



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel. Nos. (02) 8920-0689 / 8925-8275 / 0917-885-3367 / 0917-868-3367
Website: <http://www.denr.gov.ph> / E-mail: web@denr.gov.ph

MEMORANDUM

TO : **The Directors**
Environmental Management Bureau
Forest Management Bureau
Mines and Geosciences Bureau
Legal Affairs Service

FROM : Assistant Secretary for Policy, Planning and Foreign Assisted and Special Projects, **and Chairperson, DENR Trade Focal Group**

SUBJECT : **REQUEST FOR COMMENTS/ INPUTS ON MEETING RE RCEP AGREEMENT**

DATE : **11 APR 2023**

This pertains to the letter from the Senate Special Oversight Committee on the Regional Comprehensive Economic Partnership (RCEP) Agreements dated 29 March 2023, inviting the Department to attend the organizational meeting and briefing on the 13 April 2023, Thursday, 10:00 am in a hybrid setup.

BACKGROUND AND UPDATES RCEP

- The Regional Comprehensive Economic Partnership (RCEP) is a forward-looking trade agreement between member economies of the Association of Southeast Asian Nations (ASEAN) and its free trade agreement (FTA) partners (AFPs) namely Australia, China, Japan, Korea, and New Zealand (i.e., non-ASEAN signatory economies). RCEP was adopted by ASEAN Leaders at the 19th ASEAN Summit in Bali, Indonesia in November 2011 in order to maintain the centrality and proactive role of ASEAN in relation to its trading partners and to enhance participation in global value chains.
- In preparation for the ratification of RCEP, this Office, following the conduct of the Trade in Environmental Goods and Services Workshop last October 2022, and the Trade Focal Group meeting held last November 2022, requested the Bureaus to submit their inputs on the draft Negative List and nominate a permanent focal person/s for trade and trade-related matters. Said initiatives complies with Article 8.12 (Transition) of the RCEP Agreement, wherein the Philippines should submit a Negative List (Schedule of Non-Conforming Measures¹) within a 6-year time frame upon entry into force of the RCEP.
- Please be informed that the senate ratified the RCEP Agreement on 21 February 2023. The target date to deposit the instrument of ratification is by April 2023 and the target

date of entry into force is by 01 June 2023. The ongoing initiatives are 1) a review of the transposed HS 2017 to HS 2022 Philippines RCEP Schedule of the Tariff Commitments, and 2) finalization of the Executive Order to implement the Agreement

ACTION REQUESTED

In view of the above, we would like to reiterate a memorandum dated 23 December 2022 with regards to the following: 1) nominate focal person/s to be part of the Recomposed DENR Trade Focal Points, and 2) request inputs on the draft Negative List for Environmental Services under the Regional Comprehensive Economic Partnership (RCEP) Agreement.

Moreover, in preparation for the upcoming briefing with the Special Oversight Committee on 13 April 2023, may we request your office to: 1) provide updates on plans and actions already taken by your office in preparation for the implementation of RCEP Agreement, particularly the transitional safeguard measures on the affected sectors, and 2) nominate a representative to attend the said meeting, preferably with technical expertise on trade and trade-related matters, RCEP agreement, plans and programs of your respective sectors, and environmental laws.

We would appreciate receiving an advance copy of your feedback **by 11 April 2022**, through this e-mail address: psddivision@gmail.com, copy furnished policy@denr.gov.ph. For any questions or clarifications, you may contact the Policy Studies Division through phone numbers: 8925-1183 or 09081314604 (Viber-activated).

For your appropriate action, please.


MARCIAL C. AMARO, JR., CESO II

cc: The Undersecretary for Policy, Planning and International Affairs
The Director for Legislative Liaison Office



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. 929-6626 to 29, 929-6633 to 35
926-7041 to 43; 929-6252; 929-1669
Website: <http://www.denr.gov.ph> / E-mail: web@denrgov.ph

MEMORANDUM

TO : **The Directors**
Biodiversity Management Bureau
Environmental Management Bureau
Forest Management Bureau
Mines and Geosciences Bureau
Ecosystems Research and Development Bureau
Land Management Bureau
Legal Affairs Service
Climate Change Service

FROM : The Assistant Secretary for Policy, Planning and Foreign Assisted and Special Projects, *and* **Chairperson, DENR Trade Focal Group**

SUBJECT : **REQUEST FOR COMMENTS/ INPUTS ON THE DRAFT SPECIAL ORDER ON THE RECOMPOSED DENR TRADE FOCAL GROUP AND DRAFT NEGATIVE LIST FOR ENVIRONMENTAL SERVICES UNDER THE RCEP AGREEMENT**

DATE : 23 DEC 2022

This pertains to the agreement during the DENR Trade Focal Group Meeting held on 25 November 2022 to: 1) subject the draft Special Order (SO) of the Recomposed DENR Trade Focal Group to vetting by the concerned Bureaus and Offices, and 2) request inputs on the draft Negative List for Environmental Services under the Regional Comprehensive Economic Partnership (RCEP) Agreement.

Draft SO on the Recomposed DENR Trade Focal Group

The draft SO shall recompose the DENR Trade Focal Group created through SO 2019-1002 dated 09 December 2019.

The Group will convene in a meeting **bi-annually** to provide updates to DENR Officials on the current environmental trade-related issues which may arise during trade negotiations or regular inter-agency meetings. The Members are also expected to provide appropriate environmental trade-related data, information, or position that may be requested by other government agencies such as the Department of Trade and Industry (DTI), National Economic Development Authority (NEIDA), etc., to address sectoral environmental trade-related issues. They are also expected to participate in trade-related meetings, trainings, workshops and related events, whenever their participation is necessary.

The following are the areas of concern that we have identified, to guide your Office in the designation of representatives to the Focal Group:

Areas of Concern	Concerned Bureau/s
Environmental Services 1) Sewage Services; 2) Refuse Disposal Services; 3) Sanitation and Similar Services; 4) Reducing Vehicle Emissions Services; 5) Noise Abatement Services; 6) Services to reduce exhaust gases and other emissions for a factory 7) Site remediation and clean-up services 8) Sweeping and snow removal services 9) Other Environmental Services	EMB
Trade in Goods	EMB, BMB, FMB
Multilateral Environmental Agreements 1) Convention on International Trade in Endangered Species on Wild Fauna and Flora (CITES) 2) Montreal Protocol 3) Basel Convention 4) Convention on Biological Diversity 5) United Nations Framework Convention on Climate Change (UNFCCC) 6) Stockholm Convention on Persistent Organic Pollutants 7) Kyoto Protocol	EMB, BMB, CCS
Emerging Issues - Plastic Pollution - Green investment (e.g. green metals initiative) - Circular economy - Transition to Negative List Approach in Scheduling Market Access ¹ Commitments in the Services Chapter under RCEP	EMB EMB, MGB FMB, EMB, BMB All Bureaus (Legal and/or Policy), LAS

Additionally, as agreed during the meeting, a Division Chief/ Section Chief and at least one (1) Technical Staff from the relevant Divisions/ Sections within the Bureau/ Service shall be identified to compose the Focal Group.

Draft Negative List for Environmental Services under RCEP

RCEP is a modern, comprehensive, high-quality, and mutually beneficial economic partnership agreement among the ten (10) ASEAN Member States (AMS) and five (5) of ASEAN's Free Trade Agreement (FTA) Partners namely, Australia, China, Japan, Korea, and New Zealand, that is expected to boost equitable economic growth as well as post COVID-19 pandemic recovery in the region through the expansion of trade, services and investments linkages. The Agreement was signed by the Philippines along with the abovementioned AMS and FTA partners on 15 November 2020 at the 4th RCEP Leaders' Summit. It was ratified by President Rodrigo Duterte in 02 September 2021 and is currently being subjected to a series of public hearings for the Senate's concurrence.

¹ *Market access* is an umbrella term for a number of measures that a country may use to restrict imports (https://www.wto.org/english/tratop_e/dda_e/symp03_ahmad_e.doc)

² *Non-Conforming Measures* is any law, regulation, procedure, requirement or practice, which violates certain articles of the investment agreement. For example, a law prohibiting an investor of another member country to own a factory does not conform with the article on national treatment (http://www.sice.oas.org/dictionary/in_e.asp#:~:text=A%20non%2Dconforming%20measure%20is,the%20article%20on%20national%20treatment)

In accordance with Article 8.12 (Transition) of the RCEP Agreement which was signed on 15 November 2020, the Philippines should submit a Negative List (Schedule of Non-Conforming Measures²) within a 6-year time frame upon entry-into-force of the RCEP.

The following are the Department's commitments under the Trade in Services Chapter of the RCEP Agreement, which are based on existing ASEAN+1 FTAs:

- 1) Sewerage services (CPC 9401)
- 2) Refuse disposal services (CPC 94020**)
- 3) Sanitation and similar services limited to hail-clearing services (CPC 9403**)
- 4) Services to reduce exhaust gases and other emissions for a factory (CPC 9404)
- 5) Site remediation and clean-up services (CPC 9441)
- 6) Sweeping and snow removal services (CPC 9451)

The Department of Trade and Industry (DTI) has initiated discussions on the formulation of the Negative List under RCEP Trade in Services Chapter. As a form of assistance to the Department, DTI has sent resource persons to the workshops initiated by this Office in 2019 and just recently this year, to capacitate technical personnel in scheduling market access commitments using the Negative List Approach for offers under Environmental Services.

The Department has initially submitted to DTI the draft Negative List for Environmental Services in 2019, following the conduct of a Workshop in the same year. In light of the new laws and policies that were issued since then, the draft Negative List was again subjected to a Workshop in October this year. DTI will be conducting a workshop on the finalization of the Negative List on January 2023.

In this regard, we would like to request for your: 1) nomination of representatives to the recomposed DENR Trade Focal Group (kindly provide their details in the matrix found in Annex A), and 2) comments/ inputs on the latest draft Negative List which was the Break-out Session output during the recently conducted *Workshop on Trade in Environmental Goods and Services* (Annex) or through this link: <https://bit.ly/3YyfVYX>.

We have also provided as Annex C, a guide/ instruction on how to fill-up the Breakout Session Output Document. Attached also is a briefer on the various Trade-related Inter-Agency Committees/ Bodies with DENR involvement, as discussed during the DENR Trade Focal Group Meeting last 25 November 2022, for your reference.

We would appreciate receiving an advance copy of your nomination and inputs by **29 December 2022**, through this e-mail address: psdivision@gmail.com, copy furnished policy@denr.gov.ph. For any questions or clarifications, you may contact the Policy Studies Division through phone numbers: 8925-1183 or 09081314604 (Viber-activated).

For your appropriate action, please.


MARCIAL C. AMARO, JR., CESO II

cc: The Undersecretary for Policy, Planning and International Affairs



Republic of the Philippines

Senate

Pasay City

**SENATE SPECIAL OVERSIGHT COMMITTEE
ON REGIONAL COMPREHENSIVE ECONOMIC
PARTNERSHIP AGREEMENT (RCEP)**

March 29, 2023

SEC. MARIA ANTONIA YULO LOYZAGA
Department of Environment and Natural Resources
DENR Building, Visayas Avenue, Diliman
Quezon City

Dear Secretary Loyzaga:

Greetings!

The Senate Special Oversight Committee on Regional Comprehensive Economic Partnership Agreement (RCEP) would like to invite you or your authorized and accountable representative, who could provide the Committee with the official position of your good office, to a *hybrid* organizational meeting and briefing on **April 13, 2023, Thursday, 10:00 a.m.**, at the **Senator J.P. Laurel Room, 2nd Floor, Senate of the Philippines, Pasay City**, and via **CISCO Webex** as virtual meeting room platform, to discuss the preparation of agencies after the concurrence in the ratification of the *Regional Comprehensive Economic Partnership Agreement* (RCEP) and the status of sectors and industries involved in, and/or affected by, the RCEP.

As part of the Senate health and safety protocols, those who will physically attend will need to present an antigen test result (taken within 72 hours) from any Department of Health-accredited facility.

The Committee Secretariat is required to submit the guest list to the Office of the Sergeant-at-Arms at least a day before the scheduled meeting. Those who are not on the list will be denied entry. For this reason, we hope to receive the list of attendees on or before **April 12, 2023, Wednesday, at 3:00 p.m.**

The Committee Secretariat will send the CISCO Webex link to the participants' provided email addresses at least an hour before the meeting.

The Committee likewise requests for the submission of the plans and actions already taken by your good office in preparation for the implementation of the Regional Comprehensive Economic Partnership Agreement. It would be of great help if the requested submission will be received by the Committee Secretariat on or before **April 5, 2023, Wednesday**.

For confirmation, submission, and inquiries, you may contact the Secretariat through its official email address: senateforeignrelations@gmail.com.

Thank you very much.

Very truly yours,
For the Chairperson:
SEN. LOREN LEGARDA
President Pro Tempore


ATTY. DANA PAULA M. ALBERTO
Legislative Committee Secretary

SUMMARY OF THE REGIONAL COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT

Disclaimer: This is a summary of the RCEP Agreement, which captures only the salient elements of the 20 Chapters in the RCEP Agreement. This does not intend to interpret specific provisions in the RCEP Agreement and is therefore without prejudice to any legal interpretation or opinion that may be required in the course of its implementation.

The Regional Comprehensive Economic Partnership (RCEP) Agreement is an agreement to broaden and deepen ASEAN's engagement with Australia, China, Japan, Korea and New Zealand. Together, these RCEP participating countries account for about 30% of the global GDP and 30% of the world population. The objective of the RCEP Agreement is to establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership that will facilitate the expansion of regional trade and investment and contribute to global economic growth and development. Accordingly, it will bring about market and employment opportunities to businesses and people in the region. The RCEP Agreement will work alongside and support an open, inclusive, and rules-based multilateral trading system.

Key Features of the RCEP Agreement

Modern. The RCEP Agreement is an agreement not made just for today but is also an agreement for tomorrow. It updates the coverage of the existing ASEAN Plus One FTAs (ASEAN's FTAs with the five dialogue partners) and takes into consideration changing and emerging trade realities, including the age of electronic commerce, the potential of micro, small and medium enterprises, the deepening regional value chain, and the complexity of market competition. The RCEP Agreement will complement the World Trade Organization (WTO), building on the WTO Agreement in areas where the Parties have agreed to update or go beyond its provisions.

Comprehensive. The RCEP Agreement is comprehensive, in terms of both coverage and depth of commitments. On its coverage, the RCEP Agreement comprises of 20 Chapters and includes many areas that were not previously covered in the ASEAN Plus One FTAs. The RCEP Agreement has specific provisions covering trade in goods, including rules of origin; customs procedures and trade facilitation; sanitary and phytosanitary measures; standards, technical regulations and conformity assessment procedures; and trade remedies. It also covers trade in services including specific provisions on financial services; telecommunication services; and professional services, as well as the temporary movement of natural persons. In addition, there are chapters on investment; intellectual property; electronic commerce; competition; small and medium enterprises (SMEs); economic and technical cooperation; government procurement; and legal and institutional areas including dispute settlement. In terms of market access, the RCEP Agreement achieves liberalisation in trade in goods and services and has extended coverage to investment.

High-Quality. The RCEP Agreement contains provisions that go beyond the existing ASEAN Plus One FTAs, while recognising the individual and diverse levels of development and economic needs of the RCEP Parties. The RCEP Agreement addresses the issues required to support the Parties' engagement in global and regional supply chain and complements market access commitments with trade and investment enabling rules that are business-

facilitating while at the same time preserving legitimate public policy objectives. The RCEP Agreement strives to boost competition in a way that drives productivity, which is sustainable, responsible, and constructive. In addition, the RCEP Agreement has the added value of bringing together a single rulebook to help facilitate the development and expansion of regional supply chains among Parties.

Mutually beneficial. The RCEP Agreement brings together countries with diverse levels of development. Thus, the RCEP Parties have recognised that its success will be determined by its ability to mutually bring benefits. The RCEP Agreement is designed to achieve this objective in a number of ways, including through appropriate forms of flexibility and provisions for special and differential treatment especially for Cambodia, Lao PDR, Myanmar, and Viet Nam, as appropriate, and additional flexibility for the least developed Parties. In addition, the RCEP Agreement includes technical cooperation and capacity building that will be made available to support the implementation of commitments made under the RCEP Agreement and for the Parties to maximise the benefits accruing therefrom. The RCEP Agreement also includes provisions that will ensure that economies with different levels of development, businesses of differing sizes, and the broader stakeholders can all benefit from the Agreement.

Summary of the RCEP Agreement

Below is a summary of the RCEP Agreement's 20 Chapters. Annexes are attached to the RCEP Agreement or Chapters thereof which relate to trade in goods, trade in services, investment, temporary movement of natural persons, rules of origin, customs procedures and trade facilitation, trade remedies, intellectual property, competition, government procurement, and institutional provisions.

Chapter 1: Initial Provisions and General Definitions

The Initial Provisions and General Definitions Chapter sets out the objectives of the RCEP Agreement, which are to establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership that aims to facilitate the expansion of regional trade and investment and contribute to global economic growth and development, taking into account the stage of development and economic needs of the Parties especially for least developed country Parties. This Chapter also includes general definitions.

Chapter 2: Trade in Goods

The Trade in Goods Chapter contains key elements that govern the implementation of goods-related commitments to achieve a high level of trade liberalisation among the Parties. These include granting national treatment to the goods of the other Parties; reduction or elimination of customs duties; and duty-free temporary admission of goods; and the reaffirmation of commitments in the WTO Ministerial Decision on Export Competition, including elimination of scheduled export subsidy entitlements for agricultural goods. This Chapter also sets out rules for determining the applicable tariff treatment in cases of different tariff preferences applied by a Party. In addition, this Chapter contains provisions on non-tariff measures that complements tariff liberalisation outcomes. These include the general elimination of quantitative restrictions, greater transparency on the application of non-tariff measures,

administration of import licensing procedures, and the application of fees and formalities connected with importation and exportation. Finally, this Chapter also sets out a process for Parties to conduct technical consultations on non-tariff measures that adversely affect trade between them and also provides for the possibility of future work to be undertaken on sector-specific initiatives to facilitate greater trade.

Chapter 3: Rules of Origin (ROO)

The ROO Chapter determines which goods are originating under the RCEP Agreement and therefore eligible for preferential tariff treatment. The ROO Chapter has two Sections: (i) Section A: Rules of Origin and (ii) Section B: Operational Certification Procedures. Articles on Originating Goods and Goods Wholly Obtained or Produced and the Annex on Product-Specific Rules (PSR) set out the requirements for determining originating status of goods. This Chapter lists the minimal operations and processes considered insufficient to confer originating status on goods using non-originating materials. Given the geographic configuration of countries in the RCEP, the Parties ensured that the ROO Chapter includes clear direct consignment rules so that originating goods do not inappropriately lose their originating status. If a good does not satisfy a change in tariff classification rule in the PSR, this Chapter lays down certain de minimis rules whereby the good could still acquire originating status. Other elements covered under Section A: Rules of Origin include the treatment applied to packing and packaging materials and containers for transportation and shipment, and the treatment of accessories, spare parts and tools. Section B: Operational Certification Procedures provides detailed procedures for applying the RCEP proof of origin, claiming preferential tariff treatment, and verifying the originating status of a good. An enhancement relative to the ASEAN Plus One FTAs is the inclusion in the Section of the declaration of origin by approved exporters and the declaration of origin by all exporters or producers, the latter of which will be implemented within a certain period of time after the dates of the entry into force of the RCEP Agreement for each of Party, in addition to the traditional certificate of origin. The ROO Chapter has two annexes: (i) the Product-Specific Rules, which cover all tariff lines at the HS 6-digit level; and (ii) Minimum Information Requirements, listing the required information for a Certificate of Origin or a Declaration of Origin.

Chapter 4: Customs Procedures and Trade Facilitation (CPTF)

The CPTF Chapter aims to ensure predictability, consistency, and transparency in the application of customs laws and regulations, and promote efficient administration of customs procedures and expeditious clearance of goods. For express consignments and perishable goods, the Agreement contains an expectation that these goods will be released from the customs control within six hours of arrival of the goods and the submission of necessary documents. Despite the different levels of development of the Parties, the CPTF Chapter includes some elements that go beyond the WTO Trade Facilitation Agreement (TFA). The objectives of this Chapter include simplification of customs procedures and harmonisation of customs procedures with international standards. The CPTF Chapter also provides for enhanced trade facilitation provisions such as: advance ruling based on tariff classification, rules of origin, and customs valuation and the timeline for the issuance of advance rulings; time period for the customs clearance of goods (to the extent possible within 48 hours of arrival of goods and lodgement of necessary information); providing additional trade

facilitation measures related to import, export, or transit formalities and procedures for operators who meet specified criteria (authorised operators); and a risk management approach for customs control and post-clearance audits. Recognising that the Parties are at different levels of readiness to implement some commitments, especially those that go beyond the TFA, this Chapter allows these Countries to stage implementation. The details of the staged implementation of commitment are provided in an Annex to the Chapter.

Chapter 5: Sanitary and Phytosanitary Measures (SPS)

The SPS Chapter sets out the basic framework for developing, adopting and applying SPS measures for the purpose of protecting human, animal or plant life or health as well as for facilitating trade by minimising the negative effects of SPS measures on trade. While the Parties affirm their rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), certain provisions are agreed upon to enhance the implementation of the WTO SPS Agreement taking into account relevant international standards, guidelines, and recommendations with regard to equivalence, adaptation to regional conditions, including pest-or disease-free areas and areas of low pest or disease prevalence, risk analysis, audit, certification, import checks, and emergency measures. This Chapter also emphasises the importance of transparency, cooperation and capacity-building, and technical consultations in addressing SPS matters under the objectives of this Chapter. The Dispute Settlement Chapter does not apply to this Chapter, although the non-application of dispute settlement is subject to review two years after entry into force of the RCEP Agreement.

Chapter 6: Standards, Technical Regulations, and Conformity Assessment Procedures (STRACAP)

The STRACAP Chapter seeks not only to enhance the implementation of the WTO Agreement on Technical Barriers to Trade (TBT Agreement) but also to recognise and accept mutual understanding of each Party's standards, technical regulations, and conformity assessment procedures, and strengthen information exchange and cooperation in this field. These objectives will be achieved through provisions that: (i) recognise the important role that international standards, guides and recommendations can play in reducing unnecessary technical barriers to trade; (ii) ensure that standards, technical regulations, and conformity assessment procedures are consistent with the relevant provisions of the TBT Agreement; (iii) recognise the importance of mutual acceptance of result of conformity assessment procedures; (iv) strengthen transparency process; and (v) acknowledge possible bilateral or plurilateral cooperation of mutual interest. Similar to the SPS Chapter, the STRACAP Chapter also underscores the need for cooperation, designation of contact points, and technical discussions to resolve implementation issues related to the implementation of this Chapter. The Dispute Settlement Chapter does not apply to STRACAP Chapter, although non-application of dispute settlement is subject to review two years after entry into force of the RCEP Agreement.

Chapter 7: Trade Remedies

The Trade Remedies Chapter consists of two Sections: (i) RCEP Safeguard Measures; and (ii) Anti-Dumping and Countervailing Duties. The Safeguard Measures Section provides the Parties with a transitional mechanism to address serious injury or threat of serious injury to the domestic industry caused by Parties' commitments under the RCEP Agreement, subject to well-defined conditions and requirements, including carrying out a proper investigation as well as early and full notifications to Parties concerned with opportunities for consultations. Besides, the Safeguard Measures Section also reaffirms Parties' rights and obligations provided under the Agreement on Safeguards in the WTO with regard to global safeguard measures. The Anti-Dumping and Countervailing Duties Section reaffirms and builds on Parties' rights and obligations provided under the relevant Agreements in the WTO. This Chapter also includes an Annex on Practice Relating to Anti-Dumping and Countervailing Duties Proceedings which are practised by some Parties and may promote the goals of transparency and due process in trade remedy proceedings. While no Party can have recourse dispute settlement under the RCEP Agreement for any matter arising under the Section on Anti-Dumping and Countervailing Duties, the applicability of dispute settlement to this Section will be considered in the general review of the RCEP Agreement.

Chapter 8: Trade in Services

The Trade in Services Chapter aims to open up avenues for greater services trade among the Parties through substantial removal of restrictive and discriminatory measures affecting trade in services. This Chapter contains modern and comprehensive provisions including rules on market access, national treatment, most-favoured-nation treatment, and local presence, which are subject to Parties' Schedules of Specific Commitments or Schedules of Reservations and Non-Conforming Measures, as well as additional commitments. In accordance with this Chapter, the Parties are to schedule their services commitments using the negative list approach, either on the date of entry into force of the RCEP Agreement, or within a defined time period after the date of entry into force of the RCEP Agreement. The negative list approach to services commitments under the RCEP Agreement provides greater certainty for service suppliers of other Parties through providing information on the existing measures and regulations of each Party. This Chapter also includes provisions on the reasonability, objectivity, and impartiality of domestic regulations affecting trade in services, which go beyond equivalent rules in the existing ASEAN Plus One FTAs.

Annex on Financial Services

The Annex on Financial Services promotes the liberalisation of financial services in the region while providing a robust prudential safeguard which allow financial regulators to apply measures to preserve the integrity and stability of the financial system. In addition to the obligations established in the Trade in Services Chapter, the Annex prescribes specific obligations on the supply of financial services, such as obligations which commits Parties to ensure transparency of financial regulations, encourage Parties to permit the supply of new financial services, and commit Parties to refrain from preventing transfers of information and processing of information necessary for the conduct of the ordinary business. The Annex also provides an avenue for consultations to discuss or resolve issues related to financial services.

Annex on Telecommunications Services

The Annex on Telecommunications Services creates a framework of rules pertinent to trade in public telecommunications services. While all existing ASEAN Plus One FTAs with individual partners include an Annex on Telecommunications Services, additional obligations have been included in the RCEP Agreement pertaining to: (i) approaches to regulation, (ii) international submarine cable systems, (iii) unbundling of network elements, (iv) access to poles, ducts and conduits, (v) international mobile roaming, and (vi) flexibility in the choice of technology, among others. These additional obligations aim to encourage greater cooperation towards strengthening the backbone of ICT infrastructure and supports and facilitates trade in services among the Parties.

Annex on Professional Services

The Annex on Professional Services provides an avenue for the Parties to facilitate engagement on the supply of professional services in the region. This includes the prospect of increased dialogue between two or more interested Parties related to the recognition of professional qualifications, and encouragement to relevant bodies to negotiate arrangements for mutual recognition of professional qualifications, licensing or registration in professional services sectors of mutual interest. This Annex also encourages the Parties or relevant bodies to work towards the development of mutually acceptable professional standards and criteria in mutually accepted areas, which may include education; examination; experience; conduct and ethics; professional development and re-certification; scope of practice; local knowledge; and consumer protection.

Chapter 9: Temporary Movement of Natural Persons (MNP)

The MNP Chapter sets out commitments that facilitate the temporary entry and temporary stay of natural persons engaged in trade in goods, supply of services or conduct of investment. This Chapter and the attached schedules set out those commitments (such as length of stay), and any conditions and limitations governing those commitments. The Chapter includes commitments on business visitors, intra-corporate transferees and other categories as specified in each Party's Schedule of Specific Commitments. This Chapter also establishes rules for the Parties in granting such temporary entry and temporary stay, including for the expeditious processing of complete applications and ensuring that any fees imposed are reasonable in that they do not represent an unjustifiable impediment to the temporary movement of natural persons covered by this Chapter. This Chapter also includes enhanced transparency obligations including making publicly available explanatory materials on all relevant immigration formalities; maintaining mechanisms to respond to enquiries regarding laws and regulations affecting the temporary entry and temporary stay of natural persons, and providing avenue to discuss cooperation to further facilitate temporary entry and temporary stay.

Chapter 10: Investment

The Investment Chapter aims to create an enabling investment environment in the region. This Chapter contains provisions covering the four pillars of investments - protection, liberalisation, promotion, and facilitation. These provisions upgrade and enhance the existing ASEAN Plus One FTAs. This Chapter includes a most-favoured-nation treatment clause, and commitments on the prohibition of performance requirements that go beyond their multilateral obligations under the WTO Trade Related Investment Measures (TRIMS) Agreement. This Chapter also includes a Schedule of Reservations and Non-Conforming Measures which provides for the Parties' investment commitments using the negative list approach with standstill and ratchet mechanism. Lastly, this Chapter provides for improved investment facilitation provisions which also address investor aftercare, such as assistance in the resolution of complaints and grievances that may arise. The RCEP Agreement also includes a built-in work programme on investor-state dispute settlement provisions.

Chapter 11: Intellectual Property

The Intellectual Property Chapter provides a balanced and inclusive approach to the protection and enforcement of intellectual property rights in the region. Aside from featuring provisions relating to harmonising the protections for the standard suite of intellectual property rights, this Chapter provides for the protection of intellectual property rights beyond the level of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), including provisions relating to technological protection measures and enforcement in the digital environment, as well as appropriate criminal procedures and penalties against unauthorised copying of a cinematographic work on a commercial scale. To support intellectual property right holders, this Chapter also includes provisions to streamline and align procedures for the establishment of certain intellectual property rights such as those relating to electronic filing of applications and making relevant information available online. The Chapter also affirms the right to fully use the flexibilities as duly recognised in the Doha Declaration on the TRIPS Agreement and Public Health, and also includes provisions related to Genetic Resources, Traditional Knowledge, and Folklore.

Chapter 12: Electronic Commerce

Recognising the increasing digitalisation of trade, the Parties included a Chapter on Electronic Commerce (e-Commerce), which aims to promote e-commerce among the Parties and the wider use of e-commerce globally and enhance cooperation among the Parties. This Chapter sets out provisions that encourage the Parties to improve trade administration and processes by using electronic means. This Chapter requires the Parties to adopt or maintain a legal framework which create a conducive environment for e-commerce development including protection of personal information of e-commerce users and provides protection for consumers using electronic commerce. The E-Commerce Chapter also addresses some data-related issues, through provisions on location of computing facilities and cross-border transfer of information by electronic means. The Parties also agreed to maintain the current practice of not imposing customs duties for electronic transmissions, in accordance with WTO Ministerial Decision. In the event of any differences in the interpretation and application of

this Chapter, the Parties agreed to first engage in consultations in good faith and make every effort to reach a mutually satisfactory solution. This Chapter is not currently subject to Dispute Settlement, and the general review of the RCEP Agreement will review the application of Dispute Settlement to this Chapter.

Chapter 13: Competition

The objective of the Competition Chapter is to promote competition in markets and enhance economic efficiency and consumer welfare. This Chapter includes obligations for the Parties to adopt or maintain competition laws and regulations that proscribe anti-competitive activities and to establish or maintain authorities to implement its competition laws, while recognising the sovereign rights of each Party to develop and enforce its own competition laws and policies and allowing for exclusion or exemptions based on grounds of public policy or public interest. This Chapter further provides for the application of competition laws and regulations to all entities engaged in commercial activities. This Chapter also includes provisions on exchange of information and allows for the coordination in enforcement actions. This Chapter also provides for Parties to undertake technical cooperation activities to build necessary capacities to strengthen competition policy development and competition law enforcement. Consumer protection is also covered under this Chapter with obligations to adopt or maintain domestic laws and regulations to proscribe misleading practices, or false or misleading descriptions in trade; improving awareness of, and access to, consumer redress mechanisms; and cooperating on matters of mutual interest related to consumer protection. No Party can have recourse to dispute settlement under the RCEP Agreement for any matter arising under this Chapter.

Chapter 14: Small and Medium Enterprises (SMEs)

The Parties recognise that SMEs, including micro enterprises, contribute significantly to economic growth, employment, and innovation and therefore seek to promote information sharing and cooperation in increasing SMEs' ability to utilise and benefit from the opportunities created by the RCEP Agreement. This Chapter obliges the Parties to promote sharing of RCEP-related information relevant to SMEs by establishing and maintaining a publicly accessible information platform that will contain the full text of the RCEP Agreement, trade and investment-related laws and regulations pertinent to SMEs, and other business-related information that would be useful for SMEs to benefit from the RCEP Agreement. This Chapter also aims to strengthen cooperation in the areas of e-commerce, intellectual property rights, access to markets, and innovation, among others.

Chapter 15: Economic and Technical Cooperation (ECOTECH)

The ECOTECH Chapter provides a framework for realising the development dimension of the RCEP Agreement. The Parties agreed that the economic and technical cooperation in the RCEP context aims to narrow the development gaps and maximise mutual benefits among the Parties. Economic and technical cooperation under this Chapter will support the inclusive, effective and efficient implementation and utilisation of the RCEP Agreement. The Parties agreed to explore and undertake economic and technical cooperation activities that focus, for example, on trade in goods, trade in services, investment, intellectual property, e-Commerce,

competition, and SMEs, among others as mutually agreed upon by the Parties. Priority will be given to activities that provide capacity building and technical assistance to developing country Parties and least-developed country Parties, that increase public awareness, and that enhance business' access to information.

Chapter 16: Government Procurement

No existing ASEAN Plus One FTAs include a chapter on government procurement. In the RCEP Agreement, the Parties have recognised the role of government procurement in furthering economic integration of the region so as to promote growth and employment. The Government Procurement Chapter aims not only to promote the transparency of laws, regulations, and procedures but also to develop cooperation among the Parties. Each Party shall publish information on government procurement in the Annex to this Chapter consistent with the objective of promoting transparency in government procurement. This Chapter likewise includes a review article aimed at improving this Chapter in the future to facilitate government procurement. No Party can have recourse to dispute settlement under the RCEP Agreement for any matter arising under this Chapter.

Chapter 17: General Provisions and Exceptions

The General Provisions and Exceptions Chapter includes general provisions which apply across the RCEP Agreement. These general provisions include obligations regarding transparency of general application with respect to each Party's laws, regulations, procedures and administrative rulings of general application with respect to matters covered by the RCEP Agreement. The Chapter creates an appropriate review and appeal mechanism in respect of each Party's administrative proceedings and provides for the protection of confidential information. This Chapter also establishes the geographical scope of application of the RCEP Agreement; affirms Parties' rights and responsibilities under the Convention on Biological Diversity; and commits Parties to take appropriate measures, in accordance with their laws and regulations, to prevent and combat corruption regarding matters covered by the RCEP Agreement. This Chapter provides that a decision on whether or not to approve or admit a foreign investment proposal, and the enforcement of any conditions or requirements for such approval or admission are not subject to dispute settlement under the RCEP Agreement.

For the purpose of the relevant Chapters, this Chapter incorporates into the RCEP Agreement, the general exceptions contained in Article XX of GATT 1994 and Article XIV of GATS. Parties may also take action or measures which they consider necessary to protect essential security interest. With respect to taxation measures, the RCEP Agreement only grants rights or imposes obligations to the extent that the WTO Agreement and the Article on Transfers in Investment Chapter grants rights or imposes obligations with respect to such taxation measures. This Chapter also allows a Party to adopt certain measures should they be in serious balance of payments and external financial difficulties or under threat thereof.

Chapter 18: Institutional Provisions

The Institutional Provisions Chapter establishes the institutional arrangements for the RCEP Agreement and the structure for the meetings of the RCEP Ministers, the RCEP Joint

Committee, four Committees, namely, on Goods; Services and Investment; Sustainable Growth; and the Business Environment, and other subsidiary bodies established by the RCEP Joint Committee. The RCEP Joint Committee is established to consider any matter relating to the implementation and operation of the RCEP Agreement. The RCEP Joint Committee also reports to the RCEP Ministers and may, as appropriate, refer matters to the RCEP Ministers for consideration and decision.

Chapter 19: Dispute Settlement

The Dispute Settlement Chapter aims to provide effective, efficient, and transparent rules and procedures for settlement of disputes arising under the RCEP Agreement. Salient features of the RCEP dispute settlement process include: (i) choice of forum: provisions allow the Complaining Party to select the forum within which to address a dispute that concerns substantially equivalent rights and obligations in the RCEP Agreement and another international trade or investment agreement to which the Parties to the dispute are party, to the exclusion of other possible fora; (ii) consultations: provisions require a Responding Party to first enter into consultations with a Complaining Party, if requested; (iii) good offices, conciliation, or mediation: provisions allow Parties that are party to the dispute to voluntarily undertake alternative methods to settle their disputes; (iv) establishment of a panel: provisions allow a Complaining Party to request the establishment of a panel to resolve a dispute in circumstances where the Responding Party does not reply to a request for consultations or does not enter into consultations within the stipulated time line, or where consultations have failed to resolve the dispute within the stipulated time line; and (v) rights for interested third parties: provisions enable interested third parties to participate in disputes and for their views to be taken into account during the panel process. This Chapter also includes detailed provisions on the functions of panels, panel procedures, implementation of the panel's final report, compliance review proceedings, compensation, and suspension of concessions or other obligations. Another important provision in this Chapter is an article on Special and Differential Treatment involving the Least Developed Country Parties whereby the Complaining Party is obligated to exercise due restraint in raising matters under this Chapter where a Least Developed Country Party is involved.

Chapter 20: Final Provisions

The Final Provisions Chapter sets out the relationship between the RCEP Agreement and other international agreements, a general review mechanism, procedures to amend the Agreement, and an accession provision. The RCEP Agreement is open for accession by any State or separate customs territory 18 months after its entry into force, although this Agreement is open for accession by India, as an original negotiating State, from the date of its entry into force, without waiting for 18 months. This Chapter also designates a Depositary for the RCEP Agreement that will primarily be responsible for receiving and disseminating documents to each signatory State and acceding State or separate customs territory, including any notifications, requests for accession and instruments of ratification acceptance, approval or accession. The provision on Entry into Force provides that the RCEP Agreement would need signatory States, including at least six ASEAN and three non-ASEAN signatory States, to deposit their instruments of ratification, acceptance or approval for the RCEP Agreement to enter into force.