covered in the ASEAN Plus One FTAs. Information relating to government procurement must be published, and e-commerce is now covered. These improve trade administration and strengthen cross-border protections of personal data and information.

4. Domestic Regulation Is Enhanced

Domestic regulations on trade in services must be reasonable, objective and impartial.

Telecoms must have access to infrastructure and systems, as well as flexibility in the choice of technology.

Competition laws and domestic consumer protection regulations against misleading practices must be adopted for all commercial entities.

Environmental protections and labour rights are not covered.

5. Foreign Investments Are Now Covered

The RCEP extends its coverage beyond just trade liberalisation to foreign investments, making it a blend of FTA and investment treaty. It includes:

- A requirement of most-favoured-nation treatment
- Prohibitions on certain performance requirements
- Reservations for current non-complying measures
- Investment facilitation provisions, including investor aftercare

6. No ISDS – Only State-to-State Dispute Settlement

Though the RCEP governs foreign investments, it does not allow for investor-state dispute settlement. Any investment disputes must be resolved between the relevant states. This can be revisited two years after ratification.

7. The US, the EU and India Are Not Parties – Yet

The US withdrew from the RCEP shortly after President Trump took office. It is the first multilateral FTA China has signed and, without the US, China is the largest market and economy of all members. Some predict an increase in China's economic influence in the region in the absence of the US, the EU and India.

India withdrew from negotiations in 2019, but the members are anxious for it to join and have left the door open indefinitely and, in the meantime, allow India to observe RCEP meetings and participate in economic cooperation activities (see the Ministers' Declaration on India's Participation in the Regional Comprehensive Economic Partnership).

The EU did not sign the RCEP, but the ASEAN-EU FTA may still be in the pipeline. This follows the recent EU-Vietnam FTA and EU-Singapore FTA.

What Happens Next?

States will need to follow their internal procedures to ratify the agreement and then to implement its terms. The RCEP will be open for new members to join in 18 months.

We advise on international trade matters through our International Trade Practice. For further information and queries, please do not hesitate to reach out to Cameron Ford, Christopher Bloch, or your usual contact at the firm. Our thanks go to Daniel Ang Wei En of the National University of Singapore and University of Melbourne law schools for his research and drafting.

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