

Tax Alert

2 February 2021

Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries

The purpose of this Tax Alert is to facilitate understanding of the proposals and it should not be used exclusively for tax planning without prior consultation with experts.

เอกสารนี้ไม่ได้มีการจัดทำเป็นฉบับภาษาไทย หากมีข้อสงสัยกรุณาติดต่อผู้แต่งตามที่อยู่อีเมลด้านล่าง

Prior to RCEP, there are already in place several established ASEAN +1 regional and bilateral free trade agreements (FTAs) granting preferential duty treatment for goods traded between Thailand and ASEAN countries, China, Japan, Korea, Australia and New Zealand. For imports into Thailand, the vast majority of products are eligible for duty-free treatment when traded under these existing FTAs.

Thailand's existing FTAs	Percentage of products tariff line with 0% duty into Thailand
ASEAN Trade in Goods Agreement (ATIGA)	All products with few exceptions
ASEAN - China FTA (ACFTA)	85.62%
ASEAN - Korea FTA (AKFTA)	86.76%
ASEAN - Japan Comprehensive Economic Partnership (AJCEP)	94.12%
ASEAN - Australia - New Zealand FTA (AANZFTA)	98.80%
Thailand - Japan Economic Partnership Agreement (TJEPA)	99.09%
Thailand - Australia FTA (TAFTA)	99.09%
Thailand - New Zealand FTA (TNZFTA)	99.36%

Source: Department of Foreign Trade, Thailand

Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

As a signatory to the RCEP Agreement signed on 15 November 2020, Thailand (along with other ASEAN member states - Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore and Vietnam) seeks to broaden and deepen existing trade with China, Japan, South Korea, Australia and New Zealand.

RCEP is now subject to a ratification process and will come into force 60 days after the date on which at least 6 ASEAN and 3 non-ASEAN signatory countries complete ratification and notify the Secretary-General of ASEAN. Thai businesses should use this time to evaluate what incremental benefits are provided under RCEP and whether there will be any real duty savings when switching from existing ASEAN +1 regional or bilateral FTAs for trade in goods with RCEP countries.

In this Tax Alert, we outline some discrete examples of duty gaps between RCEP and existing FTAs and other key areas where RCEP presents added opportunities for origin cumulation to enhance Thailand's trade with other RCEP countries.

1) RCEP incremental market access opportunities via duty eliminations or reductions

1.1) Immediate duty eliminations on RCEP origin products into Thailand

Under RCEP, Thailand offers immediate duty elimination on certain products starting from Year 1 that is not otherwise provided under current FTAs, in particular certain products originating from Korea and China.

HS code	Items	Origin	Base rate	Current FTAs		RCEP *
				FTA	Duty rate	Duty rate
0709.20.00	Fresh or chilled asparagus	Korea	40%	AKFTA	5%	0% from Year 1
0810.10.00	Fresh strawberries		40%			
1702.30.10	Glucose not containing fructose or containing in the dry state less than 20% by weight of fructose		20%			
3906.90.92	Sodium polyacrylate		5%			
6106.20.00	Women's or girls' blouses, shirts and shirt-blouses, knitted or crocheted made of man-made fibre		30%			
6901.00.00	Tiles of siliceous fossil meals		10%			
8408.10.10 8408.10.20 8408.10.90	Marine propulsion engines		10%			
1514.91.10	Crude oil of rape or colza	China	27%	ACFTA	No privilege	0% from Year 1
3102.10.00	Urea, whether or not in aqueous solution		3%			
4418.10.00	Wooden windows, French-windows and their frames		10%			
4804.11.00	Unbleached kraftliner		5%			
8301.20.00	Locks of a kind used for motor vehicles		10%			
8512.20 8512.30 8512.40	Electrical lighting or signalling equipment (excluding articles of heading 85.39), windscreen wipers, defrosters and demisters, of a kind used for cycles or motor vehicles		10%			
9403.90.10	Part of baby walkers of subheading 9403.70.10		10%			

* Year 1 begins on the date RCEP comes into force. The first day of subsequent years shall be 1 April for Indonesia, Japan and the Philippines and 1 January for other RCEP country signatories.

Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

1.2) Phase-in duty eliminations or reductions on RCEP origin products into Thailand

Incremental duty benefits under RCEP also come in the form of phase-in duty eliminations or reductions over time into Thailand. For example, certain products originating from Korea, China and Japan stand to benefit from phase-in reductions in duty rates if traded under RCEP rather than under current FTAs.

HS code	Items	Origin	Base rate	Current FTAs		RCEP*
				FTA	Duty rate	Duty rate
1102.90.10	Rice flour	Korea	30%	AKFTA	No privilege	28% from Year 1 with phase-in reductions to 0% from Year 15
8450.11.10	Fully-automatic washing machines of a dry linen capacity not exceeding 6 kg		10%		5%	4% from Year 13 with phase-in reductions to 0% from Year 15
8544.49.31	Telephone, telegraph and radio relay cables, submarine for a voltage exceeding 80 V but not exceeding 1,000 V		10%		8%	7.3% from Year 4 with phase-in reductions to 0% from Year 15
1102.90.10	Rice flour	China	30%	ACFTA	No privilege	28% from Year 1 with phase-in reductions to 0% from Year 15
8513.90.10	Parts of miners' helmet lamps or quarrymen's lamps		10%		5%	4.7% from Year 8 with phase-in reductions to 0% from Year 15
8704.21.11	Refrigerated lorries (trucks) in completely knocked down form		40%		No privilege	37.3% from Year 1 with phase-in reductions to 0% from Year 15
8708.29.20	Parts of safety seat belt		10%		10%	9.8% from Year 11 with phase-in reductions to 8.5% from Year 20
8708.10.90	Bumpers and parts thereof of the motor vehicles of headings 87.02 to 87.05	Japan	30%	JTEPA	0%	29.5% from Year 11 with phase-in reductions to 27% from Year 20
				AJCEP	30%	
8708.29.20	Parts of safety seat belt		10%	JTEPA	0%	9.8% from Year 11 with phase-in reductions to 8.5% from Year 20
				AJCEP	30%	
8708.29.93	Interior trim fittings; mudguards for vehicles of heading 87.03		30%	JTEPA	0%	29.5% from Year 11 with phase-in reductions to 27% from Year 20
				AJCEP	30%	

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Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

1.3) Immediate duty eliminations on Thai origin products entering RCEP countries

In terms of Thai exports to RCEP countries, Korea has committed to granting duty-free access to its market to Thai origin products under RCEP. Hence, Thai exporters of certain products interested in supplying the Korean market should consider qualifying their products for export under RCEP instead of AKFTA, in order to gain duty-free access to this market. Some examples of such products include:

HS code	Items	Base Rate	Current AKFTA	RCEP*
			Duty rate	Duty rate
2710.12.90.00	Others light oil and preparation	5%	5%	0% from Year 1
2916.12.10.00	Ethyl acrylate	8%	5%	
5402.47.10.00	Other yarn, single, untwisted or with a twist of not exceeding 50 turns per metre made of poly trimethylene terephthalate	8%	5%	
6204.32.00.00	Jackets and blazers made of cotton	13%	5%	
6901.00.30.00	Tiles of siliceous fossil meals	8%	5%	
8409.99.10.00	Parts suitable for use solely or principally with the engines for railway locomotives and rolling stock	5%	No privilege	
8506.10.10.00	Manganese batteries	13%	5%	
8544.60.30.10	Plastic insulated wire for a voltage exceeding 100 kV	8%	5%	
8704.21.90.10	Freezer and refrigerator vehicle	10%	No privilege	
8711.10.10.00	Motorcycles	8%	No privilege	
8711.10.20.00				
8711.10.90.00				
8711.20.10.00				
8711.20.90.00				
8711.30.10.00				
8711.30.90.00				
8711.40.10.00	Racing bicycles	8%	5%	
8711.40.90.00				
8712.00.10.00	Wheel rims and spokes	8%	5%	
8714.92.10.00				
8714.92.20.00				

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Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

1.4) Phase-in duty eliminations or reductions on Thai origin products entering RCEP countries

In terms of phase-in duty elimination or reductions, RCEP also offers lower duty treatment on certain Thai origin products over time into certain RCEP markets like Korea, China and Japan. Benefitting products vary by destination market, with some examples being as follows:

HS code	Items	Base rate	Current FTAs		RCEP*
			FTA	Duty rate	Duty rate
2009.49.00	Pineapple juices	50%	AKFTA	5%	5% from Year 9 and 0% from Year 10
4002.11.00	Styrene-butadiene rubber (SBR) latex, carboxylated styrene-butadiene rubber (XSBR) latex	8%		No privilege	7.2% from Year 1 with phase-in reductions to 0% from Year 10
7117.19.10	Necklace made of base metal, whether or not plated with precious metal	8%		No privilege	7.5% from Year 1 with phase-in reductions to 0% from Year 15
8708.30.20	Brake booster	8%		No privilege	7.2% from Year 1 with phase-in reductions to 0% from Year 10
8708.92.00	Silencers (mufflers) and exhaust pipes; parts thereof	8%		No privilege	7.5% from Year 1 with phase-in reductions to 0% from Year 15
2009.49.00	Pineapple juices	5%	ACFTA	5%	4.5% from Year 11 with phase-in reductions to 0% from Year 20
2710.12.30	Rubber solvent, paint solvent, extractive solvent	6%		5%	4.8% from Year 4 with phase-in reductions to 0% from Year 20
4810.13.00	Paper and paperboard of a kind used for writing, printing or other graphic purposes in rolls	5%		No privilege	4.5% from Year 1 with phase-in reductions to 0% from Year 10
5402.47.00	Synthetic filament yarn of polyesters	5%		No privilege	4.9% from Year 1 with phase-in reductions to 3.8% from Year 10
8512.20.10	Lighting equipment of a kind used for motor vehicles	10%		5%	4% from Year 6 with phase-in reductions to 0% from Year 10
8708.29.30	Windowpane raiser	6%		5%	4.5% from Year 11 with phase-in reductions to 0% from Year 20
0712.20.00	Dried onion in whole, cut, sliced, broken or in powder, but not further prepared	9%	JTEPA	1.10%	0.6% from Year 15 and 0% from Year 16
			AJCEP	5%	
1507.10.100	Crude oil, whether or not degummed of soya-bean oil and its fraction	10.90 yen/kg	JTEPA	No privilege	10.22 yen/kg from Year 1 with phase-in reductions to 0% from Year 16
			AJCEP	No privilege	
2106.90.246	Other food preparations with a basis of fruit juices, of an alcoholic strength by volume of less than 1 % vol	29.8% or 23 yen/kg, whichever is the greater ("witg")	JTEPA	3.7% or 2.88 yen/kg, witg	1.9% or 1.44 yen/kg from Year 15 and 0% from Year 16
			AJCEP	9.3% or 7.19 yen/kg, witg, and capped at 50% duty	

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Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

2) RCEP - Rules of Origin (ROO)

2.1) Origin criteria

Goods are eligible for duty privileges under RCEP if they are considered as originating goods in accordance with the ROO and meet all other applicable requirements e.g. cumulation, minimal operations and processes, de minimis, direct consignment.

The criteria on which products are considered to be originating under RCEP are generally as follows:

- (a) Products wholly obtained or produced in an RCEP member country;
- (b) Products produced in a RCEP member country exclusively from originating materials from one or more of the RCEP member countries; or
- (c) Products produced in a RCEP member country using non-originating materials, provided the good satisfies the applicable requirements set out in the Product-Specific Rules (PSRs).

For products subject to PSRs, the applicable origin qualification criteria may be based on any of these criteria, depending on the product:

- Wholly obtained (WO)
- Change in tariff classification i.e. change in chapter (CC) or change in tariff heading (CTH) or change in tariff subheading (CTSH);
- 40% Regional Value Content (RVC); or
- Chemical reaction (CR)

With RCEP bringing all 15 countries under a single FTA, there are opportunities for all-of-Asia Pacific origin cumulation, allowing greater options on sourcing.

Where RCEP offers similar or lower preferential duty rates compared to existing ASEAN +1 regional or bilateral FTAs, the use of a single ROO under RCEP for shipments to different RCEP countries removes some of the complexities of managing different product origin criteria across different FTAs and also lowers the RVC threshold. Some of the comparatives are presented in the table below.

HS heading or subheading	Items	Rule of Origin		
		Current FTAs		RCEP
5204.20	Cotton sewing thread, put up for retail sale	ACFTA	RVC 40 or the manufacturing process required	CTH
		AJCEP	CTH outside heading 52.04 through 52.07 with condition	
		AANZFTA	CTH, except from 5205 or 5206	
6403	Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather	AJCEP	CC	CTH or RVC40
8703	Motor cars and other motorvehicles principally designed for the transport of persons (other than those of heading 87.02), including station wagons and racing cars	AKFTA	RVC 45	RVC 40
8704	Motor vehicles for the transport of goods			
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars			

Regional Comprehensive Economic Partnership Agreement (RCEP) : Incremental trade in goods opportunities for Thailand with RCEP countries (Cont'd)

2.2) Proof of Origin

Importers may claim duty privileges under RCEP only if they can provide a Proof of Origin to Customs of the importing countries. The Proof of Origin can be any of the following:

- (a) Certificate of Origin issued by an issuing body;
- (b) Declaration of Origin by an approved exporter; or
- (c) Declaration of Origin by an exporter or producer.

Thailand is required to implement rules to allow for provision of Proof of Origin under Category (c) no later than 10 years from the date RCEP comes into force.

Under Thailand's existing FTAs, goods must be certified with either (a) or (b) only.

Actions for businesses

While RCEP is not expected to replace the use of existing FTAs for many businesses, there may be discrete opportunities for Thai importers or exporters to switch to RCEP to gain market access for certain goods to certain RCEP countries. Hence, Thai businesses trading with RCEP countries should investigate whether RCEP could remove any existing tariff barriers.

Where businesses find themselves having to use RCEP and existing FTAs for trade with different RCEP countries, management of the different ROO compliance rules may be complicated. Businesses need to ensure they have robust FTA compliance management and review processes in place and consider use of technology and outsourcing service solutions. Moreover, all businesses that anticipate a potential duty benefit under RCEP in the near future should identify if the switch to utilizing RCEP will require a change in the origin criteria of goods that may impact their existing operations in terms of e.g. sources of materials, production processes, selection of substitute materials.

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