



Australian Government

Australian Government response to the
Joint Standing Committee on Treaties Report 196:

*Regional Comprehensive Economic Partnership
Agreement*

17 FEBRUARY 2022

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Committee on Treaties Report 196

Regional Comprehensive Economic Partnership Agreement

The Government thanks the Committee for its time and consideration of the Regional Comprehensive Economic Partnership Agreement (RCEP).

The Government provides the following response to the Committee's recommendations.

Recommendation 1

- 6.36. The Committee supports the *Regional Comprehensive Economic Partnership Agreement* and recommends that binding treaty action be taken.

The Government welcomes and accepts the recommendation; and has implemented it by taking binding treaty action.

On 2 November 2021, the Government deposited Australia's instrument of ratification of RCEP with the depositary, the Secretary-General of the Association of Southeast Asian Nations (ASEAN). Australia will be an original RCEP party upon the treaty's entry into force.

The requisite number of RCEP signatory states have ratified the Agreement to enable it to enter into force. In accordance with its provision on entry into force (Article 20.6(2)), the Agreement will enter into force for Australia (and generally) on 1 January 2022.

Recommendation 2

- 6.37. The Committee recommends the Government continue to pursue the restoration of civilian, democratic rule in Myanmar as a foreign policy priority, and considers making a declaration to this effect at the time of ratification.

The Government notes this recommendation.

In a joint press release on 2 November 2021 to mark the ratification of RCEP (Attachment A), the Minister for Foreign Affairs, Minister for Women, Senator the Hon Marise Payne and the Minister for Trade, Tourism and Investment, The Hon Dan Tehan, MP, said:

"Australia's ratification of RCEP does not change the Government's grave concern about the situation in Myanmar. We call on the Myanmar security forces to cease violence against civilians, engage in dialogue, and release all those arbitrarily detained, including Australian Professor Sean Turnell.

The Government strongly supports ASEAN's leadership to chart a course out of the crisis in Myanmar. We will continue to work with our ASEAN and other partners to support regional efforts towards a resolution.”

An advance copy of the statement was delivered to the ASEAN Secretary-General at the time of Australia's ratification for circulation to all RCEP signatories.

Recommendation 3

- 6.38. The Committee recommends the Government continue to pursue the inclusion of labour, human rights and environmental provisions within the Regional Comprehensive Economic Partnership Agreement at the time of the first review.

The Government accepts this recommendation.

The inclusion of specific provisions in FTAs depends on our broader relationship with FTA partners and public consultations, including with civil society and industry. Several RCEP negotiating partners opposed the inclusion of provisions on labour and the environment. However, RCEP will establish an important platform to engage with regional countries, including to demonstrate the value for businesses in embedding labour, human rights and environmental standards into core business practices.

The Government uses a range of forums to address labour, human rights and environmental issues more broadly in the region.

Australia has a long history of engagement with the International Labour Organization (ILO) in the Indo-Pacific and is a key partner in delivering the ILO's Decent Work Agenda, helping advance economic and working conditions. The Government is also a key supporter of Better Work, the ILO's flagship program to improve working conditions and enhance business competitiveness in the global garment industry, with a particular focus on improving workplace gender equality. The program is active in 1,300 factories, including in Cambodia, Indonesia and Vietnam. Under the Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region Program (TRIANGLE in ASEAN), Australia works with the ILO and Canada to maximise the contribution of labour migration to equitable, inclusive and stable growth in the region.

The promotion and protection of human rights globally continues to be a top foreign policy priority for Australia. RCEP and other regional meetings involving ASEAN provide forums to discuss regional issues, including human rights. The Government raises concerns about human rights issues, including Myanmar, at all appropriate opportunities, including through bilateral meetings and human rights dialogues, in other ASEAN-related settings, and in international fora. Australia has scheduled bilateral human rights dialogues with Vietnam and Laos in December 2021. The Government continues to

pursue human rights protections through our Official Development Assistance programs, prioritising assistance to the most vulnerable, including women and girls, and persons with disability. In 2020-21, the Government contributed an estimated \$1.3 billion across the development program to support gender equality, investing in ending violence against women and girls, advancing women's economic empowerment, and enhancing women's voices in decision-making, leadership and peace building across the Indo-Pacific.

Australia's *Long-Term Emissions Reduction Plan* outlines how Australia will harness low emissions technologies to meet its net zero commitments, help our partners achieve theirs by developing at scale clean energy technologies, and continue to supply reliable and clean energy to the region. Australia is pursuing low emissions international technology partnerships and, to date, has agreed partnerships with Singapore, Japan and the Republic of Korea among others, and is close to finalising one with India. Australia and Singapore are developing a Green Economy Agreement (GEA) that will further accelerate both countries' transition towards a green and sustainable future. Australia and Indonesia agreed at the G20 in October 2021 to a Joint Statement on Cooperation on the Green Economy and Energy Transition. At the 2021 United Nations Climate Change Conference (COP26), Australia and Vietnam agreed to a Joint Statement on Commitment to Practical Climate Action. The Government has also doubled its previous pledge to climate finance for developing Southeast Asian and Pacific countries to \$2 billion over 2020-2025, reflecting our ongoing commitment to implementing the Paris Agreement.

Dissenting Report – The Australian Greens – Recommendation 1

1.9 The Australian Greens recommend that no binding treaty action be taken.

The Government does not accept this recommendation.

The Government notes that it is in Australia's national interest to be a party to RCEP.

Dissenting Report – The Australian Greens – Recommendation 2

1.10 The Australian Greens recommend that the current process for negotiating trade agreements be amended to increase transparency around the negotiations and final text of agreements, that independent national interest assessments be made, that ISDS provisions be excluded from all trade agreements, and that human rights, labour, and environmental protection provisions are included in all trade agreements.

The Government has broad and well-established consultative processes with stakeholders on trade agreements. These include:

- formal stakeholder consultation meetings, involving community groups, NGOs, trade unions, academics, peak industry bodies and business representatives,
- open-ended calls on the DFAT website for written submissions from stakeholders and the general public for the duration of the negotiations, and
- consultation with State and Territory governments at the ministerial and officials' level.

In June 2020, the Government established a Ministerial Advisory Council (MAC) on free trade agreement negotiations. The MAC has held five virtual meetings to date. The MAC provides a forum through which members can exchange views and engage in frank and robust discussion on FTAs and the policies that underpin them. RCEP has been a major focus of MAC discussions to date. The Government will also address some relevant issues in the forthcoming Government Response to JSCOT Report 196 (*Certain Aspects of the Treaty-making Process in Australia*).

On the recommendation that "independent national interest assessments" be made when negotiating trade agreements, the Government tabled a National Interest Analysis (NIA) for RCEP in Parliament with the treaty text on 18 March 2021, as is established practice. NIAs provide robust assessments of whether a trade agreement such as RCEP is in Australia's national interest.

On the recommendation that investor-state dispute settlement (ISDS) provisions be excluded from all trade agreements, the Government decides on the inclusion of ISDS clauses in FTAs on a case-by-case basis in light of the national interest. The Government notes that RCEP does not contain ISDS provisions. RCEP parties will review this issue after the treaty has been in force for two years – but any change would require the agreement of every RCEP party. While a decision on whether to support the inclusion of ISDS in RCEP would be a decision for the Government to make at the time of the review and in light of stakeholder consultations, the Government does not assess that a consensus to include ISDS in RCEP would be likely.

On the recommendation that human rights, labour and environmental protection provisions be included in all trade agreements, in relation to RCEP the Government notes its response (above) to Recommendation 3 in JSCOT Report 196.