

RCEP RETURNS - AUSTRALIA JOINS THE WORLD'S LARGEST FREE-TRADE BLOC

16 November 2020 | Insight

Legal Briefings - By **Leon Chung, Guillermo Garcia-Perrote and Jesse Tizard**

Australia has signed up to the much-touted RCEP free-trade deal of 15 Asia Pacific states. Will business see the benefit?

Australia forms part of the initial 15 signatory states, together with China, Japan, South Korea, New Zealand and the 10 countries of the Association of Southeast Asian Nations (**ASEAN**), i.e. Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam (together, the **RCEP Signatory States**).

Representatives from the RCEP Signatory States first gathered to negotiate the RCEP in November 2012. Initially, India was also part of those negotiations, but it indicated in late 2019 that it had a number of issues preventing it from joining the agreement. The [Ministers' Declaration on India's Participation in the RCEP](#), however, affirms that the RCEP is open for India to accede to,¹ and expresses the strong will to re-engage India in the RCEP.

The text of the Agreement itself had been finalised just over a year ago, on 4 November 2019, the culmination of 29 rounds of secretive negotiations. Following that, an extended period of technical legal review ensued. It is expected that Australia will work towards ratifying the RCEP in 2021.

The signing of the RCEP on Sunday constitutes a landmark statement in favour of free-trade and multilateralism by the new Indo-Pacific trading bloc. It is particularly noteworthy given recent uncertainty over global trade terms and agreements, and the economic strain imposed by Covid-19-related restrictions. Among the Agreement's many other hallmarks, it is notable that China, South Korea, Japan and Australia had never before joined together in one free-trade agreement.

The [Department of Foreign Affairs and Trade](#) highlights that RCEP will boost economic growth in Australia by delivering improved export and foreign investment opportunities, including the following benefits:

- new scope for trade in services throughout the region including across telecommunications, professional and financial services;
- improved mechanisms for tackling non-tariff barriers including in areas such as customs procedures, quarantine and technical standards;
- greater investment certainty for businesses;
- rules on e-commerce to make it easier for businesses to trade online;
- a common set of rules on intellectual property;
- agreed rules of origin that will increase the competitiveness of Australian inputs into regional production chains; and
- access deals with all RCEP parties which build on our existing free trade agreements, as well as the prospect of an agreement on market access with India.

The signing of the RCEP may open a new golden era of ‘mega’ free-trade deals if the new Biden administration reconsiders the United States’ (**US**) position in respect of the Trans-Pacific Partnership (**TPP**). The TPP, seen by some as the ‘ultimate goal’ for Australia, would likely include some of the same ASEAN countries, as well as the US, Canada, Mexico, Chile and Peru. That agreement had been pronounced dead shortly after Donald Trump’s arrival to the White House in 2016, and the fatal withdrawal of the US signature in January the following year. But, if ratified, the TPP would be a complement to RCEP (rather than a substitute).

While arguably less ambitious than the TPP,² the RCEP has the potential to be simultaneously both more and less than typical “free-trade” agreements as referred to in conventional usage – “more” in the sense that the RCEP is almost unrivalled in its complexity and scope, bringing together a large number of sovereign states under a set of common standards that are hoped to ease some of the non-tariff barriers to trade (as listed above), but “less” in the sense that it does not appear to entail the comprehensive eradication of trade barriers (which normally are what characterise “free-trade” agreements).³

We will be able to provide more detailed commentary on the RCEP when the text of the Agreement is released. In the meantime, please feel free to reach out to any of our specialists if you would like to know more or have any queries about how these developments may affect your business.

ENDNOTES

1. Available from the date of entry into force of the Agreement, which the Ministers' Declaration states to be covered by Article 20.9 (Accession).
2. The RCEP does not include the stringent labour and environmental standards seen in the original TPP.
3. For example, USMCA (or 'new NAFTA'), the EU-South Korea free trade agreement or the CETA between the UE and Canada.

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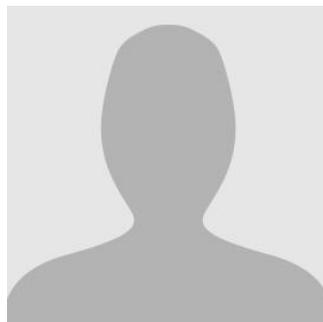
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