

Q+As

What is the Regional Comprehensive Economic Partnership?

The Regional Comprehensive Economic Partnership (RCEP) has today reached a significant milestone, with 15 countries announcing full conclusion of the negotiations and signature of the RCEP Agreement.

RCEP will facilitate New Zealand's economic recovery from COVID-19 by strengthening trade links in the Asia-Pacific region and keeping the flow of goods and services moving.

This free trade agreement holds significant strategic value for New Zealand, embedding us in the regional economic architecture, giving exporters improved market access, and sending a strong signal that the RCEP region is open for business.

RCEP comprises 15 countries including New Zealand, Australia, ASEAN (the Association of South East Asian Nations), China, Japan and South Korea. Together, they account for nearly a third of the world's population and 30% of global trade.

India participated in the RCEP negotiations until 2019. India remains important to this significant regional economic agreement and we have ensured RCEP remains open for India.

Why is RCEP important to New Zealand?

RCEP is important for New Zealand for both strategic and commercial reasons.

Being part of this Agreement helps secure New Zealand's economic prosperity in the region.

RCEP covers nearly a third of the world's population, 30% of the world's GDP, and is the destination for 56 per cent of New Zealand's total exports of goods and services.

In strategic terms, RCEP is emerging alongside the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) as the other main instrument for integration in the regional economic architecture. New Zealand is a trading nation and this Agreement brings together the powerhouses of Asian trade.

Why is New Zealand involved?

The 15 RCEP countries comprise 2.3 billion people and represent 30% of global GDP.

RCEP covers 7 out of our top 10 trading partners (China, Australia, Japan, Singapore, South Korea, Thailand and Malaysia (as at December 2019).

New Zealand exported over \$36 billion worth of goods to RCEP countries and nearly \$12 billion of services in the year ending December 2019.

RCEP will cover around 61 per cent of New Zealand's goods exports and 45 per cent of our services exports.

RCEP will provide a single rulebook covering all other 14 markets, which has the potential to significantly reduce complexity, and therefore compliance costs, for exporters.

In addition to the consolidating impact of RCEP, the Agreement improves on some of the existing rules to better address non-tariff barriers.

As a party to RCEP, New Zealand will have a seat at the governance table of this globally significant regional economic agreement.

How does RCEP benefit New Zealand exporters?

Our existing FTAs with the RCEP countries already provide high levels of goods market access. The larger commercial gains are therefore in services and investment, progress on non-tariff barriers and the benefit of a single 'rule book' covering 15 countries.

The statistics on the scale of economies in RCEP, and their importance to NZ as trading partners, speak for themselves.

New Zealand exporters will have the opportunity to embed themselves into regional value chains as they recalibrate following RCEP's entry into force.

RCEP establishes a single set of trade and investment rules across all 15 countries, rather than a range of different rules with separate FTA partners.

RCEP includes new services and investment market access commitments by some RCEP countries that go beyond existing free trade agreements. China and the largest ASEAN countries have made market access investment commitments to New Zealand for the first time.¹

RCEP will improve existing market access conditions for goods and especially services beyond those in our concluded FTAs.

Like other regional trade agreements, RCEP will create more security and certainty for New Zealand exporters and make the trading environment more predictable.

Is India part of RCEP?

India is one of the largest and fastest growing economies in the world. India was involved in the RCEP negotiations from the beginning until it withdrew in November 2019.

New Zealand respects India's right to take its own decisions on the Agreement.

We would welcome India to re-join RCEP as soon as possible given its participation in RCEP negotiations since 2012 and its importance as a regional partner.

India's special connection within RCEP is recognised in the RCEP Agreement itself, which provides India with a fast-track process for accession should India wish to re-join RCEP in future. At the time of RCEP's signature, RCEP Ministers also issued a Declaration regarding

¹ While the ASEAN-Australia-New Zealand free trade agreement (AANZFTA) contains market access commitments such as national treatment, these commitments are not currently in force pending negotiation of specific schedules of commitments for investment. The national treatment obligation in the New Zealand China FTA only applies to treatment within the scope of the bilateral investment treaty between New Zealand and China.

India's participation in RCEP, which provides a pathway for India to participate in RCEP meetings and economic cooperation activities pending its accession.

How will RCEP help NZ recover from COVID-19?

Signature and entry into force of RCEP will form an important component of New Zealand's COVID-19 economic recovery strategy, by contributing to the revitalisation of trade and regional architecture.

RCEP, like other trade agreements, will create more security and certainty for New Zealand exporters and make the trading environment more predictable.

The Asia-Pacific is projected to recover more quickly from the pandemic relative to other regions and RCEP will enable New Zealand to bolt-on to the region's accelerated recovery.

How have New Zealanders been consulted?

Public submissions were sought on RCEP when negotiations first began in 2013.

Since then there has been extensive outreach and engagement with stakeholders, including many meetings with individual companies and other parts of civil society. This has included dedicated engagement with Māori, and more recently through the Government's Trade for All agenda.

Does RCEP take into account the Trade for All Advisory Board's recommendations?

RCEP negotiations started six years before the launch of the Trade for All agenda and were substantially concluded prior to the release of the Trade for All Advisory Board's report.

Some Trade for All priorities will be progressed by RCEP, such as a specific chapter on small and medium enterprises which aims help SMEs participate in international trade.

New Zealand already has treaty-level outcomes on trade and environment and trade and labour with all other RCEP countries except Cambodia, Laos PDR and Myanmar. While New Zealand prioritised the inclusion of these elements from the start of negotiations in 2013, it was not possible to achieve a consensus with the other RCEP countries on substantive provisions in these areas.

We will continue to seek outcomes in these and other areas through future reviews of RCEP, accession negotiations with new RCEP parties and with ASEAN, through the AANZFTA upgrade.

Why has the RCEP text not been released until now?

While it is New Zealand's preference to publicly release the text of FTAs before they are signed, all FTA parties need to consent to the publication of the text. In the case of RCEP, unfortunately, a number of parties would not consent to the release of the text prior to signature.

However, we recognise the importance of transparency to the New Zealand public particularly around free trade negotiations. Within the constraints imposed by the process, we have outlined issues under negotiation at stakeholder and public meetings throughout the negotiation process; we provided summaries from negotiation rounds and other information on MFAT's website.

PROTECTING MĀORI RIGHTS

Treaty of Waitangi

New Zealand's approach to its free trade agreements reflects the constitutional significance of the Treaty of Waitangi to New Zealand.

RCEP parties agreed to include the New Zealand-specific 'Treaty of Waitangi exception clause'.

This has been in every free trade agreement signed by a New Zealand government since 2001.

The Treaty of Waitangi exception allows the Government to implement domestic policies in relation to Māori, including in fulfilment of the Crown's obligations under the Treaty, without being obliged to offer equivalent treatment to persons of other countries that are party to the Agreement.

How will RCEP protect Māori traditional knowledge?

RCEP goes further than any of New Zealand's other FTAs in recognising the importance of prior and informed consent, access and benefit sharing for accessing and using genetic resources, traditional knowledge and folklore (GRTKF).

This is an important step forward at the international level to reaffirm the region's commitment to the rights and interests of indigenous peoples in GRTK.

RCEP also retains the policy flexibility required for RCEP countries to implement GRTK measures most appropriate for their domestic circumstances.

GOODS MARKET ACCESS

Business has highlighted its concerns about non-tariff barriers (NTBs). RCEP will address these concerns through improved rules for goods trade, especially on customs procedures and some of the Rules of Origin, sanitary and phyto-sanitary (SPS) measures and a specific mechanism to handle NTBs in future. For example RCEP creates an expectation that customs authorities will release perishable goods such as seafood within six hours of arrival.

New Zealand has existing FTAs with all the RCEP countries, which have already eliminated tariffs on most New Zealand exports. RCEP does not therefore deliver significant new market access for goods exports as a result of tariff cuts. RCEP will, however, achieve new market access for New Zealand goods exporters to Indonesia, through tariff elimination on a number of primary products including sheep meat, beef, fish, liquid milk, cheese, honey and avocados.

More detail on specific goods market access outcomes can be found on the Ministry of Foreign Affairs and Trade website <https://www.mfat.govt.nz>

SERVICES MARKET ACCESS

New Zealand's approach to services in our FTAs recognises how much services matter to our economy. New Zealand will benefit from new commitments by some RCEP countries that go beyond existing FTAs.

RCEP will establish a consistent framework and a single set of services rules for the entire RCEP region.

This will improve regulatory certainty and transparency for New Zealand service suppliers across the RCEP region as a whole, and give them greater confidence to enter these markets.

More detail on specific services market access outcomes can be found on the Ministry of Foreign Affairs and Trade website <https://www.mfat.govt.nz>

Will RCEP impede our ability to provide social services?

No. We have preserved the New Zealand government's ability to regulate for legitimate public policy purposes, including social services.

INVESTMENT AND INVESTOR STATE DISPUTE SETTLEMENT (ISDS)

What can NZ expect to gain on investment through RCEP?

The New Zealand Government sees attracting good quality new investment as crucial for New Zealand's growth and prosperity. Such new investment creates jobs and grows incomes, bringing new ideas and new capital to the economy.

RCEP goes beyond the ASEAN-Australia-New Zealand FTA (AANZFTA) and our China FTA, through negotiation of market access schedules for investment, which we don't currently have. That new access will help New Zealand businesses get closer to their customers.

Facilitating the flow of international capital is vital to support trade in goods, business activity and global supply chains. That can assist economic development.

More detail on specific investment market access outcomes can be found on the Ministry of Foreign Affairs and Trade website <https://www.mfat.govt.nz>

Will Investor State Dispute Settlement (ISDS) be included in this Agreement?

RCEP does not include ISDS.

RCEP parties will review the exclusion of ISDS within five years of entry into force. No change can be made unless there is agreement from all parties, including New Zealand.

Is the government's ability to regulate protected?

Yes. The government's right to regulate for legitimate public policy purposes continues to be protected. New Zealand achieves this by making specific reservations in the services and

investment schedules and other areas such as E-commerce, as well as through the General Exceptions that apply across the FTA.

INTELLECTUAL PROPERTY

New Zealand recognises that intellectual property rights are important tools to promote innovation and creativity. New Zealand supports our trading partners having robust regulatory frameworks that provide for the effective and efficient protection and enforcement of IP rights

We consider that the minimum standards of protection as set out in the WTO TRIPS Agreement provide sufficient flexibility to enable countries to develop and implement IP regimes that are optimal for domestic circumstances. These standards form the basis of standards provided for in RCEP.

Through RCEP, New Zealand has supported our trading partners adhering to the principles of transparency and due process and aligning of the procedures for the protection and enforcement of IP in order to reduce the regulatory and business compliance costs for our exporters.

More detail on specific IP outcomes can be found on the Ministry of Foreign Affairs and Trade website <https://www.mfat.govt.nz>

Will RCEP restrict New Zealand's policy space on innovation and IP protection?

The Government would not sign RCEP if it was not in the overall interest of New Zealand. Our approach to the negotiations on IP was informed by New Zealand's recognition of the importance of a balanced intellectual property framework for promoting innovation, creativity and economic growth and enhancing social wellbeing.

Why does there need to be an IP Chapter in RCEP at all?

IP is one of the areas agreed by Ministers and endorsed by Leaders for inclusion in RCEP. It is an area of important concern for a number of RCEP participants, and businesses.

COMPETITION

RCEP's competition chapter requires RCEP countries to have in place competition laws and maintain independent competent authorities to enforce laws which prohibit anti-competitive conduct and promote consumer welfare.

This will be an important step forward in the region.

RCEP will ensure that those competition laws are transparent and follow due process in its enforcement. RCEP's competition chapter also establishes systems to facilitate cooperation between the RCEP countries' competition authorities.

E-COMMERCE

Electronic-commerce (E-commerce) offers important opportunities for a small, distant trading country like New Zealand.

At the same time we are very conscious we need to include adequate safeguards for legitimate public policy purposes including to protect the privacy and the interests of consumers.

We are satisfied that the outcome in RCEP achieves this balance.

Next Steps for New Zealand

As with any treaty action, there are several steps that need to be completed before the RCEP Agreement can enter into force in New Zealand:

- *National Interest Analysis:* The Ministry of Foreign Affairs and Trade (MFAT), in consultation with other agencies, have prepared a National Interest Analysis (NIA) which has been presented, along with the final RCEP text to Cabinet for approval. The NIA sets out the advantages and disadvantages for New Zealand of ratifying the RCEP Agreement.
- *Cabinet Review and Signature:* Cabinet has approved the NIA and final text of the RCEP Agreement and has authorised New Zealand to sign the Agreement. Following signature, the NIA and RCEP text will be published and a copy of the Cabinet paper proactively released under the Official Information Act.
- *Parliamentary Treaty Examination Process:* The signed RCEP text and NIA will be presented to the House. The text and NIA would then be considered by the Foreign Affairs, Defence and Trade Select Committee (or equivalent), which would then report back to the House.
- *Ratification:* Once New Zealand has completed the Parliamentary Treaty Examination process and implemented the necessary domestic legislative changes, it will deposit its instrument of ratification. RCEP will enter into force 60 days after the date on which at least three non-ASEAN signatories and six ASEAN signatories have completed their necessary domestic procedures and notified the Depositary that they are ready.

You can read more about New Zealand's general processes for treaty ratification on the Parliament website: <https://www.parliament.nz/en/visit-and-learn/how-parliament-works/fact-sheets/parliament-s-role-in-international-treaties>