

## Asian Trade Talks Could Put Pressure On US TPP Efforts

By Scott Flaherty

*Law360, New York (August 20, 2013, 7:34 PM ET)* -- Trade talks underway between China, India and several other Southeast Asian countries could exert some pressure on the U.S. to continue its push for a quick completion of the Trans-Pacific Partnership negotiations, experts say.

Monday marked the first minister-level meeting for the Regional Comprehensive Economic Partnership, a proposed trade deal between 16 countries, including China, India, Japan and the 10-member Association of Southeast Asian Nations, according to Japan's Ministry of Economy, Trade and Industry. The RCEP has been seen by some as a rival to the TPP, another proposed trade agreement that would include the U.S., Japan and 10 other countries on either side of the Pacific.

Because the two proposed trade deals involve many of the same participants, but have different major economies driving the negotiations — China and India for the RCEP and the U.S. for the TPP — there is a sense that whichever deal is completed first could “lay the groundwork” for future trade in the Asia-Pacific region, said Stephen Kho, an Akin Gump Strauss Hauer & Feld LLP attorney. The Obama administration has been **pushing hard to close the TPP** negotiations, which have been formally underway since 2010, by the end of this year.

“My sense has always been that the RCEP could be one of the drivers to get the TPP done sooner,” Kho said. “It's in the interest of the U.S. to lay the groundwork.”

The sorts of trade provisions the U.S. would likely include in that groundwork differ from those valued by countries like China and India, which are often more “keen on preserving their systems of trade protections,” said Juscelino F. Colares, a law professor at Case Western Reserve University.

While the U.S. can be expected to continue pushing for low, across-the-board tariffs, reductions in technical barriers to trade and stringent intellectual property protections, the RCEP may offer an alternative for countries not willing to meet those commitments, Colares said.

For example, China, which stands to miss out on gains the TPP is expected to bring to the U.S. and its trading partners, could look to the RCEP to bolster specific industries that will benefit from increased trade with other Asian countries, without having to commit to wide-sweeping reforms that would fully open its market to foreign companies in all sectors, according to Colares.

“Freeing up trade means different things,” he said. “They'd have to make some concessions that they're not prepared to make.”

But any impact the RCEP has on the TPP negotiations, or on Asian trade in general, could be limited by a number of factors, including the earlier stage of the RCEP negotiations as compared to those for the TPP, according to Eric Shimp of Alston & Bird LLP.

While the TPP countries are set to begin their 19th round of negotiations in Brunei on Friday, talks for the RCEP were officially launched in November. The RCEP participants — Australia; China; India; Japan; South Korea; New Zealand; and 10 ASEAN countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam — held their first formal round of negotiations in May, and Monday's ministerial meeting came in advance of another round of negotiations scheduled for late September.

The RCEP's later start is coupled with the fact that the countries involved have a host of competing interests that would need to be worked out before any deal could be finalized, Shimp said.

Though the RCEP countries are aiming to have a deal in hand by 2015, the TPP provisions could already be in place by the time the RCEP talks have ended, making it less likely that the RCEP will “water down the standards set in the TPP,” Shimp said.

“At least in the short run, RCEP is not going to have any meaningful impact on the TPP,” he said.

Still, the RCEP may affect the TPP in narrower strokes, Shimp said. If, for instance, the RCEP countries manage to come to an early agreement on “breakthrough provisions” in a particular area, such as trade measures related to a product's country of origin, that may in turn spur action among the U.S. and other TPP countries.

“Trade liberalization is a competitive sport. The extent to which the RCEP can move forward can exert some pressure on the U.S. in some respects,” he said. But, he added, “It's a rhetorical pressure that the U.S. is going to look at, rightfully, with a skeptical eye.”

--Editing by Elizabeth Bowen and Melissa Tinklepaugh.

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