

	RCEP	TPP
<i>Membership</i>	<p>16 countries in Asia=</p> <ul style="list-style-type: none"> 10 ASEAN members: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam 6 ASEAN Foreign Partners: Australia, China, India, Japan, New Zealand and South Korea 	<p>12 countries across the Pacific=</p> <ul style="list-style-type: none"> 7 Asian members (also in RCEP): Australia, Brunei, Japan, Malaysia, New Zealand, Singapore and Vietnam Plus Canada, Mexico, Chile, Peru and the United States
<i>Status of Negotiations</i>	<p><i>Ongoing</i></p> <ul style="list-style-type: none"> 16th round next week in Jakarta The Asian Trade Centre will be on the ground and will report more next week 	<p><i>Concluded</i></p> <ul style="list-style-type: none"> Agreement signed Feb 2016 Japan, New Zealand and others are moving the deal through legislatures US President-elect Donald Trump has promised to withdraw the US in January 2017
<i>Scope</i>	<p><i>About dozen chapters</i></p> <p>Goods, services, investment, e-commerce, intellectual property, development, legal, and some standards</p>	<p><i>Contains 30 chapters</i></p> <p>Goods, services, investment, e-commerce, trade remedies, intellectual property, government procurement, regulatory coherence, competition policy, environment, labor, legal, standards etc.</p> <p>All texts and schedules are available for viewing at: http://www.tpp.mfat.govt.nz/text</p>
<i>Depth of Coverage, Goods</i>	<p><i>Modest?</i></p> <ul style="list-style-type: none"> Deal not yet concluded, but early signs not promising Example: tariff coverage could be at 80%, (20% excluded) and not all drop to 0 even at end of full implementation 	<p><i>Very deep</i></p> <ul style="list-style-type: none"> All goods included, and every tariff line addressed Most tariffs drop to 0, including sensitive items normally carved out or excluded from trade deals, but some problematic tools remain for some (TRQs, safeguards, etc)
<i>Depth of Coverage, Services</i>	<p><i>Modest?</i></p> <p>Services coverage, so far, not great—limited list of included services sectors, all others not open (positive list scheduling)</p>	<p><i>Excellent</i></p> <p>Every single service sector (160+) opened for TPP member firms except those explicitly listed as closed and most exceptions not commercially meaningful</p>
<i>Depth of Coverage, Investment</i>	<p><i>Strong</i></p> <ul style="list-style-type: none"> Investment, more promising as RCEP members want inbound investment (negative list scheduling) RCEP currently includes ISDS provision to help protect investors 	<p><i>Excellent</i></p> <ul style="list-style-type: none"> Every investment sector also opened for TPP member firms (except for those listed as closed) Strong protection for all investors, including ISDS (although tobacco explicitly carved out of ISDS coverage)

<i>e-Commerce</i>	<p><i>Should be good</i></p> <p>RCEP should benefit from being negotiated second—e-commerce rules can be broad and include provisions across chapters to benefit smaller firms</p>	<p><i>Good</i></p> <p>First major agreement to cover digital trade and e-commerce. New rules for data flows, encryption, source code. But also has policy flexibilities</p>
<i>Government procurement</i>	<p><i>None (yet)</i></p> <p>(“Expert meetings” have taken place on the topic)</p>	<p><i>Opened to TPP firms</i></p> <p>Government procurement contracts opened for TPP firms at the federal level above a threshold</p>
<i>Competition</i>	<p><i>Yes, unclear?</i></p> <p>Required by leaders’ statement, but unclear where negotiations currently stand because RCEP countries have varying commitments on competition policy at domestic level</p>	<p><i>Strong</i></p> <p>Two chapters on competition, including one to set rules for many state-owned enterprises</p>
<i>Trade Facilitation and Customs</i>	<p><i>Yes, but unclear?</i></p> <p>ASEAN centrality in RCEP means likely following ASEAN rules—with a key role for single windows for customs harmonization?</p>	<p><i>New customs rules</i></p> <p>TPP includes many new provisions including self-certification, advanced rulings, time deadlines for some customs clearance, etc. to move cargo through customs faster and easier</p>
<i>Standards</i>	<p><i>Limited</i></p> <ul style="list-style-type: none"> • Likely to be restatement of existing provisions in WTO and ASEAN+1 agreements? • Perhaps few new rules for food (SPS) and other standards (Note that ASEAN uses different terminology for TBT) 	<p><i>Some New Provisions</i></p> <p>TPP’s SPS and TBT chapters have some provisions that go beyond existing commitments</p>
<i>Intellectual Property</i>	<p><i>New rules</i></p> <p>RCEP countries are moving to include new provisions on IP that go beyond existing commitments, unclear exactly how far and in which areas these will extend, but new rules possible for digital trade?</p>	<p><i>New rules</i></p> <p>TPP created new IP provisions in nearly every category of IP to update existing rulebooks</p>
<i>Trade Remedies</i>	<p><i>Still under discussion</i></p> <p>RCEP continues to have informal discussions, but not yet negotiations on topic</p>	<p><i>Yes</i></p> <p>Short chapter in TPP, although some safeguards, for instance, appear in market access commitments</p>
<i>Movement of People</i>	<p><i>Unclear</i></p> <p>While some have been pushing hard for the movement of services workers, this is highly sensitive for RCEP</p>	<p><i>Minimal</i></p> <p>TPP has a chapter on business mobility that allows the temporary movement of workers for services (mostly for intercorporate transferees)</p>

<i>Environment</i>	<i>None</i>	<i>Yes</i> TPP environment chapter contains commitments on fish, fish subsidies, endangered species trade, logging, ozone, and more
<i>Labor</i>	<i>None</i>	<i>Yes</i> TPP has a chapter on labor which includes protection of worker rights such as no use of forced labor, child labor, minimum wages and decent working conditions
<i>SMEs</i>	<i>Possible chapter?</i>	<i>Chapter, but limited</i> SME chapter in TPP is basically website, but note that commitments in agreement can be very helpful to smaller firms (even if the overall agreement is complicated to use)
<i>Development</i>	<i>Extensive commitments</i> RCEP explicitly recognizes developmental dimensions of trade and builds in flexibilities for developing countries, LDCs, plus capacity programs	<i>Limited commitments</i> TPP includes a norm that all members agree to same provisions with no distinction between countries—hence limited flexibilities and modest capacity building included in agreement
<i>Transparency Provisions</i>	<i>Minimal or modest</i>	<i>Extensive</i> Every chapter in TPP includes provisions for greater transparency, particularly in rulemaking to allow input and time for adjustment
<i>Flexibilities</i>	<i>Extensive</i> Nearly every provision includes extensive flexibilities for members	<i>Limited</i> Flexibilities granted for public health, animal health, public security, etc. Otherwise, limited flexibilities in agreement
<i>Dispute Settlement</i>	<i>Yes, unlikely to be used?</i> The track record in Asian agreements suggests that dispute settlement provisions will not be used in RCEP—disputes likely to be taken up at WTO?	<i>Designed to be used regularly</i> TPP provisions on disputes show intentions to use provisions (although potential absence of Americans from final agreement may alter use of DSM?)
<i>Third Party Participation in the Negotiating Process</i>	<i>Almost none</i> RCEP has provided limited options for third-parties (businesses, NGOs, media) to provide input at domestic level or directly to officials or to learn about outcomes	<i>Extensive</i> Some TPP members provided extensive opportunities for input at the domestic level plus the TPP included stakeholder outreach sessions for input directly to officials and had media follow negotiation rounds

<i>Accession clause</i>	<i>Unclear</i> Officially, the criteria for membership in RCEP is an existing ASEAN agreement	<i>Yes</i> Explicit provisions for adding new members—gives priority to APEC members, but not limited to APEC only
<i>What next?</i>	<i>Negotiations continue</i> RCEP has 4 rounds currently scheduled for 2017—hope is to conclude by end of year?	<i>Domestic ratification? Death?</i> Unclear what happens next—will TPP move forward without the US? Will agreement wait for all 12 parties? Will it just die?