



NATIONAL CHAPTER  
INDONESIA

1<sup>st</sup> Period

# **ALSA INDONESIA**

# **LEGAL MEMORANDUM**

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The Impact of the Ratification of Regional  
Comprehensive Economic Partnership (RCEP)  
Agreement for Indonesia

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**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS HASANUDDIN**

## LEGAL MEMORANDUM

### Trade Liberalization Due the Regional Comprehensive Economic Partnership (RCEP) Agreement in Indonesia

Muh. Fadly Muthalib, Nur Hafni, and Nagida Amalia Putri

ALSA Local Chapter Universitas Hasanuddin

#### A. Heading

To : ALSA National Chapter Indonesia

From : Muh. Fadly Muthalib, Nur Hafni, and Nagida Amalia Putri

Subject : Trade Liberalization Due Regional Comprehensive Economic  
Partnership (RCEP) Agreement in Indonesia

Date : October 30th, 2022

#### B. Statement of Assignment

Import is the activity of entering goods from a country (overseas) into the country's customs territory other. Indonesia is one of the countries that often carry out import activities that aim to increase foreign exchange. With the Regional Comprehensive Economic Partnership (RCEP), it is hoped that there will be uniformity in international trade rules for participating countries.

Seeing this, we are writing a legal memorandum to participate in the ALSA Indonesia Legal Memorandum #1 Competition organized by the ALSA National Chapter Indonesia 2022/2023 with the theme "The Impact of the Ratification of Regional Comprehensive Economic Partnership (RCEP) Agreement for Indonesia." A legal Memorandum is also expected to be a reference for the government and related parties to analyze the impact of increasing export and import activities in Indonesia through RCEP trade liberalization.

### C. Issues

RCEP Agreement is the most significant trade agreement in the world involving ten countries in Southeast Asia with five trading partners, namely, Australia, China, Japan, South Korea, and New Zealand. During the ratification process, RCEP was quite controversial. The public considered the lack of public participation impacted several sectors in Indonesia, such as employment, MSMEs, imports of goods, and Food. Based on this, we will analyze the impact of trade liberalization on domestic trade and its impact on Food.

### D. Brief Answer

Trade liberalization through RCEP brings potential for attacks on imported goods for participating countries. This can have a negative impact on Indonesian domestic businesses whose products cannot compete with foreign products. MSME competitors are increasing where this condition has the potential to reduce MSME income. It is feared that MSMEs will not be able to compete with imported products which are increasing due to the effect of RCEP. The role of RCEP is to increase the quota for cheap imports, especially agricultural commodities because of the non-tariff implementation which makes small farmers more oppressed.

### E. Statement of Facts

With its ratification Regional Comprehensive Economic Partnership, it can be stated several facts related to the theme taken:

1. Trade liberalization in the region brings the potential for an onslaught of imported goods for participating countries, which can impact Indonesian domestic business actors whose products cannot compete with foreign products.
2. Regional Comprehensive Economic Partnership is projected to increase investment by more than 20%, Gross Domestic Product (GDP) in the next ten years will also increase, and 60 million MSMEs are expected to be positively affected by the RCEP.

3. Food products from partner countries of the Regional Comprehensive Economic Partnership have competitiveness in the Indonesian market, consisting of processed and fresh food products.

## F. Analysis

### 1. The Impact of Regional Comprehensive Economic Partnership's Trade Liberalization on Domestic Trade

Trade liberalization is the elimination or reduction of trade barriers between countries. Trade liberalization reduces or eliminates tariffs, quotas, and non-tariff barriers.<sup>1</sup> Trade liberalization in the region brings the potential for attacks on imported goods from participating countries. This can harm Indonesian domestic businesses whose products cannot compete with foreign products.<sup>2</sup> In the preparation of trade policies it is prepared based on the principles of national interest, legal certainty, fairness and health, business security, accountability and transparency, independence, partnership, benefit, simplicity, togetherness, and environmental insight.<sup>3</sup> The RCEP Agreement provides opportunities and challenges for Indonesian trade actors such as Micro, Small and Medium Enterprises (MSMEs) which are one of the most significant pillars of the economy in Indonesia. The issue of Micro, Small, and Medium Enterprises (MSMEs) is regulated in Chapter 14, Small and Medium Enterprises, Article 14.1, paragraph (1) explains that:

“The Parties recognize that small and medium enterprises, including micro-enterprises, contribute significantly to economic growth, employment, and innovation and therefore seek to promote information sharing and cooperation in increasing the ability of small and medium enterprises to utilize and benefit from the opportunities created by this Agreement.”

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<sup>1</sup> Esti Renatalia Tanaem and Puguh Toko Arisanto, 'Konflik Kepentingan Dalam Liberalisasi Perdagangan Garam Tahun 2009-2014' (2021) 8 Transformasi Global 175.

<sup>2</sup> Rizky Banyualam Permana, 'Risiko Banjir Impor Menghantui Pengusaha Lokal Dengan Berlakunya Perjanjian Perdagangan Terbesar Di Dunia' (*The Conversation*2022) <<https://theconversation.com/risiko-banjir-impor-menghantui-pengusaha-lokal-dengan-berlakunya-perjanjian-perdagangan-terbesar-di-dunia-176894>> accessed 30 October 2022.

<sup>3</sup> Pasal 2 Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan.

Explain that to increase recognition from member countries that small and medium enterprises, including micro-enterprises, make a significant contribution to economic growth, employment, and innovation. RCEP member countries agree to share information and develop cooperation in improving the capacity of MSMEs to take advantage of the opportunities created by RCEP. Such as increasing the access and participation of MSMEs to markets in global value chains, including by promoting and facilitating partnerships between businesses and promoting the use of electronic commerce. The RCEP agreement also recognizes the critical role of MSMEs in economic growth and their contribution to job creation in the countries involved.<sup>4</sup> RCEP is also projected to create investment to increase by more than 20%, Gross Domestic Product (GDP) in the next ten years will also increase. In addition, 60 million MSMEs will be positively affected by the RCEP.

Nevertheless, the government still needs to pay attention to several challenges in implementing RCEP, including the following: First, the low access to financing for MSMEs. With market access open, the way to export MSME products will be easier if it is supported by access to trade finance. Second, the need for more access to raw materials and production tools. Third, the limitations of international marketing in carrying out promotions and exports by SMEs. Fourth, the lack of standardization and certification.<sup>5</sup>

However, the potential decline in MSME income is unavoidable. This is because MSME competitors are increasing, and this condition has the potential to reduce MSME income. It is feared that MSMEs will not be able to compete with imported products which are increasing due to the effect of RCEP. It can be seen that Indonesia is still experiencing a trade deficit or unequal imports compared to exports to China, which is a partner country in the RCEP, in 2020, amounting to 6.6 billion US dollars or equivalent

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<sup>4</sup> Poppy Sulistyning Winanti, 'Menakar Kesiapan Indonesia Dalam Merespons Perjanjian Perdagangan Internasional' (2022) 13 *Politika: Jurnal Ilmu Politik* 23.

<sup>5</sup> Adhi Prasetyo Satriyo Wibowo, 'Tantangan Dan Strategi UKM Dalam Menyongsong Pemberlakuan RCEP 2022' (2021) 6 *Buletin APBN* 3.

to Rp. 93 trillion.<sup>6</sup> This is very dangerous for the Indonesian MSME sector, the most crucial sector in building the national economy, which should benefit from this RCEP.

## 2. Impact Regional Comprehensive Economic Partnership on Food

As part of the agricultural sector, the food crop sector is a strategic sector in Indonesia's economic development. However, the trade performance of food crop commodities shows that the trade balance is still negative. The success of a country's international trade can be seen from its competitiveness. Competitiveness is a general concept used to refer to the commitment of market competition to the success of a country in international competition.<sup>7</sup> Food is everything that comes from biological sources of the agricultural, plantation, forestry, fishery, animal husbandry, water, and water products, both processed and unprocessed, which is intended as food or drink for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing, and making food or beverages.<sup>8</sup> In general, food products from RCEP partner countries that are competitive in the Indonesian market consist of processed food products and fresh food products that have not been further processed. Examples of processed food products include pasta, instant noodles, fructose syrup, confectionery, and biscuits. Examples of food products that have not been further processed include beef, soybeans, peas, corn, and rice.<sup>9</sup>

However, RCEP increased the quota for cheap imports, especially agricultural commodities, because of the non-tariff implementation, which oppressed small farmers. RCEP will also increase imports of several food products such as sugar, meat, and processed food from several other RCEP countries such as China, Malaysia, Australia, and Thailand. RCEP also increases land ownership by corporations due to the opening of

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<sup>6</sup> Akhyari Hananto, 'Mengenai RCEP, Blok Perdagangan Terbesar Di Dunia Yang Baru Lahir' ([www.goodnewsfromindonesia.id](http://www.goodnewsfromindonesia.id)2021)

<<https://www.goodnewsfromindonesia.id/2021/06/20/mengenai-rcep-blok-perdagangan-terbesar-di-dunia-yang-baru-lahir>> accessed 30 October 2022.

<sup>7</sup> Dadan adi Nugraha, Minar Ferichani and Joko Sutrisno, 'Daya Saing Dan Posisi Sektor Pangan Indonesia Menghadapi Regional Comprehensive Economic Partnership (RCEP)' (2020) 29 JURNAL PANGAN 55.

<sup>8</sup> Pasal 1 angka 1 Undang-Undang Nomor 12 Tahun 2012 tentang Pangan.

<sup>9</sup> *Ibid*, hal. 62.

larger investment faucets so that small farmers lose their means of production because the RCEP mechanism uses free trade, which violates Article 33 of the 1945 Constitution paragraphs 1 to 3, which reads:<sup>10</sup>

- a) The economy is structured as joint efforts based on the principle of kinship;
- b) Production branches that are important to the state and which affect the livelihood of the people are controlled by the state; and
- c) Earth, water, and natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people.

The high value of imports of food plant products is feared to make dependence on imported products even more significant. Low-priced imported products can reduce the competitiveness of domestic products. Which will undoubtedly have an impact on food in terms of distribution, production, and others. Moreover, Indonesia is currently conducting bilateral and regional free trade cooperation that removes trade barriers.<sup>11</sup>

## G. Conclusion

Based on the issues previously mentioned in the Legal Memorandum, it can be concluded that:

1. Trade liberalization through RCEP brings the potential for attacks on imported goods from participating countries. This can harm Indonesian domestic businesses whose products cannot compete with foreign products. MSME competitors are increasing, and this condition has the potential to reduce MSME income. It is feared that MSMEs will not be able to compete with imported products which are increasing due to the effect of RCEP.
2. The role of RCEP is to increase the quota for cheap imports, especially agricultural commodities, because of the non-tariff implementation, which makes small farmers more oppressed. The high value of imports of food plant products is feared to make

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<sup>10</sup> Admin SPI, 'Tolak RCEP, Wujudkan Kedaulatan Pangan' (*Serikat Petani Indonesia* 8 December 2016) <<https://spi.or.id/tolak-rcep-wujudkan-kedaulatan-pangan/>> accessed 30 October 2022.

<sup>11</sup> Dadan adi Nugraha, Minar Ferichani and Joko Sutrisno *Op. Cit.*, hal. 57.

dependence on imported products even more significant. Low-priced imported products can reduce the competitiveness of domestic products.

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**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS INDONESIA**

## Legal Memorandum: The Implications of the Ratification of the RCEP for Indonesia

Nikolas Nathaniel Kosasih, Rayhan Rajendra Irawan, and Yohannes Maria

Vianney Widoputranto

ALSA Local Chapter Universitas Indonesia

### A. Heading

To : ALSA National Chapter Indonesia

From : Nikolas Nathaniel Kosasih, Rayhan Rajendra Irawan, and  
Yohannes Maria Vianney Widoputranto

Subject : The Implications of the Ratification of the RCEP for Indonesia

Date : October 20th, 2022

### B. Statement of Assignment

We, as law students, were appointed to prepare a Legal Memorandum that discusses The Implications of the Ratification of the RCEP for Indonesia.

### C. Issues

On August 30, 2022, the Indonesian Parliament (DPR-RI) ratified Indonesia's membership in the *Regional Comprehensive Economic Partnership* (RCEP), making Indonesia the newest country in ASEAN to join the largest free trade agreement in the world. RCEP is estimated to cover 30 percent of global GDP or the equivalent of US\$25.8 trillion, and has a market share of 30 percent of the world's population.<sup>1</sup> Several Lawmakers have expressed concern that this could trigger the flooding of imported goods and thus impact the competitiveness of micro and small and medium enterprises

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<sup>1</sup> Ayman Falak Medina, 'Indonesia Ratifies RCEP Trade Agreement' (*ASEAN Business News* 31 August 2022) <<https://www.aseanbriefing.com/news/indonesia-ratifies-rcep-trade-agreement/>> accessed 17 October 2022.

(MSMEs). In response, the Indonesian Minister of Economy, Airlangga Hartarto, predicted that Indonesia would record a trade deficit in the initial period after implementation, but over time until 2040, ratification of the RCEP is expected to increase the trade balance to a net surplus of US\$979 million.<sup>2</sup> This brings up the question, How has Indonesia prepared for the impact of the RCEP?

#### D. Brief Answer

Indonesia's protectionist policies have made it difficult for foreign investors to enter. Indonesia has not gotten a significant share of the investment and production displaced by the US-China Trade War. In response to this, the government put pressure on the Omnibus Law at the end of 2020 which eliminates bureaucratic inefficiencies, simplifies business licensing requirements, and liberalizes more industries to attract foreign investment. The 2020 Omnibus Law amends more than 70 existing laws with the primary aim of stimulating domestic and foreign investment by simplifying business licensing requirements, liberalizing industry, and streamlining labor laws, among others. The law has liberalized more than 245 sectors such as health, aviation, energy, and telecommunications through a positive investment lists.

#### E. Statement of Facts

According to Law No. 24 of 2022, Law No. 11 of 2020, Law No. 27 of 2022, and Law No. 25 of 2007, the following facts may be stated:

1. Law No. 24 of 2022 is a regulation that Ratifies Indonesia's Membership in RCEP;
2. Law No. 27 of 2022 is a regulation that governs Personal Data Protection;
3. Law No. 11 of 2020 regarding "Cipta Kerja" is a regulation that the main piece of legislation that attempts to simplify business licensing, Investment requirements, Employment, Ease and protection of MSMEs, Ease of doing business, Research and innovation; and

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<sup>2</sup> Aljazeera, 'Indonesia to Ratify RCEP in 2022: Economic Minister' ([www.aljazeera.com](http://www.aljazeera.com) 31 December 2021) <<https://www.aljazeera.com/economy/2021/12/31/indonesia-to-ratify-rcep-in-2022-economic-minister>> accessed 17 October 2022.

4. Law No. 25 of 2007 is a regulation that governs Capital Investment.

## F. Analysis/Discussion

### 1. Main Goal of RCEP

The RCEP has three main goals, firstly Trade Liberalization, secondly the encouragement of Regional Investment, and Digital Economic growth. In the context of trade liberalization, the RCEP requires the lowering of tariffs for about 92% of goods traded within the region over a set timeframe. It also targets the opening up of most service sectors (i.e. professional, telecommunications, financial). This is crucial because together, its signatories account for about 31% (\$26.1 trillion) of global GDP and around 30% (2.3 billion) of the world's population, allowing its members to benefit from larger economies of scale compared to other prominent trading blocs. RCEP economies also play an important role in global trade, with the blocs share rising from 20% to 28% since 2000.

In the context of Regional Investment, Internal RCEP investment stood at \$122 billion prior to the pandemic, only second to the EU which stood at \$414 billion. Regional investment may increase further as RCEP prohibits performance requirements, such as a specified percentage of domestic content or requirement of technology transfer, from being placed on investors as conditions for market access, and locks in future easing of measures thus lowering risk of backtracking. In the context of Digital Economy, the RCEP takes a pragmatic approach to the digital economy, a sector that rose in importance during the course of the pandemic. Members agreed on ICT-driven trade facilitation measures, free cross-border flow of data and less stringent approaches to data localization. RCEP also features commitments to promote e-commerce by protecting online consumers and their personal information, and by enhancing domestic regulatory frameworks, including in areas of transparency and cybersecurity.

## 2. Indonesia's Preparation for RCEP

Since its entry into force, the RCEP agreement will surely affect the financial sector in Indonesia significantly if the nation is well prepared. RCEP has a massive scope, covering almost 1/3 of the world population and 30% of the worldwide GDP combined. Integration into the global value chain ("GVC") being one of the purposes of RCEP could also bring and create more investment opportunities in Indonesia, giving Indonesia a chance to soar in the regional and global market. With the state of today's volatile global economic power that is still impacted by the Covid-19 pandemic and the Russia-Ukraine war, countries around the world are all in the recovery phase, including Indonesia. While rearranging and recovering the economy, the implementation of RCEP requires Indonesia to also prepare for the exposures that will be obtained from it, some of which are by developing Indonesian human resources and export commodities. Strengthening human resources is essential in facing the opportunity that is presented by RCEP. Stated by President Jokowi in the beginning of his second period, the government is going to focus on the development of human resources for they are the core of the ever-growing economy and investment in Indonesia.

Regulations that are seen as accommodating to RCEP principles are Law No. 27 of 2022 regarding Personal Data Protection (PDP Act), where it accommodated Chapter 12 of the RCEP, regarding Electronic Commerce. Main points of the PDP Act are: data categorization, data subject rights, data controller obligations, data protection agency authority. And Law No. 25 of 2007 regarding Capital Investment, where it accommodates Chapter 10 of the RCEP regarding Investment. The main purpose of this law is to encourage investment to create more employment opportunities, increase the country's economic growth, make changes, help the people's economy so that they are able to develop and create prosperity for the community with employment opportunities.

The improvement of human resources is generally regulated by Law No. 11 of 2020 regarding Job Creation ("UU Cipta Kerja"). The vast market that will be provided by RCEP also gives Indonesia a bigger opportunity to export more of its commodities. Nevertheless, other RCEP countries have the equal chance to also accelerate their

exports. Therefore, improving human resources are needed to compete with other RCEP countries. As a consequence, human resources became essential. The government's effort, which is the enactment of UU Cipta Kerja, align with the vision of RCEP, as UU Cipta Kerja has articles that regulate the development of Indonesian human resources to advance the export sector. However, because of its unconstitutionality of the Law, legal certainty is still present in law regarding human resources in Indonesia.

### 3. Comparison to Fellow RCEP Parties

China is one of the countries that are expected to lead the RCEP agreement. China is alleviated by the RCEP that have helped facilitate China in trades in the Northeast Asia with Japan and South Korea and the South East Asia region. Data from the first quarter of 2022 shows that China's number of exports with other RPEC member countries expanded up to 6.9 percent year-on-year (YoY) to RMB 2.86 trillion (Chinese currency). E-commerce is one of the main focus in the RCEP Chapter 12 trade agreement and China is expected to dominate the market in that sector. Whereas, Indonesia still can dominate in other sectors with its huge amount of natural resources. With the RCEP, Indonesia can be helped to learn to transform and process raw natural resources into high-value products. Despite its high number of profits and intense competition from China, experts stated that it does not have a major impact to the Indonesian industry and economy as the Indonesian have been impacted by the China-ASEAN agreement since 2010. Data from experts shows that from 2020 to 2035, the RCEP is projected to lift China's exports income by about 7.6 percent. Compared to Indonesia, in terms of investment, Indonesia is expected to increase investment inflows to Indonesia by USD 1.7 billion and is projected to boost Indonesia's GDP by 0.07% in 2040. These data above can keep on rising as the RCEP will be open up to new members in the upcoming July 2023, securing a greater trade market potential.

## G. Conclusion

1. The Indonesian Government has taken precautionary measures to ensure the implementation of the RCEP can be as smooth as possible;
2. The Ruling of the Constitutional Court, where it declared Law No. 11 of 2022 conditionally unconstitutional has not been ideal for the legal certainty regarding human resource regulation and foreign investment in Indonesia;
3. The introduction of the 2022 PDP Law and amendment to the 2007 Capital Investment law has given legal certainty to Digital Economic Growth in Indonesia; and
4. The impact of the RCEP is not major to the Indonesian industry and economy in the short term, however it will be felt in the long term.

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**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS BRAWIJAYA**

## The Impact of Regional Comprehensive Economic Partnership on the Foreign Direct Investment in Indonesia

Kevin Akbar Sanabil, Jibril Lanang, and Budi Saputra  
ALSA Local Chapter Universitas Brawijaya

### A. Heading

To : ALSA National Chapter Indonesia

From : Kevin Akbar Sanabil, Jibril Lanang, and Budi Saputra

Subject : The Impact of Regional Comprehensive Economic Partnership  
on the Foreign Direct Investment in Indonesia

Date : October 25th, 2022

### B. Statement of Assignment

As a law student, we have been appointed to make a Legal Memorandum that criticizes the impact of Regional Comprehensive Economic Partnership Agreement (“RCEP”) in aspects of Foreign Direct Investment (“FDI”) in Indonesia. Each statement and opinions in this Legal Memorandum is only in accordance with International Law specifically the RCEP itself and current legislation within Republic of Indonesia Jurisdiction. We do not offer opinions regarding economics, politics, or social aspects. Also, we do not conduct independent investigation or research other than examining documents as mentioned in this Legal Memorandum.

### C. Issues

Indonesia became one of the 10 countries that ratified RCEP, which provides a 20 Chapter, 17 Annex, and 54 commitment schedule covering market access; regulation and discipline; also economic and technical cooperation. One of the substances of the RCEP, especially in Chapter 10, discusses the expected investment in the territories of countries

that have ratified the RCEP to create a potential investment climate. Furthermore, the condition of Indonesia, both in terms of natural resources and human resources, is also considered to have great potential for profitable FDI in Indonesia. However, the ratification of RCEP is still relatively new so there is a need for harmonization between RCEP which is a product of customary international law, and Indonesian positive law. Therefore, this writing aims to review whether the RCEP provision regarding investment is in line with the principles of positive law in Indonesia and what regulation supports FDI in Indonesia from a legal perspective.

#### **D. Brief Answer**

The ratification of the RCEP is certainly in line with positive Indonesian law and Indonesian foreign policy called "Free and Active Foreign Policy" which is mandated following the 1945 Constitution that Indonesia is free to determine its views on the international world, and actively participates in international peace. In addition, with the enactment of Law Number 24 of 2022, RCEP is recognized in the laws and regulations in Indonesia. However, currently, there is no policy, especially in the field of Foreign Direct Investment, that is in line with the provisions in the RCEP because it takes time to review the policy so that it is in line with economic developments in Indonesia.

#### **E. Statement of Facts**

With the signing of the RCEP Agreement by 10 ASEAN countries (including Indonesia) and 5 partner countries, we can state the following facts:

1. RCEP is one of the agreements to increase and deepen ASEAN's engagement with 5 partner countries, such as Australia, China, Japan, Korea, and New Zealand. RCEP was signed by Indonesia on November 15, 2020, and entered into force on August 30, 2022.
2. Whereas the RCEP regulates 20 chapters, one of which is on investment.
3. Whereas the provisions in the RCEP Investment Chapter aim to enhance and complement the ASEAN Plus one FTA.

4. Whereas Law Number 24 of 2022 concerning the Ratification of the Regional Comprehensive Economic Partnership Agreement recognizes RCEP as an international agreement and is recognized in Indonesian laws and regulations.

## F. Analysis

### 1. Implications of Ratification of RCEP Through Law Number 24 of 2022 Concerning the Ratification of RCEP

Law Number 24 of 2022 concerning the Ratification of the Regional Comprehensive Economic Partnership Agreement signed by the President of the Republic of Indonesia on September 27, 2022. This Law is designed to ratify RCEP as a regional agreement between ASEAN countries and 5 partner countries such as Australia, Japan, China, South Korea, and New Zealand. The purpose of the signing of this Law is to support national economic development, one of which is by entering into international trade agreements with trading partner countries. This RCEP is one of the largest Mega Regional Free Trade Agreements in the world because cumulatively this agreement represents 29.60% of the world's population; 30.27% of the world's Gross Domestic Product; 27.4% of world trade; 29.8% of the world's Foreign Direct Investment.<sup>1</sup>

The ratification carried out by Indonesia also facilitates the existing Rules of Origin such as the ASEAN Free Trade and other FTAs. The impact of Indonesia ratifying the RCEP through Law Number 24 of 2022 concerning the Ratification of the Regional Comprehensive Economic Partnership Agreement can provide the potential for export markets from Indonesia to participating countries by 8-11% as well as the potential for increased investment to Indonesia by 18-22%. In addition, the impact of the ratification is the creation of a spillover effect from the Free Trade Agreement owned by member countries and non-member countries which can potentially increase Indonesia's exports by 7.2%.<sup>2</sup>

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<sup>1</sup> Undang-Undang Nomor 24 tahun 2022 tentang Pengesahan *Regional Comprehensive Economic Partnership* (RCEP).

<sup>2</sup> Mochamad Rifki Maulana, 'Perjanjian Kemitraan Ekonomi Komprehensif Regional (*Regional Comprehensive Economic Partnership*-RCEP) Dan Pengaruhnya Untuk Indonesia' (2021) V Jurnal Ilmu Sosial. [119].

Furthermore, ratification of the RCEP Agreement has the potential to increase Indonesia's GDP (GDP). According to a 2019 study conducted by the Fiscal Policy Agency, ratifying the RCEP could increase Indonesia's GDP by 0.05% from 2021 to 2023. In contrast, if it does not ratify the RCEP, Indonesia's GDP will fall by 0.07% over the same period.<sup>3</sup> Increased GDP in Indonesia means increased profits for Indonesian entrepreneurs. This is due to RCEP countries using the same Certificate of Origin. This makes it easier for small and large businesses to export goods, as previously a Certificate of Origin was required, which differed depending on the country of destination.

## **2. Indonesia's Policy in Increasing Investment Based on RCEP**

Increasing foreign capital flows, particularly FDI, is crucial for emerging developing countries because developing countries experience rapid economic growth but lack adequate capital. Therefore, ASEAN countries certainly need to form economic policies that can encourage the rapid flow of foreign capital, especially FDI. The establishment of the RCEP also contributed to an increase in foreign capital flows. This can be seen in Law Number 23 of 2022 which explains that the signing of RCEP cumulatively represents 29.8% of world FDI so the ratification of this RCEP is considered to be able to attract foreign capital.

The RCEP, particularly Chapter 10, discusses investments that include the most-favored-nation treatment clause and commitments to prohibit performance requirements that exceed 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 a standstill and ratchet mechanism. Lastly, this Chapter provides for improved investment facilitation provisions that 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 program on investor-state dispute settlement provisions. Furthermore, it can be concluded that this

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<sup>3</sup> *Ibid.* [122].

agreement advances the concept of equality for member countries. This is reflected in Article 10.5, which explains the treatment of investment and includes fair and equal treatment for member countries, as well as the legal certainty for protection and security for member countries to take such measures as may be reasonably necessary to ensure the physical protection and security of the investment.<sup>4</sup>

## G. Conclusion

Based on the analysis explained above, it can be conclude that:

1. The ratification of the RCEP Agreements is in accordance with Indonesian conditions, both in terms of law and foreign policy.
2. The RCP agreement has the potential to improve Indonesia's economic conditions. In this case, every business actor, large and small, can more easily export their products, thereby increasing Indonesia's GDP.
3. The RCEP agreement can serve to complement other Indonesian laws and regulations related to investment in Indonesia.
4. The RCP agreement has the potential to improve Indonesia's economic conditions. In this case, every business actor, large and small, can more easily export their products, thereby increasing Indonesia's GDP.

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<sup>4</sup> Regional Comprehensive Economic Partnership (RCEP) Agreement.

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Regional Comprehensive Economic Partnership (RCEP) Agreement.

**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS ANDALAS**

## **Study of Law Number 24 of 2022 concerning Ratification of the Regional Comprehensive Economic Partnership Agreement (RCEP) and Its Impact on the National Interest**

Bilqis Bahira, Humaira Azzahra, and Tasya Ardhina

ALSA Local Chapter Universitas Andalas

### **A. Heading**

To : ALSA National Chapter Indonesia

From : Bilqis Bahira, Humaira Azzahra, and Tasya Ardhina

Subject : Study of Law Number 24 of 2022 concerning Ratification of the Regional Comprehensive Economic Partnership Agreement (RCEP) and Its Impact on the National Interest

Date : October 12th, 2022

### **B. Statement of Assignment**

We as law students were appointed to prepare a Legal Memorandum which discusses the study of Law Number 24 of 2022 concerning ratification of the Regional Comprehensive Economic Partnership Agreement (RCEP) and impact for national interest.

### **C. Issues**

The RCEP Bill (RUU) entered a new phase after it was ratified. One of the considerations is that trade activities are one of the main sectors driving the national economy which can be carried out through international trade cooperation. To what extent does *Law Number 24 of 2022 concerning Ratification of the Regional Comprehensive Economic Partnership Agreement (RCEP)* accommodate the global market trade revolution?

#### D. Brief Answer

RCEP is a *mega Free Trade Agreement* that was initiated by Indonesia in 2011 during the period of Indonesia's chairmanship in ASEAN. RCEP ratification is a form of state presence in seeking to establish strategic policies for the development of a more comprehensive Mega Regional Economic Asia-Pacific. The scope of RCEP is not only ASEAN countries but also countries outside the ASEAN region.<sup>1</sup> The establishment of RCEP was based on the spirit to increase participation in the global world, strengthen trade and investment relations in the region, and contribute to minimizing economic disparities.

#### E. Statement of Facts

With the Law about RCEP authentication is available a number of fact for its approval, namely:

1. On November 15, 2020 in Bogor, Indonesia. The Indonesian government ratified the RCEP.
2. Endorsement is<sup>2</sup> process, method, act of ratifying; legal recognition; inauguration and; justification.
3. With the signing of the RCEP, the cooperation agreement economy the apply and potential expand *impact* on international trade and raise income country.

#### F. Analysis

##### 1. Indonesia's Role in Ratification of the RCEP Agreement

Mid-November 2020, there was an agreement for the largest regional economic cooperation by inviting 10 ASEAN countries plus trading partners from East Asia and the Pacific. The ten ASEAN countries are Brunei, Cambodia, Indonesia, Laos, Myanmar, Philippines, Singapore, Thailand and Vietnam, and 6 (six) Partner Countries

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<sup>1</sup> Naeli Fitria, 'Posisi Indonesia menghadapi Pembentukan Regional Comprehensive Economic Partnership Agreement (RCEP) Tahun 2011 dan Trans-Pacific Partnership (TPP) Tahun 2013' Skripsi (2015).[57].

<sup>2</sup> KBBI, 2022. 'Great Indonesian Dictionary (KBBI)' ( accessed October 12 , 2022).

of the Association of Southeast Asian Nations (Republic of China, Republic of Korea, Japan, Australia, New Zealand and Indian).

In this agreement, Indonesia is the initiating country, the Coordinator of the *Regional Comprehensive Economic Partnership Trade Negotiating Committee* as well as the Chair of the *Regional Comprehensive Economic Partnership Trade Negotiating Committee* and other parties involved in the collaboration. This makes Indonesia hold a strategic but challenging position. Furthermore, in 2022, RCEP will come into effect in Indonesia. The significance of the enactment of RCEP for Indonesia is that it is very important for Indonesia as a member country to adapt to the agreed rules.

Indonesia as a member country of the Association of Southeast Asian Nations seeks to for realize national economic development while increasing the integration of the Association Southeast Asian Nations to in global economy as stated in the 2025 ASEAN Economic Community Blueprint by sparking the idea of establishing work same as RCEP. Then, President Joko Widodo (Jokowi) officially signed Law 24/2022 on Ratification of *the Regional Comprehensive Economic Partnership Agreement*.

## 2. Overview General Related the Influence of RCEP for Indonesia

RCEP was formed to realize an increase in international trade and increase national income. The Peterson *Institute for International Economics* estimates that the RCEP agreement could increase global State revenues to \$186 billion per year by 2030 and add 0.2% to the parties' economic growth. RCEP could increase access to China's Belt and Road Initiative funds, increase profit from market access by strengthening transportation, energy, and communication.<sup>3</sup>

First, it will help Indonesia expand its market and integrate further into global supply chains. The core of RCEP is agreement purposeful item for align timetable rate and rule origin for chain sophisticated global supply in Asia.<sup>4</sup> Through RCEP, Indonesia can also enjoy the spillover effects of the Agreement Trade Free owned country RCEP members

<sup>3</sup> Pusat Studi Perdagangan Dunia Universitas Gadjah Mada, 'Eksistensi RCEP bagi Perwujudan Kepentingan ASEAN', <https://cwts.ugm.ac.id/2022/09/16/5447/> (diakses 7 Oktober 2022).

<sup>4</sup> Yunarwanto, 'Kajian Ekonomi Keuangan 3 Nomor 2 Tahun 2019' (2021) 5 Kajian Ekonomi dan Keuangan (KEK henceforth).[152].

with non-member countries. In addition, RCEP has the potential to increase Revenue Domestic Indonesian Gross.

Based on the study of the Agency Policy Fiscal in 2019, it was stated that Indonesia could increase its GDP by 0.05% during the period 2021-2032 if it ratified the RCEP. On the other hand, if it does not ratify RCEP, then Indonesia's GDP will decrease by 0.07% during the same period, namely 2021-2032.<sup>5</sup> Another big influence is that RCEP can encourage easy access to raw materials to meet the RVC.

### 3. RCEP Act as Procedure Constitutional

Preamble to the 1945 Constitution of the Republic of Indonesia, 4<sup>th</sup> paragraph<sup>6</sup> confirm that one of the objectives of the establishment of the Government of the Republic of Indonesia is to advance well-being general which one is wrong one the effort is with strengthen national economy. "The national economy in Indonesia is organized" based on democracy economy. "Principle democracy economy is basically an elaboration of the fifth principle of Pancasila: "Social justice for whole Indonesian people".<sup>7</sup>

In perspective base constitutional that, trade Indonesian national picture describes something connection activity economy carried out by ambition well-being general and justice social. Then, based on provisions of Chapter 12 Article 12.5 paragraph (1) IE-CEPA. Approval, Indonesia and EFTA countries are obliged to comply with the procedures for ratification, acceptance and approval in accordance with the legal and constitutional requirements of each party. Mandatory instrument of ratification, acceptance or approval saved on the Depositary.<sup>8</sup>

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<sup>5</sup> Mochamad Rifki Maulana, 'Perjanjian Kemitraan Ekonomi Komprehensif Regional (Regional Comprehensive Economic Partnership-RCEP) Dan Pengaruhnya Untuk Indonesia' (2021) 5 Jurnal Ilmu Sosial dan Pendidikan. [122].

<sup>6</sup> Undang-Undang Dasar 1945 Negara Republik Indonesia, Jakarta.

<sup>7</sup> Julius R. Latumaerissa, *Perekonomian Indonesia Dan Dinamika Ekonomi Global* (Mitra Wacana Media 2015). [97].

<sup>8</sup> Naskah Akademik Rancangan Undang-Undang tentang Pengesahan Comprehensive Economic Partnership Agreement Between the Republic of Indonesia and The Efta States.

Requirements law and internal constitution that Indonesia needs to implement in accordance with Article 11 paragraph (2) of the 1945 Constitution<sup>9</sup> of the Republic of Indonesia that President in make other international agreements that have broad and fundamental consequences for people's lives related to burdens finance country, and or require change or the formation of laws must with DPR <sup>10</sup>approval. Article 11 paragraph (2) states that further provisions on international agreements are set with law.

RCEP approval consists of over 20 chapters, 17 appendices, and 54 scheduled commitments. By line large, the RCEP Agreement consists of top 3 parts which consists of market access, rules and work same. There are 2 new elements, namely the procurement of government goods/services and included small and medium enterprises in Prior RCEP approval not in the framework of the *Association of Southeast Asian National +1 Free Trade Agreements* so that The RCEP approval has added value that is more in line with the development and current world economic situation.

As for some bilateral agreements that do not take effect immediately from the date of signing, but must first be ratified in accordance with the constitutional procedures in force in the respective countries. In order for the agreement to be effective, after the ratification of the agreement, it must be notified to the other party that the country has ratified the agreement in accordance with its constitutional procedures. So from that, RCEP authentication load meaning important for Indonesia.

## G. Conclusion

1. In the RCEP agreement, Indonesia has role strategic and has passed the RCEP Act.
2. RCEP is something of a great opportunity for Indonesia to expand its impact on international trade and increase state revenues.
3. RCEP must be validated more formally in accordance with procedural constitutional law in force in the country of each party.

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<sup>9</sup> Penjelasan atas Undang-Undang Republik Indonesia Nomor 24 Tahun 2000 Tentang Perjanjian Internasional. Tambahan Lembaran Negara Republik Indonesia Nomor 4012.

<sup>10</sup> Peraturan Presiden (Perpres) Nomor 71 Tahun 2020 tentang Tata Cara Persetujuan Perjanjian Perdagangan Internasional.

4. Things that need to be considered by Indonesia in order to be able to compete in the midst of increasingly competitive global market competition are related to policies and strategies in answering global challenges.

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