

Zollrecht aktuell

Das neue multilaterale Freihandelsabkommen „Regional Comprehensive Economic Partnership“ und die Auswirkungen auf den Handel

November 2020 (5)

Vorwort

Liebe Leserinnen, liebe Leser,

wir freuen uns, Ihnen die neue Ausgabe unseres Newsletters *Zollrecht aktuell* zu übersenden.

Am 15. November wurde die Regional Comprehensive Economic Partnership (RCEP) von fünfzehn asiatisch-pazifischen Staaten unterzeichnet.

Das Freihandelsabkommen wird vermutlich Ende 2021 oder Anfang 2022 nach Abschluss des Ratifikationsprozesses in Kraft treten.

Wir möchten Ihnen in dieser Ausgabe des Newsletters gern vorab schon das neue Freihandelsabkommen in aller Kürze vorstellen und einen Einblick in die bislang bekannten Änderungen geben.

Mit freundlichen Grüßen

Dr. Michael Tervooren

Partner / Head of Customs & International Trade

Inhalt

Regional Comprehensive Economic Partnership – was steckt hinter dem neuen Freihandelsabkommen?...	2
Hintergrund	2
Das Regional Comprehensive Economic Partnership	2
Fazit	3
Service	3
Hinweis	3
Über uns	4
Ihre Ansprechpartner	4
Redaktion	4
Bestellung und Abbestellung	4

Regional Comprehensive Economic Partnership – was steckt hinter dem neuen Freihandelsabkommen?

Hintergrund

Am 15. November wurde das Regional Comprehensive Economic Partnership (RCEP) von fünfzehn asiatisch-pazifischen Staaten unterzeichnet.

Das RCEP verbindet unter anderem zehn ASEAN-Staaten (Association of Southeast Asian Nations), namentlich Brunei, Kambodscha, Indonesien, Laos, Malaysia, Myanmar, die Philippinen, Singapur, Thailand und Vietnam. Darüber hinaus unterzeichneten Australien, China, Japan, Neuseeland und Südkorea das Abkommen.

Schon heute wird davon gesprochen, dass dieses Freihandelsabkommen in naher Zukunft die größte Freihandelszone der Welt abbilden wird.

Das Regional Comprehensive Economic Partnership

Das RCEP soll die schon zwischen den Mitgliedsstaaten bestehenden Freihandelsabkommen nicht ersetzen. Vielmehr eröffnet das Abkommen eine zusätzliche Dimension für eine regional wirtschaftliche Zusammenarbeit.

Dabei umfassen insgesamt 20 Kapitel Verpflichtungen in den Bereichen Waren- und Dienstleistungsverkehr, Investitionen, geistiges Eigentum, elektronischer Handel, Wettbewerb, öffentliches Beschaffungswesen und Streitbeilegung. Wohl eins der unternehmensrelevantesten Kapitel betrifft den Waren- und Dienstleistungsverkehr; dahingehend möchten wir Ihnen gern nachstehend einen Überblick über die wichtigsten Bestimmungen geben.

Welche Änderungen sind durch das RCEP zu erwarten?

Das RCEP zielt insbesondere auf die wirtschaftliche Integration im asiatisch-pazifischen Raum ab. So sollen stärkere Mitgliedstaaten durch eine gezielte Förderung der wirtschaftlichen und technischen Zusammenarbeit den Kapazitätsaufbau in wirtschaftsschwachen Mitgliedstaaten unterstützen.

Das sind die bekanntesten zollrechtlich relevanten Änderungen auf einen Blick:

- **Abschaffung und Senkung der Zölle um bis zu 90 Prozent**
Einige Zölle werden mit sofortiger Wirkung abgeschafft werden, bei anderen Waren wird dies schrittweise erfolgen.
- **Einheitliche Anwendung von Ursprungsregeln**
Die Mitgliedsländer haben sich darauf geeinigt, dass Waren, die die RCEP-Ursprungskriterien erfüllen, dies in allen Mitgliedstaaten tun, um zu verhindern, dass verschiedenartige Regelungen aus verschiedenen Abkommen erfüllt werden müssen.

- **Vereinfachung der Kumulierungsanforderungen**
Ursprungsmaterialien eines RCEP-Mitgliedstaates, die in einem anderen Mitgliedstaat als Zusatz bei der Herstellung eines Produktes verwendet worden sind, werden als ursprungsbegründet hinzugezählt. Diese Einigung stellt aufgrund der erhöhten Beschaffungsflexibilität einen relevanten Vorteil gegenüber anderen bestehenden Freihandelsabkommen dar.
- **Schrittweise Einführung der Selbstzertifizierung des Ursprungs**
Exporteure sollen die Ursprungseigenschaft exportierter Waren langfristig selbst bescheinigen können. Zunächst wird diese Möglichkeit jedoch nur autorisierten Exporteuren zustehen. Alle anderen Exporteure müssen bei der zuständigen Behörde im Exportland Ursprungerzeugnisse beantragen.
- **Rückwirkender Zollrückerstattungsanspruch**
Importeure sollen rückwirkend eine Zollrückerstattung auf Grundlage des RCEP-Zollsatzes beantragen können, wenn zum Zeitpunkt der Einfuhr noch keine RCEP-Vorteile beansprucht worden sind.
- **Harmonisierung der nichttarifären Handelshemmnisse**
Schrittweise werden Zollverfahren, Inspektionen und Quarantänemaßnahmen sowie technische Standards vereinheitlicht.

Fazit

Noch ist das RCEP-Abkommen nicht in Kraft. Es wird jedoch für Unternehmen, welche im asiatisch-pazifischen Wirtschaftsraum Handel betreiben, nicht zu unterschätzende Einsparmöglichkeiten beinhalten.

Unternehmen sollten daher schon jetzt frühzeitig evaluieren, ob das neue Freihandelsabkommens Vorteile für ihr Unternehmen birgt. In diesem Zusammenhang sollte auch geprüft werden, ob sich nicht auch aus schon bestehenden Abkommen finanzielle Vorteile ergeben können. Gern unterstützen wir Sie dabei, eine optimierte Gesamtstrategie für die Nutzung von Freihandelsabkommen zu erstellen.

Weitere englischsprachige Informationen aus unserem PwC-Netzwerk zu dem Freihandelsabkommen RCEP können Sie dem angefügten Newsletter unseres Asian Worldtrade Management Services entnehmen.

Service

Hinweis

Welche Anforderungen bestehen an den Export in andere Länder oder Regionen? Wie können Sie sicherstellen, dass Sie alle neuen Zollvorschriften zeitgerecht umsetzen? Wie lassen sich die Prozesse schlanker gestalten oder komplett automatisieren? Die Anforderungen an den internationalen Handel wachsen stetig. Für Unternehmen ist es nicht leicht, in diesem Dschungel an Vorschriften den Überblick zu behalten. PwC ist Ihr Ansprechpartner für diese Themen. Wir bieten einen ganzheitlichen Beratungsansatz zu allen Aspekten des Zoll und Außenhandels – von der Strategie bis zur Umsetzung: [SAP GTS – einfach und günstig](#).

Über uns

Ihre Ansprechpartner

Dr. Michael Tervooren
Tel.: +49 211 981-7641
michael.tervooren@pwc.com

ppa. Dagmar Obermeyer
Tel.: +49 40 63 78-1084
dagmar.obermeyer@pwc.com

Redaktion

Für Ihre Fragen, Hinweise und Anmerkungen zum Newsletter stehen Ihnen unsere Ansprechpartner aus der Redaktion gern zur Verfügung. Wir freuen uns auf Ihr Feedback.

Dr. Michael Tervooren
Tel.: +49 211 981-7641
michael.tervooren@pwc.com

ppa. Dagmar Obermeyer
Tel.: +49 40 63 78-1084
dagmar.obermeyer@pwc.com

Bestellung und Abbestellung

Sollten weitere Personen Interesse an diesem Newsletter haben, können Sie diese E-Mail gern weiterleiten. Die Interessenten können sich hier anmelden: subscribe_zollrecht_aktuell@de.pwc.com.

Sofern Sie unseren Newsletter zukünftig nicht mehr erhalten möchten, bitten wir Sie um eine kurze Benachrichtigung an: unsubscribe_zollrecht_aktuell@de.pwc.com.

Die Beiträge dieser Publikation sind zur Information unserer Mandanten bestimmt. Für die Lösung einschlägiger Probleme greifen Sie bitte auf die angegebenen Quellen oder die Unterstützung unserer Büros zurück. Meinungsbeiträge geben die Auffassung der einzelnen Autoren wieder.

© November 2020 PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft. Alle Rechte vorbehalten.
"PwC" bezeichnet in diesem Dokument die PricewaterhouseCoopers GmbH Wirtschaftsprüfungsgesellschaft, die eine Mitgliedsgesellschaft der PricewaterhouseCoopers International Limited (PwCIL) ist. Jede der Mitgliedsgesellschaften der PwCIL ist eine rechtlich selbstständige Gesellschaft.

www.pwc.de

Regional Comprehensive Economic Partnership (RCEP) – what it means for international trade

November 2020

RCEP in brief

On 15 November 2020, fifteen Asia Pacific countries signed the “Regional Comprehensive Economic Partnership” (RCEP) agreement. The member countries include the 10 ASEAN member states of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam, as well as Australia, China, Japan, New Zealand and South Korea.

RCEP is expected to enter into force either late 2021 or early 2022. Although it will be the world’s largest free trade agreement (FTA) when measured by combined GDP (26 trillion dollars), population (2.27 billion) and total export value (5.2 trillion dollars) of signatory parties, it is not so clear whether it will be as large when it comes to market access and competitiveness of imported goods and services.

Although the Asia-Pacific region is already awash with FTAs, the establishment of RCEP will still have an important impact. Not only is it signed at a time when free trade is under pressure around the world, it links the three mammoths in Asia through an FTA (China, Japan and South Korea) and allows for enhanced regional supply chains for trade in goods.

Companies doing business in the region should perform an impact assessment early in order to take full advantage of RCEP’s benefits when the agreement comes into effect. Given that most RCEP members already have existing FTAs with most other RCEP members, this is also a good time to review benefits that other FTAs already may offer to ensure an overall FTA strategy is optimised.

RCEP in more detail – trade in goods

The RCEP does not replace any of the existing FTAs that its members have between them, either on a multilateral or bilateral basis. Instead, it adds an additional dimension to regional economic collaboration. Although it is not quite as wide or deep as some of the existing agreements, its final text has still exceeded the expectations of many observers. The agreement includes 20 chapters in total, covering commitments in areas such as trade in goods, trade in services, investments, intellectual property, e-commerce, competition, government procurement and dispute settlement.

The trade in goods chapter will likely be the most important, or at least most immediately impactful, chapter of the RCEP for many companies. Key provisions under this chapter to take note of include:

- **Duty elimination**. Tariffs will eventually be eliminated for 90 percent of the trade in originating goods between member countries. Some tariff lines will have duties removed immediately

when the RCEP enters into force, while others will see duties eliminated over a period of time. There are also product categories that may not be subject to duty reduction at all. Industries most affected will be those that traditionally carry high duty rates, such as food, agriculture, consumer good and automotive. It should also be noted that tariff reductions may vary depending on the precise RCEP country of origin. For example, a product originating in – say – New Zealand, may still be subject to a different reduced rate of duty to one originating in – say – China, when imported into South Korea.

- **Rules of origin.** All members have agreed to apply consistent rules of origin for all products. This means that once you can demonstrate a product meets the RCEP origin criteria, it will do so in all member countries. This is a critical benefit under RCEP as companies do not have to worry about satisfying multiple rules across different agreements.
- **Cumulation.** Originating materials from any RCEP member that are used in another member as inputs in the production of another product can be counted as originating content when determining the origin of the subsequent product. This will be an important benefit over other available FTAs as it offers greater flexibility on sourcing.
- **Certification of origin.** A notable provision that is not present in many other agreements in Asia is the gradual introduction of self-certification of origin. Initially, only authorized exporters will be allowed to self-certify the originating status of exported goods. All other exporters will be required to apply for certificates of origin from an issuing authority in the country of export. However, after an initial transition period, member states will be required to allow exporters and producers to self-certify origin by producing a so-called Declaration of Origin.

For most RCEP members, the agreement does not initially allow for importers to self-certify originating status. The agreement provides that member states are to conduct a review following RCEP's entry into force regarding whether to allow self-certification by importers.

- **Duty refunds.** Importers who do not claim RCEP benefits at the time of importation may retroactively apply for duty refunds based on the duty rate under RCEP. In practice, this is likely limited to importers that indicate at the time of import that they are planning to use this facility in future.
- **Harmonisation of non-tariff barriers.** Customs procedures, inspections and quarantine measures, and technical standards will be gradually unified, which will contribute towards promoting the development of new cross-border supply chains and enhance the free flow of goods.

RCEP in more detail – other aspects

Although the other aspects of regional economic partnership are less clearly defined and will be harder for companies to benefit from in the short term, companies ignore them at their own peril. A few highlights include the following.

- **Trade in services.** A very wide phrase, covering many aspects of modern economic life. The agreement offers plenty of opportunities for many service providers to offer their trade in other RCEP members. As commitments are very member and industry specific, every company should evaluate the most appropriate mix of opportunities for itself. It should be noted that some members apply a “negative list” (meaning everything is covered unless it is mentioned on this list), while others apply a positive list (meaning only those services as listed will be

open to operators from other RCEP members). Also note that although at a macro-economic level a negative list is often a sign of better opportunities than a positive list, at a micro-economic (company) level the reverse may be the case.

- **Protection**. The chapters on ***competition, e-commerce, intellectual property*** and ***investment*** are very much focused on protecting companies so that they have a fair chance to make the most of their business commitments to RCEP. Although not as deep, commitments tend to go beyond those at World Trade Organization (WTO) level and those already agreed to in existing FTAs.
- **Government procurement**. In a marked addition to the ASEAN+1 agreements, the RCEP makes specific provisions for government procurement. Although the practical impact may be muted to start with, focusing especially on transparency, it is a step in the right direction, especially given the increased levels of government stimulus around the region as a result of the COVID-19 pandemic.
- **Accession of new members**. To be well positioned for growth in the future, RCEP includes a provision to allow non-member countries to submit an expression of interest to join the agreement. This provision will take effect 18 months after the agreement enters into force.

PwC Observations

Before entering fully into force, the RCEP will require a ratification process to be completed by all member countries. The agreement will only take effect after at least six ASEAN member states and three non-ASEAN member states have completed ratification. This can sometimes be a relatively quick process but can also take years in some countries. We expect the agreement to enter into force for most members either in the second half of 2021 or in early 2022.

Compared to other modern regional agreements such as the CPTPP and the ASEAN Trade In Goods Agreement, RCEP has less coverage in terms of depth of many commitments and offers a slower reduction of tariffs. RCEP is also a relatively complex agreement with certain countries having different tariff reduction schedules for different countries of origin within RCEP. The mix of positive and negative lists for trade in services is another example of complexity. It will be important for companies to navigate these differences across the agreement when assessing impact.

Nevertheless, the RCEP will likely have an important impact on the Asia-Pacific region. It will enhance economic integration, promote free trade and facilitate economic growth. Through the formation of stronger value chains across the region, RCEP will also encourage companies to shift focus towards Asia and to intra-regional trade. Historically many Asian exporters have had their focus firmly on the big and rich consumer markets in North America and Europe, but that may well change, especially as growth is more likely to come in Asian markets.

RCEP will also be the first FTA that Japan has with China and with Korea. This makes RCEP an important agreement for all three countries. For all members, there are many pre-existing FTAs which means there are several trade agreements currently available for companies that can be used today and may already give the benefits offered by RCEP. This should be taken into consideration when assessing the impact of RCEP to ensure the most beneficial agreement is being used.

What you can do to prepare

While RCEP is expected to only enter into force in a year or so, companies doing business in Asia Pacific should perform an impact assessment to determine the benefits available. When doing so, the benefits that other FTAs already offer should be reconsidered, as they may have changed since they were last looked at. Comparing benefits already available under existing FTAs to the benefits RCEP may add will allow companies to develop an optimal overall FTA strategy.

Once the RCEP enters into force, origin compliance management and proactive application of preferential tariff treatment should be prioritised to optimise RCEP benefits. Implementation details on additional tariff reductions, customs procedures, inspections, quarantine measures and other technical standards should be actively monitored to further reduce the costs and enhance efficiencies in the supply chain. Some aspects of implementation are left to the discretion of member states, and it may be in a company's interest to lobby for a particular type of implementation.

Impact on supply chain planning

The US-China trade war and the COVID-19 pandemic are recent and current challenges that have forced many companies in Asia-Pacific to start thinking about long term supply chain planning. Building a more resilient business model and being prepared to respond to disruption are key priorities for many companies today and will likely become more important going forward. The signing of RCEP can have an important role to play in this respect. The signing in itself will have an immediate impact by sending a positive message on how the leading economies in the Asia-Pacific are looking towards free trade and maintaining multilateral trading systems as the solution to promote economic growth and recovery. Not only will this help the region to build a stronger foundation to encourage greater regional collaboration, but also to shift focus towards Asia from elsewhere when important supply chain decisions are being made.

In addition, the RCEP may ease some of the pressure companies feel to diversify their manufacturing footprint. With better market access possible through existing facilities, more drastic changes to physical supply chains may be put on hold for a little while.

To discuss any of the above aspects of the RCEP in specific, or Asian FTAs in general, please contact the below mentioned.

Let's talk

Frank Debets
Managing Partner
Email: frank.debets@pwc.com

Robert Schulte
Director
Email: robert.j.schulte@pwc.com



The information contained in this article is of a general nature only. It is not meant to be comprehensive and does not constitute the rendering of legal, tax or other professional advice or service by PricewaterhouseCoopers WMS Pte Ltd ("PwC"). PwC has no obligation to update the information as law and practices change. The application and impact of laws can vary widely based on the specific facts involved. Before taking any action, please ensure that you obtain advice specific to your circumstances from your usual PwC client service team or your other advisers.

© 2020 PricewaterhouseCoopers WMS Pte Ltd. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers WMS Pte Ltd which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.