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RCEP – The Next ASEAN Focused Regional Economic Agreement

Introduction

The Regional Comprehensive Economic Partnership, also known as **RCEP**, is a mega regional trade agreement currently being negotiated between the 10 ASEAN countries (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam) and 6 Asia-Pacific countries namely, Australia, China, India, Japan, New Zealand and South Korea (collectively, “**RCEP Members**”). The RCEP Members collectively have a population of more than 3.5 billion and a combined GDP of around US\$27 trillion (32% of Global GDP)¹. Launched initially in November 2012 as an ASEAN initiative, RCEP aims to foster inclusive development, promote innovation, drive sustainable growth and support job generation among the RCEP Members.

RCEP will cover various aspects of the economy such as trade in goods, trade in services, investment, economic and technical cooperation, intellectual property, competition, dispute settlement, e-commerce and small medium enterprises (SMEs). Recognising the importance of being inclusive, RCEP will lower trade barriers and has the potential to enhance trade and investments among RCEP Members. By broadening and deepening ASEAN’s economic engagements with its FTA partners, RCEP will provide free and fair policies that mutually benefit the RCEP Members.

How Would RCEP Benefit Malaysia?

Almost 62% of Malaysia’s trade involves RCEP Members and at least 60% of Malaysia’s exports go towards the countries covered by RCEP². Given that 10 out of 16 RCEP Members are considered Malaysia’s top trading partners, RCEP will provide Malaysian companies and consumers with increased commercial opportunities and partnerships with other RCEP Members. While Malaysia actively promotes free trade and is generally seen to be an open economy, reduced trade barriers coupled with enhanced market access will no doubt make Malaysia more attractive to foreign investors and encourage cross-border investments amongst RCEP Members. Foreign investment in Malaysia supports Malaysian businesses by giving them access to capital and the technology and expertise of overseas partners.

¹ <https://www.mfat.govt.nz/en/trade/free-trade-agreements/agreements-under-negotiation/regional-comprehensive-economic-partnership-rcep/rcep-key-facts/>

² <http://fta.miti.gov.my/index.php/pages/view/rcep?mid=39>

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The current international trade regime is generally governed by both tariff and non-tariff measures which result in high expenditure relating to trade for most companies around the region. RCEP would eventually create a “free trade area” among RCEP Members through progressive elimination of tariff and non-tariff barriers on substantially all trade in goods. This would mean that Malaysian businesses will be able to enjoy good quality raw materials at lower prices. RCEP tariff negotiations will focus on achieving a high level of tariff liberalisation and priority will be given to products of interest to the least developed ASEAN member states.³ Another important area of RCEP negotiations will be on the rules of origin (a set of criteria needed to determine the national source of a product). Currently, companies operating in the region must adhere to multiple sets of rules of origin to enjoy preferential tariff concessions under existing free trade agreements. RCEP will streamline and implement one set of user-friendly rules of origin to better facilitate import and exports among RCEP Members.

RCEP would also help to ease integration of Malaysian companies into the global value chain and making them more competitive at the international level. For example, RCEP seeks to eliminate restrictions and discriminatory measures with respect to trade in services among RCEP Members. Under RCEP, rules and obligations on trade in services will need to be consistent with the General Agreement on Trade in Services (GATS), a multilateral agreement regulating international trade with the purpose of reducing tariffs and trade barriers on a reciprocal and mutually advantageous basis. RCEP is also aimed at creating a liberal, facilitative and competitive investment environment among RCEP Members. Trade ministers of RCEP Members have agreed to focus on the four pillars of promotion, protection, facilitation and liberalisation when negotiating for investment provisions. The intention is to narrow development gaps among RCEP Members and maximise mutual benefits.

The investment policy regimes in the region remain unbalanced, with some countries adopting a more interventionist and restrictive approach in certain sectors compared to their neighbours. RCEP will introduce country-specific commitments on foreign investment in various sectors such as manufacturing, agriculture, forestry and mining.⁴ Several RCEP Members currently have existing trade agreements amongst themselves, and the economic and technical cooperation provisions under RCEP will build upon such existing economic cooperation arrangements. For example, RCEP has the potential to create ground-breaking commitments⁵ to facilitate trade in emerging areas such as e-commerce goods and digital trade. Many SMEs and innovative companies are based or are doing business within RCEP Members, especially in China and the ASEAN region. These companies are constantly exploring digital methods to reach out to a wider market or to become part of larger supply chains. Malaysian companies specialising in, amongst other industries, telecommunication, banking and finance and consultancy will stand to benefit from enhanced cooperation to be introduced under RCEP.

³ <https://www.mfat.govt.nz/assets/FTAs-in-negotiations/RCEP/Guiding-Principles-and-Objectives-for-Negotiating-the-Regional-Comprehensive-Economic-Partnership.pdf>

⁴ <https://dfat.gov.au/trade/agreements/negotiations/rcep/Pages/australias-trade-and-investment-interests-in-regional-comprehensive-economic-partnership-rcep-participating-countries.aspx>

⁵ <https://www.scmp.com/week-asia/opinion/article/2169435/dont-mention-us-china-trade-war-asia-and-asean-are-pressing-ahead>

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As trade barriers are lowered and companies expand across the region, trade ministers will need to focus on how best to protect and enforce intellectual property (“IP”) rights among RCEP Members. RCEP negotiations on IP-related provisions should strike a balance between protecting the interests of commercial organisations and the need to promote economic integration and cooperation. Another issue to focus on would be competition policies under RCEP. It is important to promote competition, consumer welfare, economic efficiency and the curtailment of anti-competitive practices while recognising the significant differences in competition law regimes among RCEP Members. RCEP will also introduce a dispute settlement mechanism aimed at providing an effective, efficient and transparent process for consultations and dispute resolution.

On 11th October 2018, Malaysian Ministry of International Trade (MITI)’s Deputy Secretary-General Datuk Norazman Ayob, Malaysia’s chief negotiator for RCEP announced at South China Morning Post’s China Conference that the ongoing trade war between the United States and China (“US-China trade war”) provides the impetus for an early conclusion of RCEP negotiations. He also reiterated that RCEP is of prime focus because of its ASEAN-driven focus and that trade ministers are working to finalise RCEP by end of the year.⁶

What’s Next?

During the 6th RCEP Intersessional Ministerial Meeting held in Singapore on 13th October 2018⁷, trade ministers conducted negotiations on market access, reaffirmed their efforts to bring negotiations to a substantial conclusion and reiterated the completion of the negotiations by year end as an important milestone.

The latest round of negotiations took place in New Zealand on 27th October 2018⁸, where trade ministers finalised discussions on dispute settlement. The next meetings will take place between 9th November 2018 and 13th November 2018. Given the positive remarks made by RCEP negotiators from recent meetings, it is foreseeable that the trade ministers may announce their intention to finalise and proceed with RCEP during the upcoming 2nd RCEP Summit in Singapore on 14th November 2018.

⁶ <https://www.nst.com.my/business/2018/10/420236/rcep-be-finalised-year-end-says-miti>

⁷ <https://dfat.gov.au/trade/agreements/negotiations/rcep/news/Documents/sixth-rcep-intersessional-ministerial-meeting-13-october-2018-singapore.pdf>

⁸ <http://www.thejakartapost.com/news/2018/10/31/rcep-negotiation-delegates-agree-on-dispute-settlement-chapter.html>

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Conclusion

An interesting point to note is that while all RCEP Members have an agreement with ASEAN, not all RCEP Members have a trade agreement with one another. China does not have any trade agreements with India or Japan. The liberalisation of investment regime among RCEP Members will no doubt support economic growth and promote trading relationships. RCEP has the potential to become the next mega-economic agreement after the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”) to facilitate the expansion of trade and investment in the Asia Pacific region. Through RCEP, Malaysia would enjoy enhanced commercial integration with other RCEP Members, thus enabling Malaysian businesses to operate more effectively and efficiently within the region. In view of the current global trade environment, rising protectionist sentiments, and the expected increase in US trade sanctions against China, having a modern, comprehensive and mutually beneficial economic partnership like RCEP could be favourable for investors and consumers. Despite the ongoing US-China trade war, Malaysia continues to attract foreign direct investment (FDI), recording a total of RM61.6 billion in investment approvals between January to August 2018, compared to RM40.4 billion during the same period last year. Malaysia’s manufacturing sector comprises the largest share of investment approvals – RM49.8 billion (around 81% of total investments) and these investments have the potential to create 340,000 jobs for Malaysians. If ratified, RCEP could make ASEAN countries (especially Malaysia) more attractive to countries like China and India.

On a separate note, Canada (not a party to RCEP) and Australia have recently ratified the CPTPP, a trade agreement involving 12 Pacific Rim nations (excluding the United States). As such, CPTPP, which accounts for roughly 13.35% of global GDP⁹, will enter into force on 30th December 2018. It is worth noting that Malaysia has not ratified the agreement and therefore will not be bound by CPTPP until it has completed the ratification process.¹⁰ Unlike RCEP, members of CPTPP would not enjoy preferential regional trading arrangements with potential superpowers China and India. On the other hand, RCEP, once approved, will be the largest trade bloc in terms of population and the first veritable mega-regional integration arrangement.¹¹

⁹ <http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/impact-repercussions.aspx?lang=eng>

¹⁰ <https://www.cbc.ca/news/politics/cptpp-into-effect-dec-30-1.4885344>

¹¹ <https://www.weforum.org/agenda/2018/08/the-race-is-on-to-secure-the-world-s-biggest-trading-bloc-and-china-is-leading-the-way-eceb94cb-f196-4130-95f8-36bb820a240e/>

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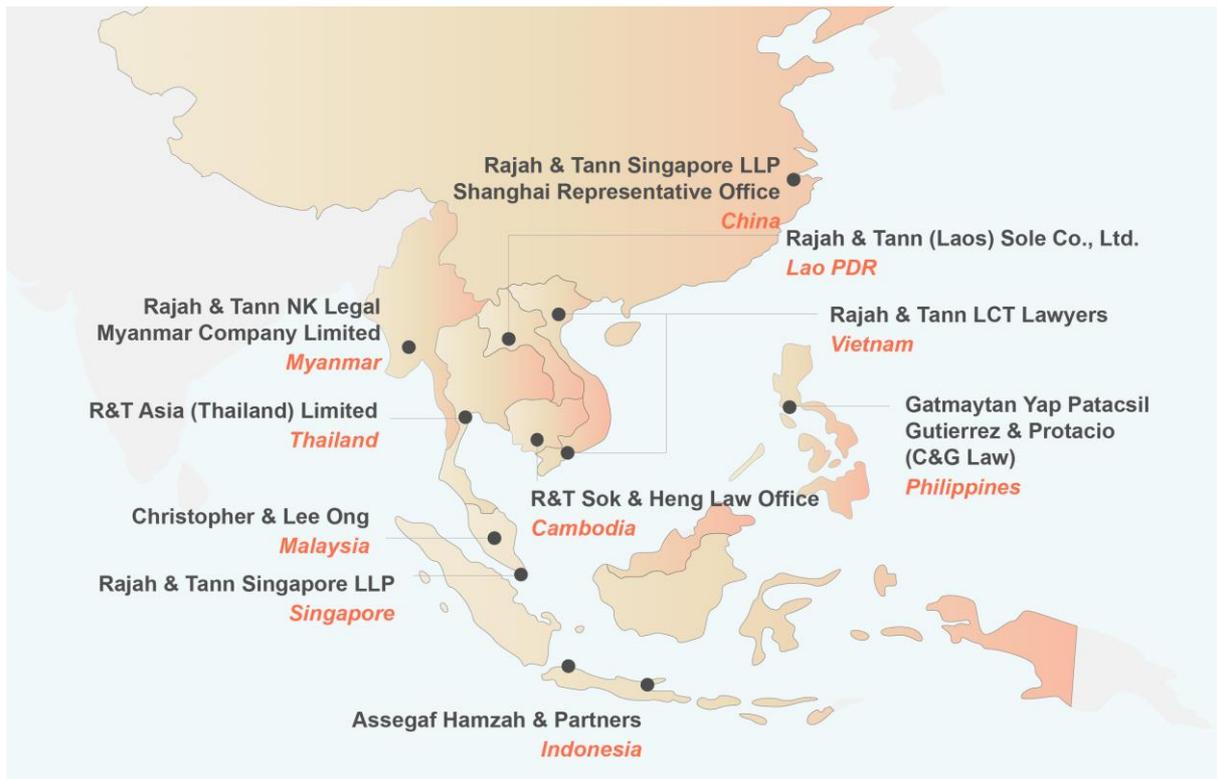
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