

## Report on Supply Chain Compliance Volume 3, Number 23. December 10, 2020 Asian trade deal signed into law

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The 15 partners to the Regional Comprehensive Economic Partnership (RCEP) signed the agreement<sup>[1]</sup> Nov. 15, 2020, enacting the largest ever trade deal by population. The RCEP encompasses the 2.2 billion people of the 10 countries of the Association of Southeast Asian Nations (ASEAN) plus Australia, China, Japan, New Zealand and South Korea.

The agreement is significant in that it complements existing treaties such as the European Union–Japan Economic Partnership Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the many bilateral free trade agreements between ASEAN nations.

The RCEP guiding principles<sup>[2]</sup> state that all existing bilateral/plurilateral free trade agreements between member nations will remain in effect and that the deal will include “appropriate forms of flexibility including provision for special and differential treatment, plus additional flexibility to the least-developed ASEAN Member States.” In comparison with other trade deals, the RCEP does little to address intellectual property rights, labor standards, environmental protections and policies regarding investment and financial services.

The primary impact of the trade agreement will be felt by companies that have had trouble navigating the Sino-US trade conflict that disrupted the global value chain over the past three years.<sup>[3]</sup> The RCEP lowers tariffs across the region and creates uniform rules of origin that make assembling products in Asia much more attractive than before. Now components produced by any party to the RCEP will be considered as produced in the country of origin in terms of tariffs and quotas. These provisions will make it easier for foreign companies to pull production away from mainland China while retaining access to both Chinese and U.S. markets.

### Complementary deals

Companies doing business in the Asia-Pacific region need to be aware of the RCEP and the CPTPP. The trade deals are considered complementary by some analysts because the CPTPP contains provisions related to labor rights, the environment and dispute resolution,<sup>[4]</sup> whereas the RCEP focuses primarily on lowering trade barriers. Companies should consult counsel to see how these two trade deals overlap.

One study<sup>[5]</sup> suggests that the standardization of divergent trade rules under the RCEP paves the way for an Asia-wide free trade agreement that could incorporate parts of both the RCEP and the CPTPP. Taking a long-term approach to trade in Asia may enable companies to begin processes now that will help inoculate against future disruptions as the trade conflicts between the U.S. and China shake out under a new administration. According to The New York Times,<sup>[6]</sup> however, the Biden administration has not made any statements regarding trade, nor trade in Asia, yet, preferring to focus on other problems at hand.

The deal has been characterized as a China-led response to U.S. retreat from multilateral trade agreements. Be that as it may, the effect the RCEP will have in terms of trade and certainty in Asia is a boon for companies. One precaution companies should take is to assume the most stringent requirements under both the RCEP and the

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CPTPP in order to ensure that, regardless of jurisdiction, their company is safely in compliance with local laws.

## Takeaways

- The RCEP represents 2.2 billion people and provides tariff reductions and country or origin certainty for companies operating in covered countries.
- As opposed to viewing the RCEP as a tit for tat in the Sino-US trade war, companies should instead view the RCEP as a complementary piece of legislation to other existing free trade agreements.

**1** Association of Southeast Asian Nations, “ASEAN hits historic milestone with signing of RCEP,” news release, November 15, 2020, <https://bit.ly/2Jsge5p>.

**2** Association of Southeast Asian Nations, “Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership,” last accessed December 3, 2020, <http://bit.ly/31Y2Dq4>.

**3** Sascha Matuszak, “Sino-US and EU-US trade wars continue to cause hardship for manufacturers,” *Report on Supply Chain Compliance* 2, no. 19 (October 10, 2019), <https://bit.ly/3qtcylo>.

**4** “How to read the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP),” Government of Canada, last modified February 12, 2020, <https://bit.ly/2VvO8sK>.

**5** Pasha L. Hsieh, “The RCEP, New Asian Regionalism and the Global South,” IILJ Working Paper 2017/4, Institute for International Law and Justice, New York University School of Law, December 12, 2017, <http://bit.ly/329fOgo>.

**6** Keith Bradsher and Ana Swanson, “China-Led Trade Pact Is Signed, in Challenge to U.S.” November 15, 2020, <https://nyti.ms/37kW4mi>.

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