

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the Regional Comprehensive Economic Partnership Agreement

Prepared by:

Northern Territory Department of Industry, Tourism and Trade

Ph: (08) 8946 9564

Email: international.engagement@nt.gov.au



Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the
Regional Comprehensive Economic Partnership Agreement

The Northern Territory Government supports Australia ratifying the Regional Comprehensive Economic Partnership Agreement (herein referred to as RCEP). Ratifying RCEP is one of the most effective ways in which Australia can work with likeminded countries to promote a rules based order, and help shape the economic future of a region that is increasingly the engine of global growth and innovation. The RCEP is an important barrier against the spread of protectionism, and reflects Australia's trade interests as a service and knowledge-intensive economy.

The Northern Territory Government notes that the RCEP is a broad-ranging free trade agreement with impacts that would be seen as positive, such as creating opportunities for Australian export and service businesses to enter new markets. The agreement also streamlines, harmonises and standardises rules of origins procedures in certain countries, which should bring much-needed efficiencies in trading relationships and offers protections for foreign investors to foster growth. However, free trade agreements can also expose sensitive industries or sectors to foreign competition.

Once ratified, RCEP will create an opportunity for closer economic engagement, opening new markets and opportunities for businesses, primary producers, service providers and investors. Similarly it will increase opportunities for Northern Territory businesses to access regional value chains. RCEP has the potential to simplify the regional trade and investment environment, better integrate Northern Territory businesses into regional supply chains and improve market access for Northern Territory exporters.

As RCEP economies develop and their middle classes grow, this economic partnership will open up new doors for Northern Territory businesses and investors across our region. The Northern Territory Government notes that RCEP will provide a boost to regional post-COVID-19 recovery efforts. The pandemic has interrupted many cross-border value chains, which are critical for the open economies of the Asia-Pacific. By lowering trade barriers, at a time when most of the world is raising them, the RCEP agreement will send a strong message that Australia is open for business to Asia-Pacific nations. Furthermore, by harmonising national trade practices around common regional standards, RCEP will make it much easier and faster to re-establish value chains once COVID-19 eases. With the implementation of RCEP, the Asia-Pacific region will return to economic dynamism faster than any other region in the world.

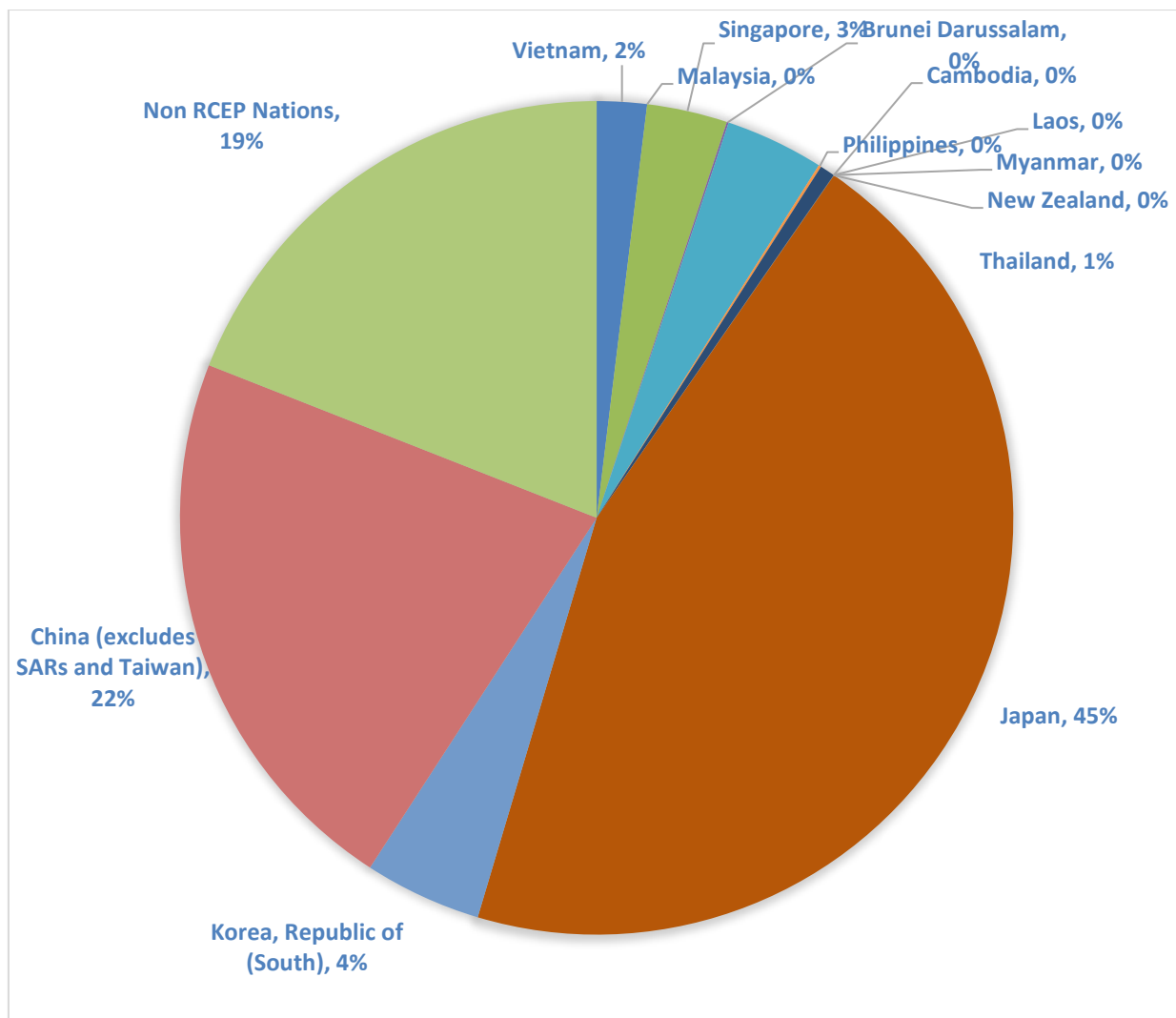
The Northern Territory Government is committed to maximising opportunities for Northern Territory businesses to establish and grow two way trade and attract investment to the Territory from the Asia-Pacific region. The Northern Territory is Australia's gateway to Asia, and we are Asia's gateway to Australia, its markets and its resources. We are continuing to grow our trade, investment, economic and cultural relationships within the Asia Pacific region and are supporting opportunities for Territory businesses to establish and grow two trade and attract investment. There are enormous opportunities to be realised through investment in Northern Australia.

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the
Regional Comprehensive Economic Partnership Agreement

Northern Territory's international trade with RCEP Nations:

RCEP has the potential to closer integrate the Northern Territory into Asia Pacific regional trade. Over the last five financial years on average, RCEP nations have received 87 per cent of the Northern Territory's international exports. Similarly over the last five financial years on average the Northern Territory receives 69 percent of all our international import trade from RCEP nations.

Percentage of Northern Territory goods exported to RCEP nations within the 2019/2020 financial year:



Source: ABS unpublished data

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the Regional Comprehensive Economic Partnership Agreement

Implementation Challenges:

The Northern Territory Government would like to highlight a number of possible implementation challenges at the individual Micro, Small and Medium Enterprise business level. The interaction of the RCEP with existing Free Trade Agreements (FTAs) is complex in some cases, as it does not necessarily provide the best market access compared to other agreements during the implementation period.

Each dutiable item is subject to a tariff reduction schedule that locks in reducing annual tariff rates over 0 to 20 years, and this pattern of reduction may be longer/shorter or deeper/shallower than reductions under existing FTAs. In some cases, for example exporters to Malaysia, businesses will have to assess the relative merits of sending their products under four FTAs (Australia-NZ-ASEAN FTA, Malaysia-Australia FTA, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and RCEP). As identified in the [Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry Into Access to Free Trade Agreements by Small and Medium Sized Enterprises](#), many businesses are overwhelmed by the 'burdens of navigating FTAs' and have had to outsource the tariff classification of goods, valuations and the determination of origin of goods to other brokers. As outlined above, in some cases, the RCEP may increase complexity for firms that seek to access the benefits of FTAs. Firms therefore need capacity-building and support to access benefits of the implementation of the RCEP as well as other FTAs.

As the RCEP does not negate the need to continue using the earlier Australian bilateral/ regional FTAs in many cases, exporters must also understand and comply with multiple, or rather yet another set of Rules of Origin, with subtle but nevertheless potentially significant differences. The implementation of RCEP will require exporters to re-assess whether their procedures, compliance and documentary processes are sufficiently sophisticated to leverage the full benefits and mitigate risk; this poses a particular challenge for smaller enterprises.

Generally the RCEP offers improved access benefits over Australia's other FTAs; however, there are many exceptions to this trend, making it imperative to check individual products without making assumptions. Further, in many cases it will be important to implement preferences under different agreements for the same product, over periods of time. This occurs where Australia benefits from multiple FTAs simultaneously, or in other cases where the rate of tariff reduction is not consistent between agreements and as a result it is necessary to swing between them.

While the RCEP is being implemented (bearing in mind full implementation will take 20 years), exporters will need to undertake a comparative analysis evaluation of numerous agreements carefully to determine in which years to specify preferences for one FTA and in which years to specify preferences under a different FTA for the same good being sent to the same market to get the best outcome.

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the
Regional Comprehensive Economic Partnership Agreement

Micro, small and medium enterprises, which make up more than 97 per cent of Northern Territory firms, often find it difficult to access the benefits of trade agreements, see [this article](#) and [this article](#) for examples. Rules of origin for manufactured goods are particularly challenging. While the Australian Trade and Investment Commission (Austrade) how-to seminars for businesses, taking advantage of trade agreements could be still seen as a daunting and expensive task. Implementing a regional agreement like RCEP may help simplify navigation of multiple trade agreements, but it must be noted that it could be perceived as also being more complex for businesses. Given the poor record of businesses accessing the benefits of agreements, more needs to be done to facilitate access, in particular for the small firms in Northern Australia.

In line with the Australian Government's objective of 'Developing Northern Australia', there is an increased opportunity for engagement with the Northern Territory Government and businesses for increased utilisation of these trade agreements. The Northern Territory Government therefore advocates for greater staffing levels of Austrade (there is currently no full time staff based in the Northern Territory) and the Department of Foreign Affairs and Trade in the Northern Territory to bolster support for Northern Australian micro, small and medium enterprises, further enhance international relations, and further promote and attract trade and investment into Northern Australia.

The Northern Territory Government welcomes any opportunity to partner with Austrade to deliver a suite of business information sessions covering the RCEP and other trade agreements to inform, educate and support trading businesses across the Northern Territory.

RCEP could restrict State and Territory regulation of carbon emissions

RCEP does not include Investor-State Dispute Settlement (ISDS) immediately, but ISDS will be reconsidered two years after the agreement comes into force. ISDS gives additional legal rights to foreign investors to bypass national courts and sue governments directly for compensation if a change in law or policy harms their investment.

If ISDS are agreed in future, Australia could possibly face both state-to-state disputes and ISDS disputes arising from States and Territories if they were to strengthening regulations to combat climate change.

RCEP does not appear to reserve environmental services at State and Territory government levels as Appendix A to Annex III of Services Chapter 8 lists state government services to which RCEP rules that restrict future regulation do apply. This listing includes environmental services, including "services at power stations or industrial complexes to remove air pollutants, monitoring of mobile emissions and implementation of control systems or reduction programs".

Were the Northern Territory Government to privatise its power stations in the future to investors from RCEP members, the RCEP rules if left unamended would "lock in" existing levels of regulation which applies to power station carbon emissions. Maintaining current day environmental protections which, coupled with the ISDS mechanism, are likely to undermine efforts to address key environmental challenges, including climate change.

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the
Regional Comprehensive Economic Partnership Agreement

The failure to exclude these forms of regulation could reduce flexibility for State and Territory governments to regulate to reduce both carbon emissions and other forms of pollution in future. If ISDS are reconsidered two years after ratification, ISDS could enable foreign investors to sue governments directly for significant compensation if they can argue that a change in law or policy harms their investment. If ISDS is included in the RCEP in future, Australia could face both state-to-state disputes and ISDS disputes if State and Territory governments increase regulation of carbon emissions.

It is recommended that the Australian government seek an amendment to Annex III appendix A, p. 54 to ensure that State and Territory government regulation of carbon emissions and other pollution is excluded from obligations in the Services Chapter.

Independent Review by the Productivity Commission

The Northern Territory Government recommends that after any future expansion of the RCEP text is completed, but before it is signed, comprehensive, independent assessments of the likely economic, social and environmental impacts of the agreement should be undertaken and made public for debate and consultation and review by parliamentary committees.

Many businesses report difficulties understanding regulatory divergence among Australian trade agreements. This can create administrative barriers for traders that could have been avoided if they were identified during negotiations. Such stumbling blocks add to red tape and prompt businesses to use time-consuming workarounds which makes the affected trade treaties less desirable. For Australian businesses to gain the most benefits of Free Trade Agreements, a strong foundation of understanding and support is needed. This could be better achieved through assessment by an independent Government body that is arms-length from negotiations, such as the Productivity Commission.

The Northern Territory Government recommends that going forward, the Productivity Commission prepares the trade treaty National Interest Analysis and Regulatory Impact Statement of proposed Free Trade Agreements that is provided to the Joint Standing Committee on Treaties and tabled in Parliament. The Productivity Commission could be tasked with objectively preparing both documents on the basis of optimal, likely and minimum outcomes of concluding and implementing a given trade treaty.

Were the Productivity Commission so tasked, it would be well placed to provide frank and fearless advice to both the Joint Standing Committee on Treaties and the Parliament, with regard to the real economic benefits and costs of concluding and expanding future trade treaties.

Similarly, the Northern Territory Government recommends that the Productivity Commission be tasked with undertaking an examination of the merits of retaining current bilateral agreements where they have been superseded by larger and more modern agreements covering the same Parties.

Northern Territory Government submission to the Joint Standing Committee on Treaties inquiry into the
Regional Comprehensive Economic Partnership Agreement

Collaborative approach to trade negotiations

The Northern Territory Government would like to reiterate its appreciation for the Australian Government's collaborative approach to trade negotiations, and expects federal-state and territory discussions and consultation on the implementation of RCEP and any future expansions of RCEP once negotiations commence.