

# RCEP

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# Implementation Challenges

## Executive roundtable: Rules of Origin in a fractioned world trade

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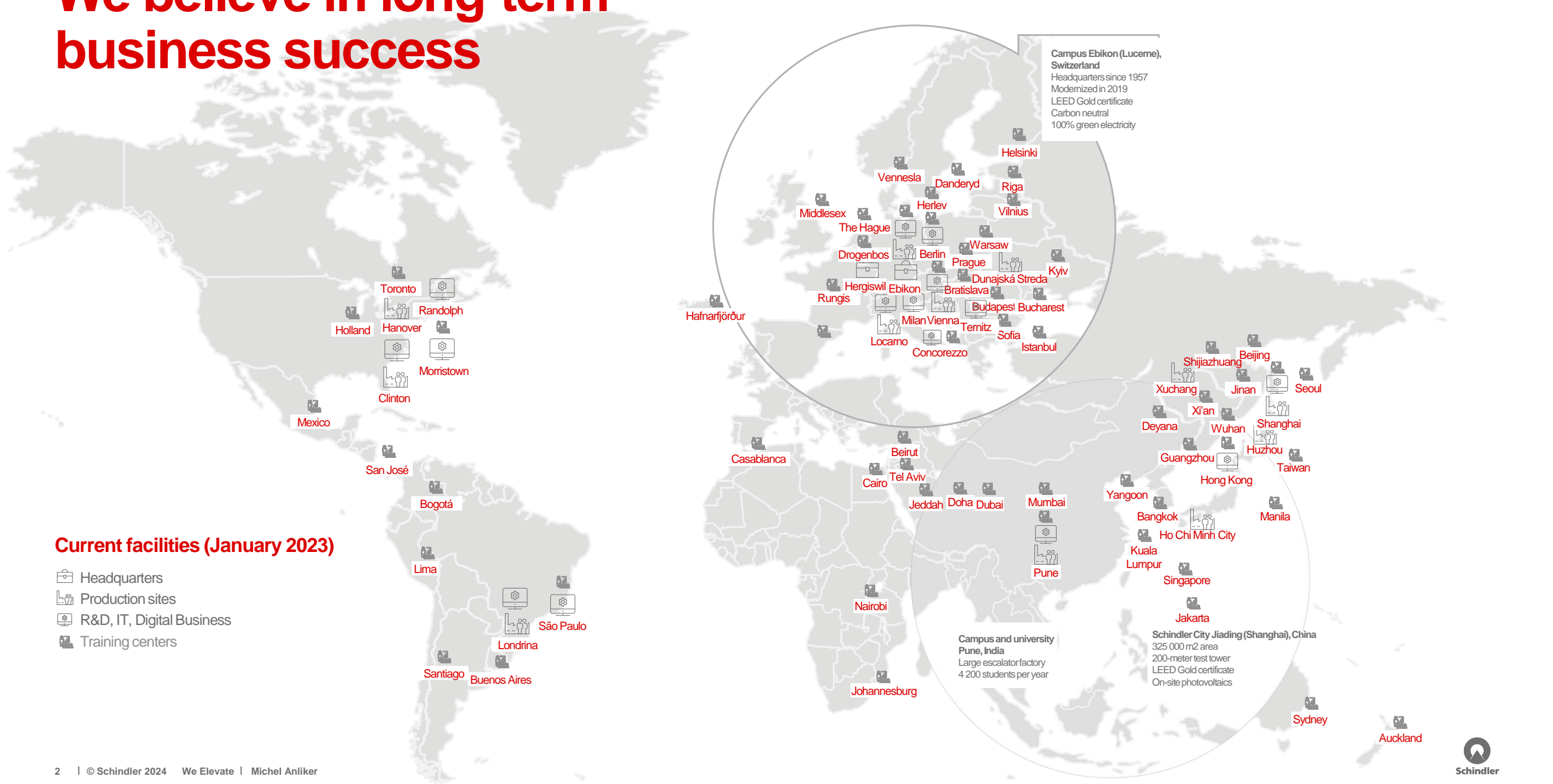
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**150**  
Years experience



**1,000+**  
Branch offices



**70,000+**  
Employees



**100+**  
Countries

**CHF 11.5  
billion**  
revenue in 2023



# Free Trade Agreements – general challenges

- ✓ Often we hear that FTA are underutilized – however formal provisions are implemented as non-tariff barriers to hinder granted Free Trade even in the context of FTAs
- ✓ Lack of understanding of businesses and their focus
- ✓ Lack of trained people
- ✓ The complexity is increasing – by the mere fact of increased number of FTAs on one hand but also because the FTAs include different set of rules to which companies have to adhere to
- ✓ Focus on Trade Facilitation – Focus on strict post-importation audits

# Free Trade Agreements and the private sector

- ✓ FTAs are a key instrument for competitiveness
- ✓ Fragmented supply chains and production steps are a challenging factors in the strategic choice and implementation of FTAs
- ✓ FTAs need to be “user-friendly” for the private sector
  - Simple Rules of Origins
  - Simple Proves of Origin (Certificate of Origins)
  - No complicated operational provisions
- ✓ Simple = not a collection of many simple Rules in every FTA that are however different, but a collection of **simple and similar** Rules in every FTA = predictability, legal certainty & possible to implement

# Regional Comprehensive Economic Partnership (RCEP)

- Signed in November 2020, RCEP is the first Free Trade Agreement among the largest economies in Asia, including China, Indonesia, Japan, and South Korea.
- The 15 member countries account for about 30% of the world's population (2.2 billion people) and 30% of global GDP (\$29.7 trillion), making it the largest trade bloc in history
- Member countries: Australia, Brunei, Cambodia, China, Indonesia, Japan, South Korea, Laos, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, Thailand, Vietnam



# Regional Comprehensive Economic Partnership (RCEP)

- ✓ How does the private sector (likely) assess a new FTA ?
  - Are the countries of manufacturing of my company included in the FTA?
  - Are my products included / excluded of the FTA ?
  - What are the customs duty benefits, short and long-term perspective?
  - How do the Rules of Origin look like for my products?
  - What are the proof of origin and other documentation requirements (record keeping, etc.) ?

# Regional Comprehensive Economic Partnership (RCEP)

- Accessibility of information / availability for the company / automation ?
- Specific operational requirements or simplifications?
  - Cumulation (with limitations)
  - Direct consignment rule
  - Back-to-Back CoO
  - Approved Exporter / REX



# Regional Comprehensive Economic Partnership (RCEP)

## What is good

- ✓ It is a modern agreement and includes most relevant FTA topics
- ✓ Simple Rules of Origin → RVC 40% or CTH / CTSH
- ✓ Third party invoicing included
- ✓ Back-to-Back CoO
- ✓ Bilateral Cumulation with a possible extension to Full Cumulation
- ✓ Approved Exporter / Declaration of Origin

# Regional Comprehensive Economic Partnership (RCEP)

## What is challenging

- ✓ Retrieving the tariff commitments and reasonable implementation of the various and different existing commitments
- ✓ Scheduled commitments over several years
- ✓ Tariff differential
- ✓ Direct Consignment Rule (not yet a better solution in view...)

# Regional Comprehensive Economic Partnership (RCEP)

## Finding the information

- ✓ Structure and available legal texts: <https://www.dfat.gov.au/trade/agreements/in-force/rcep/rcep-text>

### Legal Text of the RCEP Agreement

- 📄 Title page, Table of Contents, and Preamble
- 📄 Chapter 1 – Initial Provisions and General Definitions
- 📄 Chapter 2 – Trade in Goods
- 📄 Chapter 3 – Rules of Origin
  - Annex 3A (Product-Specific Rules)
  - Annex 3B (Minimum Information Requirements)
- 📄 Chapter 4 – Customs Procedures and Trade Facilitation
  - Annex 4A (Period of Time to Implement the Commitments)
- 📄 Chapter 5 – Sanitary and Phytosanitary Measures
- 📄 Chapter 6 – Standards, Technical Regulations, and Conformity Assessment Procedures
- 📄 Chapter 7 – Trade Remedies
  - Annex 7A (Practices Relating to Anti-Dumping and Countervailing Duty Proceedings)
- 📄 Chapter 8 – Trade in Services
  - Annex 8A (Financial Services)
  - Annex 8B (Telecommunications Services)
  - Annex 8C (Professional Services)
- 📄 Chapter 9 – Temporary Movement of Natural Persons
- 📄 Chapter 10 – Investment
  - Annex 10A (Customary International Law)
  - Annex 10B (Expropriation)
- 📄 Chapter 11 – Intellectual Property
  - Annex 11A (Party-Specific Transition Periods)
  - Annex 11B (List of Technical Assistance Requests)
- 📄 Chapter 12 – Electronic Commerce
- 📄 Chapter 13 – Competition
  - Annex 13A (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Brunei Darussalam)
  - Annex 13B (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Cambodia)
  - Annex 13C (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Lao PDR)
  - Annex 13D (Application of Article 13.3 (Appropriate Measures against Anti-Competitive Activities) and Article 13.4 (Cooperation) to Myanmar)
- 📄 Chapter 14 – Small and Medium Enterprises
- 📄 Chapter 15 – Economic and Technical Cooperation
- 📄 Chapter 16 – Government Procurement
  - Annex 16A (Paper or Electronic Means Utilised by Parties for the Publication of Transparency Information)
- 📄 Chapter 17 – General Provisions and Exceptions
- 📄 Chapter 18 – Institutional Provisions
  - Annex 18A (Functions of the Subsidiary Bodies of the RCEP Joint Committee)
- 📄 Chapter 19 – Dispute Settlement
- 📄 Chapter 20 – Final Provisions
- 📄 Testimonium and Signing Pages

# Regional Comprehensive Economic Partnership (RCEP)

## Finding the information

✓ From a business perspective, challenging...

### Market Access Annexes

#### Annex I – Schedules of Tariff Commitments

- Annex I – General Headnotes
- Brunei Darussalam – Headnotes
- Brunei Darussalam – Schedule of Tariff Commitments
- Cambodia – Headnotes
- Cambodia – Schedule of Tariff Commitments
- Indonesia – Headnotes
- Indonesia – Schedule of Tariff Commitments
- Indonesia – Appendix on Tariff Differentials
- Lao PDR – Headnotes
- Lao PDR – Schedule of Tariff Commitments
- Malaysia – Headnotes
- Malaysia – Schedule of Tariff Commitments
- Myanmar – Headnotes
- Myanmar – Schedule of Tariff Commitments
- Philippines – Headnotes
- Philippines – Schedule of Tariff Commitments
- Philippines – Appendix on Tariff Differentials
- Singapore – Headnotes

- Thailand – Headnotes
- Thailand – Schedule of Tariff Commitments
- Thailand – Appendix on Tariff Differentials
- Viet Nam – Headnotes
- Viet Nam – Schedule of Tariff Commitments
- Viet Nam – Appendix on Tariff Differentials
- Australia – Headnotes
- Australia – Schedule of Tariff Commitments
- China – Headnotes
- China – Schedule of Tariff Commitments
- China – Appendix on Tariff Differentials
- Japan – Headnotes
- Japan – Schedule of Tariff Commitments
- Japan – Appendix on Tariff Differentials
- Korea – Headnotes
- Korea – Schedule of Tariff Commitments
- Korea – Appendix on Tariff Differentials
- New Zealand – Headnotes
- New Zealand – Schedule of Tariff Commitments

# Regional Comprehensive Economic Partnership (RCEP)

## Finding the information

✓ From a business perspective, challenging...

### Viet Nam

- Headnote to Schedule of Viet Nam [\[PDF 430 KB\]](#)
- Schedule of Viet Nam
  - for ASEAN [\[PDF 27.7 MB\]](#) | [\[XLSX 1.8 MB\]](#)
  - for Australia [\[PDF 27.4 MB\]](#) | [\[XLSX 1.8 MB\]](#)
  - for China [\[PDF 27.4 MB\]](#) | [\[XLSX 1.8 MB\]](#)
  - for Japan [\[PDF 27.6 MB\]](#) | [\[XLSX 1.8 MB\]](#)
  - for Korea [\[PDF 27.6 MB\]](#) | [\[XLSX 1.8 MB\]](#)
  - for New Zealand [\[PDF 27.4 MB\]](#) | [\[XLSX 1.8 MB\]](#)
- Appendix of Viet Nam in relation to paragraph 3 of Article 2.6 (Tariff Differentials) [\[PDF 395 KB\]](#)



# Regional Comprehensive Economic Partnership (RCEP)

## What is challenging

- Some product lines under RCEP in the Industrial Chapters (as of Chapter 84 etc.) offer benefits only after 10 years, in some cases even only after 20 years
- However, existing ASEAN agreements offer generally better opportunities with many direct benefits (0% customs duty)

# Regional Comprehensive Economic Partnership (RCEP)

## Tariff differentials

### ➤ Tariff differentials

- ✓ In the Agreement, some parties apply different tariff rate for the same originating good of different parties.
- ✓ When an importing Party sets out more than one tariff rate for a good to be imported, the tariff rate to be applied for that good is the rate allocated the RCEP country of origin of that good.
- ✓ ... for that originating good shall be the Party that contributed the highest value of originating materials used in the production of that good in the exporting Party. In that case, that originating good shall be eligible for preferential tariff treatment applicable to that originating good of the RCEP country of origin.

# Regional Comprehensive Economic Partnership (RCEP)

## Direct consignment (Direct transportation rule)

- ✓ An originating good shall retain its originating status as if the following conditions have been met:
  - the good has been **transported directly** from an exporting Party to an importing Party; or
  - the good has been **transported through** one or more Parties other than the exporting Party and the importing Party (hereinafter referred to as “**intermediate Parties**” in this Article), or non-Parties, provided that the good:
    - ✓ has **not undergone any further processing** in the intermediate Parties or the non-Parties, except for logistics activities such as unloading, reloading, storing, or any other operations necessary to preserve it in good condition or to transport it to the importing Party; and
    - ✓ remains **under the control of the customs authorities** in the intermediate Parties or the non-Parties.

# Regional Comprehensive Economic Partnership (RCEP)

## Direct consignment (Direct transportation rule)

- ✓ How to comply with the indirect consignment rule?
  - Present the customs authorities of the importing Party either with customs documents of the intermediate Parties or the non-Parties, or with any other appropriate documentation on request of the customs authorities of the importing Party.
  - Appropriate documentation may include commercial shipping or freight documents such as airway bills, bills of lading, multimodal or combined transport documents, a copy of the original commercial invoice in respect of the good, financial records, a non-manipulation certificate, or other relevant supporting documents, as may be requested by the customs authorities of the importing Party.

# Regional Comprehensive Economic Partnership (RCEP)

## Approved Exporter

- ✓ Approved Exporter is a special status that an exporter gets granted from his customs authority, undergoing a specific authorization process to be seen as specifically compliant in origin matters, resulting in the possibility to issue Declarations of origin on commercial documents
  - ✓ No formal CoO is required anymore
  - ✓ RCEP pushes for the Approved Exporter Scheme (Authorization)
  - ✓ Current trend from the EU is REX
- It's not about which one is the better way – it's the existence of additional / parallel schemes that does **not make sense**, is **not efficient** and **confuses businesses**