

Proactive Release

Date: 31 May 2021

The following Cabinet paper and related Cabinet minute have been proactively released by the Minister of State for Trade and Export Growth:

Title:

Reference:

***Regional Comprehensive Economic Partnership
(RCEP) Legislation Bill: Approval for Introduction***

LEG-21-SUB-0045

***Regional Comprehensive Economic Partnership
(RCEP) Legislation Bill: Departmental Disclosure
Statement***

***Regional Comprehensive Economic Partnership
(RCEP) Legislation Bill***

***Regional Comprehensive Economic Partnership
(RCEP) Legislation Bill: Approval for Introduction***

LEG-21-MIN-0045

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- 9(2)(a): to protect individuals' privacy.



Cabinet Legislation Committee

Summary

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill: Approval for Introduction

Portfolio	Trade and Export Growth
Purpose	This paper seeks approval for the introduction of the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill (the Bill).
Previous Decisions	<p>In November 2020, Cabinet approved the text of the Regional Comprehensive Economic Partnership.</p> <p>Cabinet noted that to implement the Agreement in domestic law, legislation amending the Tariff Act 1988 and the Customs and Excise Act 2018 is required.</p> <p>Cabinet agreed that all domestic legislative changes required to comply with the Agreement's obligations on entry into force be made through the Bill.</p> <p>[CAB-20-MIN-0469]</p>
Proposal	The Bill gives effect to Cabinet's decisions.
Impact Analysis	A National Interest Analysis was prepared as part of the policy approval process.
Compliance	A Departmental Disclosure Statement is attached.
Timing Matters	<p>Introduced: 4 May 2021;</p> <p>Referred: Foreign Affairs, Defence and Trade Committee;</p> <p>Enacted: by October 2021.</p>
Communications	None indicated.

Consultation Paper prepared by MFAT, MBIE, and Customs were consulted.

The Minister of State for Trade and Export Growth indicates that LEG ministers, the Minister of Foreign Affairs, the Minister for Trade and Export Growth, and the and the Parliamentary Under-Secretary to the Minister for Trade and Export Growth were consulted.

The Minister of State for Trade and Export Growth recommends that the Committee:

- 1 note that in November 2020, Cabinet:
 - 1.1 approved the text of the Regional Comprehensive Economic Partnership;
 - 1.2 noted that to implement the Agreement in domestic law, legislation amending the Tariff Act 1988 and the Customs and Customs and Excise Act 2018 is required;
 - 1.3 agreed that all domestic legislative changes required to comply with the Agreement's obligations on entry into force be made through the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill (the Bill);
- [CAB-20-MIN-0469]
- 2 note that the Minister of State for Trade and Export Growth is seeking a category 2 (must be passed in 2021) priority for the Bill on the 2021 Legislation Programme;
- 3 approve for introduction the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill [PCO 21853/8.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 agree that the Bill be introduced on 4 May 2021;
- 5 agree that the government propose that the Bill be:
 - 5.1 referred to the Foreign Affairs, Defence and Trade Committee for consideration;
 - 5.2 enacted by October 2021.

Gerrard Carter
Committee Secretary

Hard-copy distribution:

Cabinet Legislation Committee
Minister of Foreign Affairs
Minister for Trade and Export Growth
Minister of State for Trade and Export Growth
Parliamentary Under-Secretary to the Minister for Trade and Export Growth

[In Confidence]

Office of the Minister of State for Trade and Export Growth

Chair, Cabinet Legislation Committee

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill: Approval for Introduction

Proposal

- 1 This paper proposes that the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill (the Bill) be approved for introduction to the House of Representatives.

Policy

- 2 The Bill implements the previous Cabinet decision inviting the Minister for Trade and Export Growth to issue drafting instructions to the Parliamentary Counsel Office to draft the appropriate Bill and regulations to give effect to the Regional Comprehensive Economic Partnership Agreement (RCEP) (CAB-20-MIN-0469). The Minister for Trade and Export Growth has delegated authority for all matters related to RCEP and its ongoing implementation processes to the Minister of State for Trade and Export Growth.
- 3 The Bill amends the Tariff Act 1988 (the Tariff Act) and the Tariff to implement New Zealand's obligations under RCEP. Specifically, the Bill will enable the application of preferential tariff rates under RCEP; and transitional safeguard measures to be applied in appropriate circumstances on imports originating from the RCEP parties. The Bill also makes changes to the Customs and Excise Act 2018 (the Customs and Excise Act) in order for authorised certification bodies to operate for the purposes of RCEP.
- 4 RCEP was signed by 10 members of ASEAN (Brunei-Darussalam, Cambodia, Indonesia, Laos PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam) plus the five regional countries with which ASEAN has existing free trade agreements (Australia, China, Japan, South Korea, and New Zealand) on 15 November 2020.
- 5 There are strong commercial and strategic reasons for New Zealand to be part of RCEP. The RCEP region is economically critical to New Zealand. The 15 signatories of RCEP account for 30% of the world's population, nearly a third of world GDP, and are the destination for 56 percent of New Zealand's total exports. Signature of RCEP also comes at a time of considerable international trade policy turbulence and the sharpest rise in protectionism since 1995. This rise in protectionism places strain on the international rules-based trading system; agreements such as RCEP buttress and strengthen this system.

- 6 There are no aspects of the Bill that are likely to be contentious.

Impact analysis

- 7 In accordance with the Cabinet Manual and Standing Orders 397 to 400, all multilateral treaties or “major bilateral treaties of particular significance” concluded by New Zealand require the preparation of a National Interest Analysis (NIA). A NIA was prepared in accordance with the necessary requirements, and was submitted to Cabinet at the time that approval to sign RCEP was sought (CAB-20-MIN-0469).
- 8 There are no outstanding policy issues.

Compliance

- 9 The Bill complies with the following:
- 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993 (no inconsistencies have been identified);
 - 9.3 the disclosure statement requirements with a copy **attached** to this paper;
 - 9.4 the principles and guidelines set out in the Privacy Act 2020;
 - 9.5 relevant international standards and obligations;
 - 9.6 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Consultation

- 10 The Bill has been drafted by the Parliamentary Counsel Office, and coordinated by the Ministry of Foreign Affairs and Trade in close consultation with the Ministry of Business, Innovation and Employment and the New Zealand Customs Service.
- 11 As part of the FTA negotiation process, the Ministry of Foreign Affairs and Trade organised and conducted a wide-ranging and extensive public outreach and consultation programme, including with relevant government agencies, Māori in their capacity as treaty partners and key stakeholders on negotiating objectives and FTA impacts as follows:
- 11.1 Key government agencies were involved throughout the negotiation of RCEP as part of an inter-agency team or as part of the group regularly consulted (including the Ministry of Business, Innovation and Employment, The New Zealand Customs Service, The Ministry of

Primary Industries, Inland Revenue Department, Treasury and the Department of Prime Minister and Cabinet).

- 11.2 New Zealand's RCEP negotiating team held regular briefings with a wide range of interested stakeholders, including civil society, businesses and industry groups, to update them on progress. These briefings included stakeholder engagement sessions held as part of the RCEP negotiating rounds. Outreach to civil society included meetings with leaders from the New Zealand Council of Trade Unions.
- 11.3 RCEP was also discussed at public engagement sessions in a number of regional centres around New Zealand between December 2017 and August 2019, including: Dunedin, Auckland, Tauranga, Hamilton, Wellington, Christchurch, New Plymouth, Nelson, Napier, Whāngarei, Palmerston North, Invercargill, Timaru, Rotorua and Gisborne. The Auckland and Wellington events were streamed live on MFAT's social media platforms. At these events, officials provided updates on the progress of the RCEP negotiations, and answered questions from participants sharing their views with government officials.
- 11.4 Engagement with Māori as treaty partners benefitted from effective collaboration between MFAT and Te Taumata. This engagement identified a range of Māori interests and enhanced consideration of RCEP's potential impact on such interests. The RCEP Lead Negotiator regularly discussed issues and outcomes arising from the RCEP negotiations with Te Taumata senior representatives. MFAT officials attended a Federation of Māori Authorities (FOMA)-hosted workshop on trade negotiations, (including RCEP) in November 2017. Furthermore, MFAT also held trade policy consultation hui with claimants in Auckland and Wellington in December 2017 and February 2018 respectively. No concerns relating to RCEP were raised.
- 11.5 Submissions were sought for the parliamentary examination of RCEP over the course of December 2020 to January 2021.
- 11.6 The Government caucus and other parties represented in Parliament were consulted as part of the relevant Cabinet and FADTC processes and hearings.

Binding on the Crown

- 12 The Customs and Excise Act (except as set out in Schedule 2) and the Tariff Act, which are both being amended by this Bill, are binding on the Crown.

Creating new agencies or amending law relating to existing agencies.

- 13 The Bill does not create any new agencies or amend the law relating to existing agencies.

Allocation of decision making powers

- 14 A power in the Tariff Act will be modified to allow the Governor General, by Order in Council, to declare a country that is a party to RCEP to be a specified RCEP party for the purposes of the Tariff Act. This enables the preferential tariff rates agreed under RCEP to be applied when the agreement is ratified.
- 15 A power in the Customs and Excise Act (section 435) will be modified to allow the chief executive of Customs to designate bodies as 'authorised certification bodies' for the purposes of RCEP. Section 435 will also be amended to allow the Governor General, by Order in Council, to declare a country that is a party to the RCEP to be a 'specified RCEP party' for the purposes of the Customs and Excise Act.

Associated regulations

- 16 MBIE will issue instructions for an Order in Council to be made under section 7A of the Tariff Act (as amended) declaring countries party to RCEP to be specified parties for the purposes of the Tariff Act. This Order in Council will also operationalise the transitional safeguard mechanisms to be applied in appropriate circumstances on imports originating from the RCEP parties.
- 17 Customs will issue instructions to amend Part 6 of the Customs and Excise Regulations 1996, which relate to determination of country of produce or manufacture. Following enactment of the Bill, Customs will draft an Order in Council inserting a preferential tariff, where necessary, in favour of parties to RCEP. This order will be drafted to come into force simultaneously with the commencement order (refer paragraph 21 below).
- 18 Customs will also issue instructions for an Order in Council to be made under section 435(8) of the Customs and Excise Act (as amended) declaring countries party to RCEP to be specified parties for the purposes of section 435. This will allow the certification process to apply to goods for export to parties to RCEP.

Other instruments

- 19 This is not applicable.

Definition of Minister/department

- 20 This is not applicable.

Commencement of legislation

- 21 There is no set entry into force date for RCEP on which to base the commencement date for this Bill. Consequently, the Bill provides for a commencement date to be appointed by an Order in Council. This form of commencement is necessary in order to coordinate the Bill's commencement with the entry into force of RCEP for New Zealand.

- 22 RCEP will enter into force 60 days after the date on which at least three non-ASEAN signatories and six ASEAN signatories have completed their necessary domestic procedures and notified the Depositary (the Secretary-General of ASEAN) of this. Parties have committed to working towards meeting this milestone by 31 October 2021, which would enable entry into force by 1 January 2022.

Parliamentary stages

- 23 The Bill should be introduced in May 2021 and passed by October 2021.
- 24 It is proposed that the Bill be referred to FADTC.

Proactive Release

- 25 This paper should be proactively released in whole within 30 business days of final decision being taken by this Cabinet Committee.

Recommendations

- 26 The Minister of State for Trade and Export Growth recommends that the Committee:
- 1 note that the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill holds a category 2 (must be passed in 2021) priority on the 2021 Legislation Programme;
 - 2 note that the Bill amends the Tariff Act; the Tariff; and the Customs and Excise Act 2018 to implement New Zealand's obligations under the Regional Comprehensive Economic Partnership Agreement (RCEP);
 - 3 approve the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill for introduction, subject to the final approval of the government caucus and sufficient support in the House of Representatives;
 - 4 agree that the Bill be introduced on 4 May 2021;
 - 5 agree that the government propose that the Bill be:
 - 5.1 referred to the Foreign Affairs, Defence and Trade Committee for consideration;
 - 5.2 enacted by October 2021.

Authorised for lodgement

Hon Phil Twyford
Minister of State for Trade and Export Growth

Departmental Disclosure Statement

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Ministry of Foreign Affairs and Trade.

The Ministry of Foreign Affairs and Trade certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

8 April 2021

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Part One: General Policy Statement

This Bill is an omnibus Bill that amends the Customs and Excise Act 2018, the Tariff Act 1988, and the Tariff. This Bill is introduced under Standing Order 267(1)(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to amend New Zealand law as part of the implementation of the Regional Comprehensive Economic Partnership (the **RCEP**).

The RCEP is a free trade agreement negotiated between New Zealand, Australia, China, Japan, South Korea, and 10 members of the Association of South East Asian Nations (ASEAN), ie, Brunei-Darussalam, Cambodia, Indonesia, Laos PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. The RCEP was signed at Hanoi, Vietnam, on 15 November 2020.

This Bill will enable –

- the issue of New Zealand certificates of origin in respect of goods for export to the RCEP parties; and
- the application of preferential tariff rates under the RCEP; and
- transitional safeguard measures to be applied in appropriate circumstances on imports originating from the RCEP Parties.

The Agreement will also implemented by regulations, which will amend –

- the Tariff to enable the application of preferential tariff rates for imports originating from the RCEP parties; and
- the Customs and Excise Regulations 1996 to give effect to the rules of origin applicable to imports into New Zealand that originate from the RCEP parties.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<p>The National interest Analysis (which can be accessed from https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf was prepared by the Ministry of Foreign Affairs and Trade and presented to the House of Representatives on 11 February 2021.</p> <p>In addition to the NIA, MFAT commissioned international trade modellers, ImpactEcon, to estimate the economic effects of RCEP on New Zealand. ImpactEcon estimates that once RCEP is fully implemented, New Zealand's annual GDP will be between 0.3 percent and 0.6 percent larger than it would have been if RCEP had not been concluded, equal to between NZ\$1.5 billion and NZ\$3.2 billion. The upper bound of \$3.2 billion assumes India re-joins RCEP. Should India remain outside of RCEP, the economic benefits will be towards the lower end of the range (around \$2 billion). These modelling results are shown in detail in ImpactEcon's report</p>	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	YES
<p>The Bill seeks to give effect to the Regional Comprehensive Economic Partnership Agreement (RCEP) ("the Agreement"), done on 15 November 2020 at Ha Noi, Viet Nam. The Agreement text can be found at https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/regional-comprehensive-economic-partnership-rcep/rcep-text-and-resources/</p>	

2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	YES
<p>The RCEP National Interest Analysis (NIA) was prepared by the Ministry of Foreign Affairs and Trade and presented to the House of Representatives on 11 February 2021 in accordance with the Parliamentary treaty examination process. A copy of the NIA can be accessed through the Parliament website and from https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf</p>	

Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<p>The NIA prepared by the Ministry of Foreign Affairs and Trade in consultation with other relevant government agencies is an extended NIA incorporating the regulatory impact statement requirements. The NIA can be accessed through the Parliament website and from https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf</p>	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
Treasury was consulted regularly during the NIA drafting process. In consultation with the RIA Team in the Treasury it was decided that it was sufficient for the Ministry of Foreign Affairs and Trade to provide the quality assurance.	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO

2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
<p>2.5 (a) A cost-benefit analysis of the Agreement is included in sections 3, 4, 7 and 8 of the NIA, which can be found at pages 16-51 and 115-134. The NIA is accessible at https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf</p> <p>2.5 (b) The NIA comprehensively assesses the impact for New Zealand of meeting the Agreement's obligations (including as met through implementing legislation). No group of persons is identified as likely to experience any substantial loss of income or wealth as a result of the Agreement. The Agreement is estimated to result in a net economic benefit for New Zealand. There may be, however, a degree of variance between different sectors of the economy.</p> <p>The NIA notes (Section 3.7) that New Zealand choosing to remain outside of RCEP may see New Zealand exporters being excluded from participating into regional value chains, as the rules of origin discourage inputs from non-RCEP countries. Collectively, this would represent lost economic growth and opportunities for New Zealand and therefore relatively lower well-being and living standards for New Zealanders over time. Moreover, RCEP may add new rules as its cooperation matures, as is typical of ASEAN-centric agreements.²⁹ New Zealand would also lose the opportunity to influence the development of these future trade rules (within the region and potentially beyond), and participate in cooperation on economic and other new and emerging issues in the region. As noted above, the more specific cost-benefit analysis is contained within the NIA in sections 3, 4, 7 and 8 on pages 16-51 and 115-134.</p>	

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO

(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO
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Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Bill makes the amendments to New Zealand law necessary for it to ratify the Agreement. MFAT has worked with relevant domestic agencies in order to identify those amendments, and prepare the Bill. MFAT considers that the policy given effect by the Bill is consistent with New Zealand's international obligations.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

RCEP contains the same protections for the Treaty of Waitangi as all recent New Zealand Free Trade Agreements. The Treaty of Waitangi exception, along with other provisions in the Agreement, combine to protect the capacity of the Crown to implement domestic policies that fulfil its obligations to Māori, including under the Treaty of Waitangi, without being obliged to offer equivalent treatment to our RCEP partners. New Zealand's approach of including the Treaty of Waitangi exception in its free trade agreements is unique, and reflects the constitutional significance of the Treaty of Waitangi to New Zealand.
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RCEP will not impede New Zealand's current or future ability to meet its obligations to Māori, including under the Treaty of Waitangi. Nor will it prevent domestic changes that might be made in the future. Additional information on engagement with Māori as treaty partners can be found in the NIA at Section 9.2 Engagement with Maori.
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Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Ministry of Justice has considered whether the Bill is consistent with the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990 and will provided advice on this to the Attorney-General. The Advice provided to the Attorney-General, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice and reports are accessible on the Ministry's website at: http://www.justice.govt.nz/policy/constitutional-law-and-human-rights/human-rights/bill-of-rights/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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3.4.1. Was the Ministry of Justice consulted about these provisions?	NO

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO

External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
Refer to Appendix One.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
While no specific testing or assessment has been completed, the Bill is based on previous models successfully used for implementing other New Zealand free trade agreements, including with Malaysia, China, Hong Kong, Korea and the ASEAN-Australia-New Zealand FTA.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO

Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
The Bill enables the application of preferential tariff rates under the Agreement to goods imported from specified RCEP parties.	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO

Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO

Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
A power in the Tariff Act will be modified to allow the Governor General, by order in council, to declare a country that is a party to RCEP to be a specified RCEP party for the purposes of the Tariff Act. This enables the preferential tariff rates agreed under RCEP to be applied when the agreement is ratified.	

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
The Bill provides that the Bill comes into force on a date appointed by the Governor-General by Order in Council.	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO

Appendix One: Further Information Relating to Part Three

External consultation – question 3.6

The Ministry of Foreign Affairs and Trade organised and conducted a wide-ranging public outreach and consultation programme, including with relevant government agencies, Māori in their capacity as treaty partners and key stakeholders on negotiating objectives and FTA impacts. This programme used printed, emailed and website information, supported by extensive specific discussions with key stakeholders, such as exporters and industry sectors likely to be interested in or affected by the outcomes of the Agreement.

When negotiations first commenced in 2012, a number of public submissions were received from various organisations and individuals in education, business, development, trade union, social services and church-based organisations. The priorities and issues raised in the course of those and subsequent consultations (outlined in the NIA), were used to inform the latter part of negotiations and thinking around eventual implementation.

New Zealand's RCEP negotiating team held regular briefings with a wide range of interested stakeholders, including civil society, businesses and industry groups, to update them on progress. These briefings included stakeholder engagement sessions held as part of the RCEP negotiating rounds. Outreach to civil society included meetings with leaders from the New Zealand Council of Trade Unions.

RCEP was also discussed at public engagement sessions in a number of regional centres around New Zealand between December 2017 and August 2019, including: Dunedin, Auckland, Tauranga, Hamilton, Wellington, Christchurch, New Plymouth, Nelson, Napier, Whāngarei, Palmerston North, Invercargill, Timaru, Rotorua and Gisborne. The Auckland and Wellington events were streamed live on MFAT's social media platforms. At these events, officials provided updates on the progress of the RCEP negotiations, and answered questions from participants sharing their views with government officials.

Engagement with Māori as treaty partners benefitted from effective collaboration between MFAT and Te Taumata. This engagement identified a range of Māori interests and enhanced consideration of RCEP's potential impact on such interests. The RCEP Lead Negotiator regularly discussed issues and outcomes arising from the RCEP negotiations with Te Taumata senior representatives. MFAT officials attended a Federation of Māori Authorities (FOMA)-hosted workshop on trade negotiations, (including RCEP) in November 2017. Furthermore, MFAT also held trade policy consultation hui with claimants in Auckland and Wellington in December 2017 and February 2018 respectively. No concerns relating to RCEP were raised. Additional information on engagement with Māori as treaty partners can be found in the NIA at Section 9.2 Engagement with Maori.

Submissions were also sought for the parliamentary examination of RCEP over the course of December 2020 to January 2021.

Key government agencies were involved throughout the negotiation of RCEP as part of an inter-agency team or as part of the group regularly consulted (including from the Ministry of Business, Innovation and Employment, the New Zealand Customs Service, the Ministry of Primary Industries, Inland Revenue Department, Treasury and the Department of Prime Minister and Cabinet).

The Bill is focussed on a narrow range of adjustments. Consequently, there was no additional public consultation about the Bill itself with Māori treaty partners, stakeholders or the public. Section 9 of the NIA titled Completed or proposed consultation with the community and parties interested in the treaty action (pages 137 – 140) provides further detail on consultations undertaken with respect to RCEP.

IN CONFIDENCE

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill

Government Bill

Explanatory note

General policy statement

This Bill is an omnibus Bill that amends the Customs and Excise Act 2018, the Tariff Act 1988, and the Tariff. This Bill is introduced under Standing Order 267(1)(a) because the amendments deal with an interrelated topic that can be regarded as implementing a single broad policy. That single broad policy is to amend New Zealand law as part of the implementation of the Regional Comprehensive Economic Partnership (the **RCEP**).

The RCEP is a free trade agreement negotiated between New Zealand, Australia, China, Japan, South Korea, and the 10 members of the Association of Southeast Asian Nations (ASEAN), ie, Brunei-Darussalam, Cambodia, Indonesia, Laos PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. The RCEP was signed at Hanoi, Vietnam, on 15 November 2020.

This Bill will enable—

- the issue of New Zealand certificates of origin in respect of goods for export to the RCEP parties; and
- the application of preferential tariff rates under the RCEP; and
- transitional safeguard measures to be applied in appropriate circumstances on imports originating from the RCEP parties.

The RCEP will also be implemented by regulations, which will amend—

- the Tariff to enable the application of preferential tariff rates for imports originating from the RCEP parties; and
- the Customs and Excise Regulations 1996 to give effect to the rules of origin applicable to imports into New Zealand that originate from the RCEP parties.

Departmental disclosure statement

The Ministry of Foreign Affairs and Trade is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at [PPU to insert URL and link].

National interest analysis

An extended national interest analysis has been prepared that takes the place of a regulatory impact assessment. The Ministry of Foreign Affairs and Trade produced the national interest analysis on 22 October 2020 to help inform the main policy decisions taken by the Government relating to the contents of this Bill. The national interest analysis was presented to the House of Representatives on 8 December 2020, in accordance with Standing Order 405(2) (presentation of national interest analyses for international treaties).

A copy of this national interest analysis can be found at—

- <https://www.mfat.govt.nz/assets/Uploads/RCEP-National-Interest-Analysis.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 states that the Bill will commence on a date appointed by Order in Council. This form of commencement is necessary in order to co-ordinate the Bill's commencement with the entry into force of the RCEP for New Zealand.

Part 1

Amendments to Customs and Excise Act 2018

Clause 3 states that *Part 1* amends the Customs and Excise Act 2018.

Clause 4 amends section 435. The amendments will enable the issue of New Zealand certificates of origin, under that section, in respect of goods for export to the RCEP parties. The amendments will further enable the Governor-General to declare, by Order in Council, countries that are parties to the RCEP to be specified RCEP parties for the purposes of that section.

Part 2

Amendments to Tariff Act 1988

Clause 5 states that *Part 2* amends the Tariff Act 1988.

Clause 6 inserts definitions of RCEP and specified RCEP party into section 2(1).

Clause 7 amends section 7A. The effect of the amendment to section 7A(1) is to allow the Governor-General, by Order in Council, to declare a country that is a party to the RCEP a specified RCEP party for the purposes of the Tariff Act 1988. Section 7A(3) is amended with the effect that no modification under section 7A(2)(b) relating to a specified RCEP party may impose a higher duty on any goods than that set out in respect of those goods in the Normal Tariff, unless the Governor-General is satisfied that the modification is necessary or advisable in the public interest and consistent with New Zealand's international obligations.

Clause 8 amends section 15A to include the RCEP in the definition of free trade agreement.

Clause 9 amends section 15H(1)(b)(ii) so that, where the chief executive initiates a transitional safeguard or emergency action investigation under section 15B, the Minister may make a determination for a provisional transitional safeguard measure to apply under the RCEP, if the Minister is satisfied that critical circumstances exist.

Part 3

Amendments to Tariff

Clause 10 provides that *Part 3* amends the Tariff. A copy of the Tariff as from time to time amended, modified, or revoked and replaced on or after 1 January 2010 is, as required by section 9B of the Tariff Act 1988, published at the following Internet site: <https://www.customs.govt.nz/business/tariffs/working-tariff-document/>

Clause 11 inserts an abbreviation of the name of the RCEP into a list of preferential abbreviations (relating to countries whose produce or manufactured goods may enter New Zealand free of duty in defined circumstances) in note 2 of the Tariff.

Clause 12 inserts a reference to a country that is a specified RCEP party and its abbreviated name into the list of preferential countries and preferential abbreviations in note 3 of the Tariff. This has the effect of enabling preferential Tariff rates to be applied to goods imported from specified RCEP parties.

Hon Phil Twyford

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill

Government Bill

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Regional Comprehensive Economic Partnership (RCEP) Legislation Act **2021**.

2 Commencement

This Act comes into force on a date appointed by the Governor-General by Order in Council.

Part 1**Amendments to Customs and Excise Act 2018****3 Amendments to Customs and Excise Act 2018**

This Part amends the Customs and Excise Act 2018.

4 Section 435 amended (Certificates of origin)

(1) After section 435(6)(b), insert:

(c) the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020 (the **RCEP**).

(2) After section 435(7)(b), insert:

(c) in relation to the RCEP, a specified RCEP party (*see subsection (8)*).

(3) Replace section 435(8) with:

(8) For the purposes of this section, the Governor-General may, by Order in Council, declare—

(a) a country that is a party to AANZFTA to be a specified AANZFTA party:

(b) a country that is a party to the RCEP to be a specified RCEP party.

Part 2**Amendments to Tariff Act 1988****5 Amendments to Tariff Act 1988**

This Part amends the Tariff Act 1988.

6 Section 2 amended (Interpretation)

In section 2(1), insert in their appropriate alphabetical order:

RCEP means the Regional Comprehensive Economic Partnership done at Hanoi, Vietnam, on 15 November 2020

specified RCEP party means a country that is for the time being declared by Order in Council under **section 7A(1)(bc)** to be a specified RCEP party for the purposes of this Act

7 Section 7A amended (Order in Council about preferential countries)

(1) After section 7A(1)(bb), insert:

(bc) declare a country that is a party to the RCEP to be a specified RCEP party for the purposes of this Act:

(2) In section 7A(3), after “specified TPA party,”, insert “a specified RCEP party,”.

8 Section 15A amended (Interpretation)

In section 15A, definition of **free trade agreement**, after paragraph (g), insert:

(h) the RCEP

9 Section 15H amended (Provisional transitional safeguard measure)

In section 15H(1)(b)(ii), replace “or the Republic of Korea FTA,” with “the Republic of Korea FTA, or the RCEP,”.

Part 3

Amendments to Tariff

10 Tariff amended

This Part, in accordance with section 9F(1) of the Tariff Act 1988, amends the Tariff.

11 Tariff, note 2 amended

In the notes to the Tariff, note 2, penultimate paragraph, after “PPP,”, insert “RCEP,”.

12 Tariff, note 3 amended

In the notes to the Tariff, note 3, after the item relating to a country that is a specified PACER Plus party, insert:

Country that is a specified RCEP party

RCEP



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Regional Comprehensive Economic Partnership (RCEP) Legislation Bill: Approval for Introduction

Portfolio **Trade and Export Growth**

On 15 April 2021, the Cabinet Legislation Committee:

- 1 **noted** that in November 2020, Cabinet:
 - 1.1 approved the text of the Regional Comprehensive Economic Partnership;
 - 1.2 noted that to implement the Agreement in domestic law, legislation amending the Tariff Act 1988 and the Customs and Customs and Excise Act 2018 is required;
 - 1.3 agreed that all domestic legislative changes required to comply with the Agreement's obligations on entry into force be made through the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill (the Bill);

[CAB-20-MIN-0469]

- 2 **noted** that the Minister of State for Trade and Export Growth is seeking a category 2 (must be passed in 2021) priority for the Bill on the 2021 Legislation Programme;
- 3 **approved** for introduction the Regional Comprehensive Economic Partnership (RCEP) Legislation Bill [PCO 21853/8.0], subject to the final approval of the government caucus and sufficient support in the House of Representatives;
- 4 **agreed** that the Bill be introduced on 4 May 2021;
- 5 **agreed** that the government propose that the Bill be:
 - 5.1 referred to the Foreign Affairs, Defence and Trade Committee for consideration;
 - 5.2 enacted by October 2021.

Gerrard Carter
Committee Secretary

Present: (see over)

Present:

Hon Chris Hipkins (Chair)
Hon David Parker
Hon Poto Williams
Hon Aupito William Sio
Hon Meka Whaitiri
Hon Phil Twyford
Keiran McNulty, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG