NEW ZEALAND
FOREIGN AFFAIRS & TRADE
Manatū Aorere

Regional Comprehensive Economic Partnership

Investment Market Access

The Regional Comprehensive Economic Partnership (RCEP) goes beyond trade in goods across borders. RCEP investment rules will provide greater confidence to investors seeking to expand their operations or investments in other RCEP economies.

The RCEP investment chapter provides certainty for New Zealand investors by protecting their investments from actions of other governments that are grossly unfair or unjust, including the expropriation of assets without compensation, or actions that involve discrimination based on nationality unless subject to an exception. Investors will also benefit from an obligation that requires RCEP parties to provide New Zealanders with the same treatment afforded to other foreign investors unless subject to an exception.

Once an investment is underway, the investment chapter helps to ensure that investors retain the ability to exercise control over their investments and to access the benefits of their investments.

Market access outcomes

New Zealand already benefits from investment commitments by other RCEP countries through existing Free Trade Agreements (FTAs), such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and our bilateral FTAs with South Korea and China.

Under RCEP, New Zealand will, for the first time, benefit from market access commitments from China and ASEAN countries that are not party to the CPTPP (such as Indonesia and Philippines).[1] These new commitments will provide New Zealand investors greater confidence when investing in RCEP countries through increased transparency and legal certainty around the regulations affecting investment.

Additionally, RCEP's investment chapter makes improvements to some of the rules secured under our existing FTAs. For example, RCEP improves our trade agreement with ASEAN (ASEAN-Australia-New Zealand Free Trade Area "AANZFTA") with the addition of a Most-Favoured Nation (MFN) provision. This means that any preferential treatment granted in the future by RCEP countries to any other country will be automatically extended, unless subject to an exception, to New Zealand investors.

Provisions are included to protect the Government's right to regulate for legitimate public policy purposes. This includes New Zealand's foreign investment screening regime under the Overseas Investment Act. New Zealand has not made any commitments in RCEP which affect the screening threshold applied to significant business assets acquisitions, nor the way New Zealand approves investments relating to sensitive land or fisheries quotas. New Zealand also retains the flexibility to make the approval criteria under the Overseas Investment Act more or less restrictive.

Investor State Dispute Settlement

Investor State Dispute Settlement (ISDS) is a dispute resolution mechanism included in some trade agreements that allows foreign investors of a party to pursue remedies directly against the government of another party in relation to breach of an investment provision. RCEP does not include ISDS. RCEP parties will review the exclusion of ISDS within five years of RCEP's entry into force. No change can be made unless there is agreement from all parties, including New Zealand.

[1] While the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) contains market access commitments such as national treatment, these commitments are not currently in force pending negotiation of specific schedules of commitments for investment. The national treatment obligation in the New Zealand China FTA only applies to treatment within the scope of the bilateral investment treaty between New Zealand and China.