SERC

**SERC Sdn Bhd**

Socio-Economic Research Centre

# Regional Comprehensive Economic Partnership (RCEP)

## Malaysia: Trade in Services and Investment; Temporary Movement of Natural Persons (MNP)

*27 August 2021*

# Overview

- Compared to many conventional Free Trade Agreements (FTAs), Regional Comprehensive Economic Partnership (RCEP) covers broader aspects, i.e. **Trade in Services** and **Investment**, besides common trade in goods and tariff reduction.

- Trade in Services and Investment has already covered under existing ASEAN+1 FTAs, with the exception of ASEAN-Japan FTA; and Malaysia has a separate bilateral trade in services chapter under Malaysia-Japan Economic Partnership Agreement (MJEPA). Malaysia’s trade in services and investment clauses under RCEP is being enhanced, going beyond existing FTAs.

- In addition, RCEP also outlines clauses for mobility of natural persons among the RCEP members under **Temporary Movement of Natural Persons** Chapter.

**Trade in Services**, covered under Chapter 8 of RCEP Agreement, seeks to facilitate **the expansion of cross-border trade in services and provides Malaysia's services exporters improved market access opportunities** into RCEP members’ market. **Financial services, telecommunications and professional services** are specifically spelt out in separate bespoke annexes under RCEP.


**Investment**-related clauses as defined in Chapter 10, include core **investment protections**, which outline rules requiring payment of compensation where investment is expropriated, guarantees a minimum standard of treatment of investors under international law, compensation for losses due to conflict and civil strife, free transfer of investment-related capital without delay and prohibitions on performance requirements.

**Temporary Movement of Natural Persons** outlined in Chapter 9, will **enhance access into RCEP countries for business persons engaged in trade in goods, supply of services, and conduct of investment activities**. It is designed to **assist individuals and businesses in taking up commercial opportunities offered through RCEP**. All RCEP members are required to administer, streamline and have transparent procedures for temporary entry applications.

# Summary of RCEP Chapter 8, 9 and 10

## Chapter 8: Trade in Services

- The Chapter aims to open up avenues for greater services trade among the Parties through a substantial removal of restrictive and discriminatory measures affecting trade in services.

- It contains modern and comprehensive provisions, including rules on market access, national treatment, most-favoured-nation treatment, and local presence, which are subject to Parties' Schedules of Specific Commitments or Schedules of Reservations and Non-Conforming Measures, as well as additional commitments.

- In accordance with this Chapter, the Parties are to schedule their services commitments using the negative list approach, either on the date of entry into force of the RCEP Agreement, or within a defined time period after the date of entry into force of the RCEP Agreement.

- The negative list approach to services commitments under the RCEP Agreement provides greater certainty for service suppliers of other Parties through providing information on the existing measures and regulations of each Party.

## Chapter 9: Temporary Movement of Natural Persons (MNP)

- The Chapter sets out commitments that facilitate a temporary entry and temporary stay of natural persons engaged in trade in goods, supply of services or conduct of investment. The attached schedules set out those commitments (such as length of stay), and any conditions and limitations governing those commitments. The Chapter comprises commitments on business visitors, intra-corporate transferees and other categories as specified in each Party's Schedule of Specific Commitments.

- This Chapter also set up rules for the Parties in granting such temporary entry and temporary stay, including for expeditious processing of complete applications and ensuring that any fees imposed are reasonable in that they do not represent an unjustifiable impediment to the temporary movement of natural persons comprised in this Chapter.

- This Chapter also covers enhanced transparency obligations, which include making publicly available explanatory materials on all relevant immigration formalities; maintaining mechanisms to respond to inquiries regarding laws and regulations affecting the temporary entry and temporary stay of natural persons, and providing avenues to further discuss cooperation to facilitate temporary entry and temporary stay.

## Chapter 10: Investment

- This Chapter aims to create **an enabling investment environment in the region, which comprises provisions covering the four pillars of investments - protection, liberalisation, promotion, and facilitation**. These provisions have improved as well as enhanced the existing ASEAN Plus One FTAs.

- This Chapter includes a most-favoured-nation treatment clause, and commitments on the prohibition of performance requirements that go beyond 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 provide for the Parties' investment commitments using the negative list approach with standstill and ratchet mechanism.

- This Chapter provides for improved investment facilitation provisions, which address investors aftercare, such as assistance in the resolution of complaints and grievances that may arise. The RCEP Agreement also includes a built-in work programme on investor-state dispute settlement provisions.

# Trade in Services and Investment

- RCEP provides a **strong platform to expand trade in services and promote investment across the region**. **High-quality rules for investment and the supply of services between the parties** were established, including obligations to provide access to foreign service suppliers (**market access**), to treat local and foreign suppliers and investors equally (**national treatment**) and to treat foreign suppliers and investors at least as well as suppliers and investors of any other non-RCEP country (**most-favoured-nation or MFN**).

- Under the provisions of RCEP, **at least 65% of services sector will open up to foreign investors**. In order to accomplish this, RCEP outlines participating countries' commitments to raise the ceiling for foreign shareholding limits in designated industries, such as **professional services, telecommunications, financial services, computer services and distribution and logistics services**. By ensuring the transparency of regulations and measures throughout the bloc, RCEP provides investors with more certainty.

- With a greater certainty and confidence for service suppliers and investors in Malaysia, RCEP helps them by locking in existing conditions, building on our existing bilateral and multilateral FTAs, and capturing future unilateral liberalisation for selected sectors.

- The commitments provided by other RCEP countries also **provide greater certainty for Malaysia's services suppliers and investors through market access commitments in a range of sectors** that will benefit Malaysia's businesses across the RCEP region.

- **Mixed Approach** - RCEP members apply mixed approach in the trade in services: (i) **Positive list approach** (list of services that will be opened-up); and (ii) **Negative list approach** (list of services that will be restricted). Countries that have **apply Positive list approach for services commitments are required to shift to a Negative list approach within six years** (or 15 years for Cambodia, Laos and Myanmar) of entry into force of the Agreement.

| Positive List | | Negative List | |
|---|---|---|---|
| • Cambodia<br>• China<br>• Laos<br>• Myanmar | • New Zealand<br>• Philippines<br>• Thailand<br>• Vietnam | • Australia<br>• Brunei<br>• Indonesia<br>• Japan | • Malaysia<br>• Singapore<br>• South Korea |

# Trade in Service: Specific Commitments

- **Financial Services** – Establish a framework of rules governing the cross-border trade in financial services among RCEP Parties. Financial services are an important service for all international trade and investment. Malaysia has exported RM2.7 billion worth of financial services in 2020, an increasing pace of 14.9% pa from RM1.3 billion in 2015. However, the contribution of exports of financial services is still relatively small compared to overall exports of services in Malaysia (average 1.6% of total in 2015-2020).

- **Telecommunications Services –** Set out regulatory disciplines to underpin effective market access and competitive markets in telecommunications services in the RCEP area. Better connectivity helps to facilitate services delivery and electronic commerce as well as enables more inclusive participation in global trade. Telecommunications services have seen a windfall opportunity throughout the year 2020, thanks to the COVID-19 pandemic. The services were teleworking, video streaming, cloud computing and other digital services. Exports of telecommunication services increased by 6.6% pa from RM2.2 billion in 2015 to RM2.9 billion in 2019 and further by 24.7% to RM3.6 billion in 2020.

- **Professional Services** – Encourage professional bodies to establish dialogue on mutual recognition of qualifications, licensing and registration between RCEP Parties. Meanwhile, this annex also requires the transparency of standards and criteria for licensing and certification in professional services regimes. Exports of professional services in Malaysia were not categorized in accordance to RCEP Schedule.

## Trade in services among RCEP members

| Country | Trade in Services (% of GDP) | Country | Trade in Services (% of GDP) |
|---|---|---|---|
| Singapore | 113.6 | Vietnam | 13.6 |
| Cambodia | 34.6 | Laos | 13.3 |
| Thailand | 25.4 | Myanmar | 13.0 |
| Malaysia | 23.2 | Australia | 10.2 |
| Philippines | 18.4 | Japan | 8.5 |
| Brunei | 18.0 | Indonesia | 6.3 |
| New Zealand | 15.8 | China | 5.3 |
| South Korea | 14.2 | | |

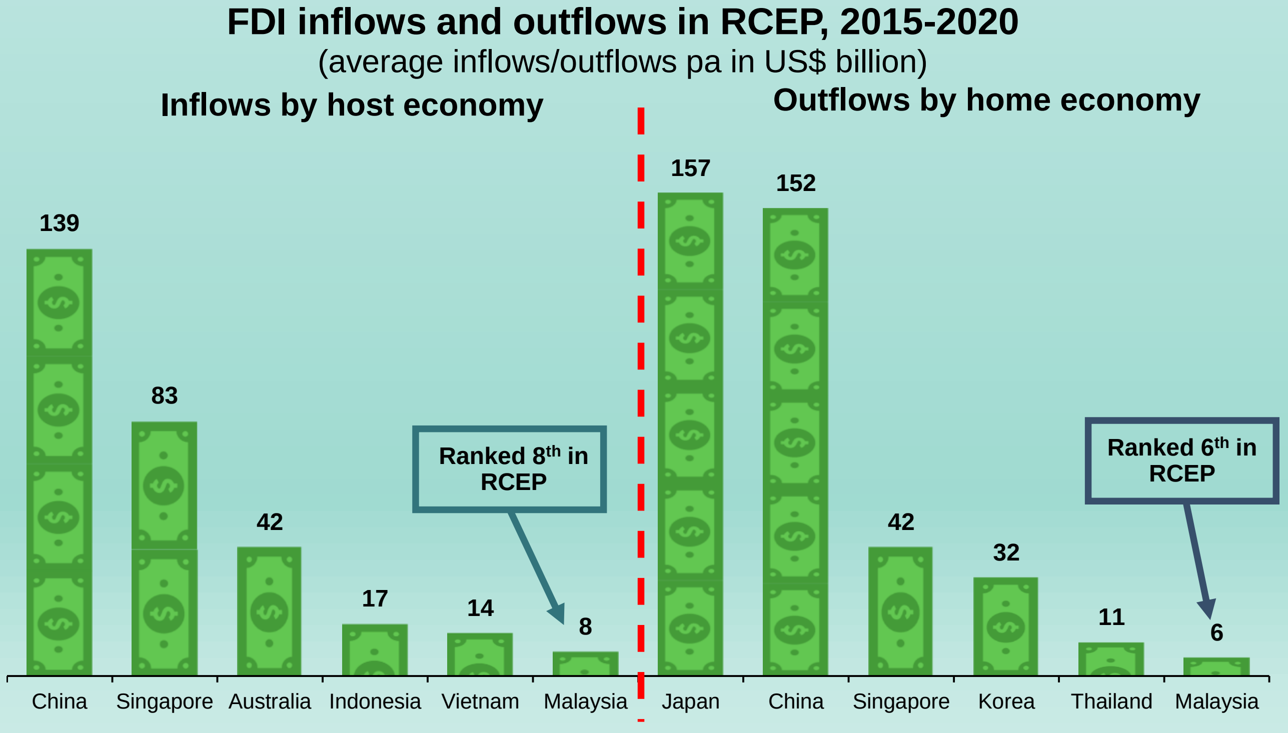
*Source: World Bank*

# Investment

- **RCEP region is a major global foreign direct investment (FDI) destination**, accounted for 23.6% of global FDI in 2019 and 32.9% in 2020. Growing annual FDI inflows have accumulated FDI stock in the RCEP region **from US$2.7 trillion in 2010 to US$5.7 trillion in 2019**, an average growth rate of 9.0% pa. This was mainly contributed by **continued strong inflows into China and ASEAN**. **FDI in the RCEP region has declined by 9.5% in 2020** as the COVID-19 pandemic has caused sever economic recession, the slump in global demand and affected the outward FDI from major advanced economies.

- In 2020, **China, Singapore, Australia, Indonesia and Vietnam** were the **top five countries** that accounted for **84% of FDI inflows in RCEP over the last six years (2015-2020).** In terms of inward FDI stock in 2020, **China, Singapore, Australia, Thailand and Korea** together have **accounted for 82.0% of existing investment** in the RCEP region.

- In terms of FDI outflows, the **RCEP region accounted for 47.5% of global FDI outflows in 2020**. The rise in outflows has pushed higher outward FDI stock of the RCEP region from US$2.4 trillion in 2010 to US$7.2 trillion in 2020. **Japan, China, Singapore and Korea** were the major sources of investment in the RCEP region in 2020.




*Source: UNCTAD*
*Note: RCEP FDI outflows data excluded Brunei, Lao and Myanmar due to data unavailable*

# RCEP Region: A Favourite Investment Destination

## RCEP FDI Inflows

**US$329.1 billion (32.9% of total)**

### Top 5 in 15th RCEP members

**China**

US$149.3 billion (15.0%)

**Singapore**

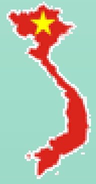
US$90.6 billion (9.1%)

**Australia**

US$20.1 billion (2.0%)

**Indonesia**

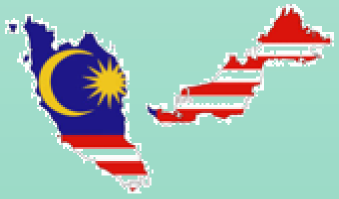
US$18.6 billion (1.9%)



**Vietnam**

US$15.8 billion (1.6%)

**Ranked 11th in RCEP**



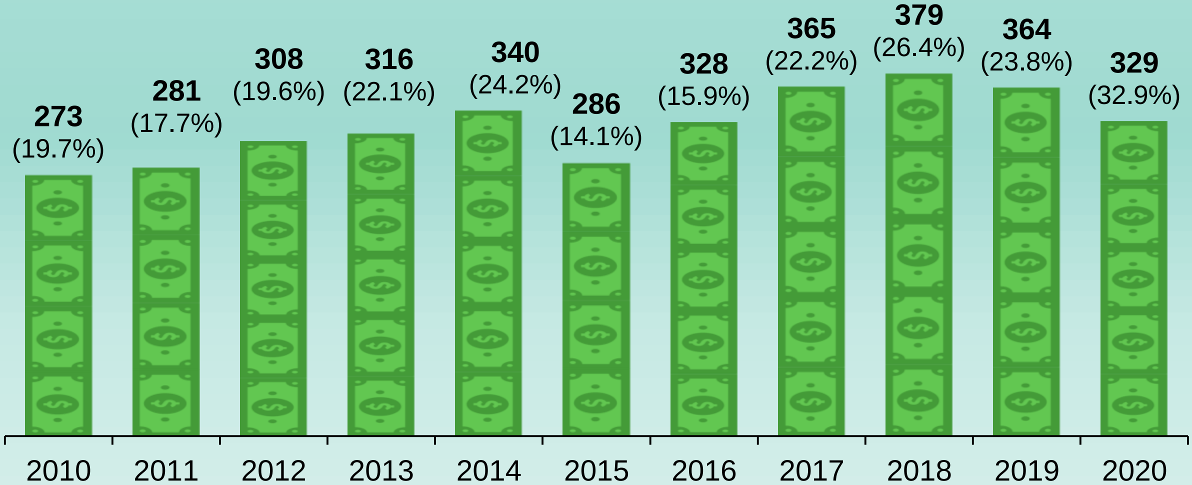
**Malaysia**

US$3.5 billion (0.3%)

*Note: Data as at 2020; Figure in parenthesis indicates % share to total global FDI flows*

## FDI inflows to RCEP members, 2010-2020

(cumulative inflows in US$ billion)




*Note: Figure in parenthesis indicates % share to total global FDI flows*
*Source: UNCTAD;*

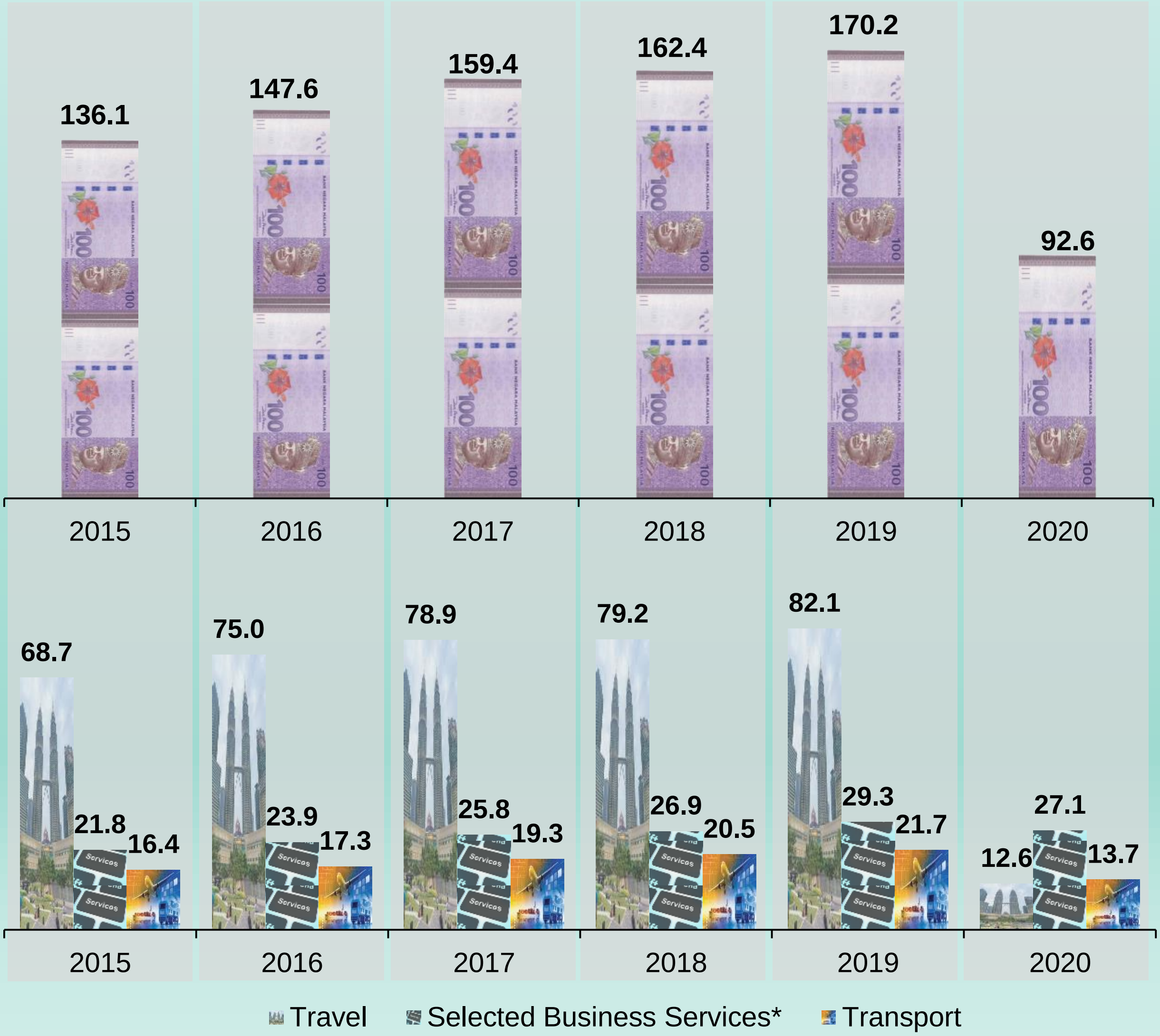
# Malaysia’s Trade in Services - Exports

- **Services sector** accounts for the largest share (57.7% in 2020) of Malaysia’s Gross Domestic Product (GDP).

- In 2019, **Malaysia’s exports of services reached a record high of RM170.2 billion**, boosted by favourable performances in broad-based services components, particularly travel and business services.

- However, exports of services **fell substantially by 45.6% to RM92.6 billion in 2020**, caused by the COVID-19 pandemic’s massive disruptions in travel, transport and education services. The main supports to services came from telecommunications, computer and information services.

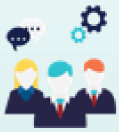
**Malaysia’s exports of services by key components**
(RM billion)




** Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*
*Source: DOSM*

# Malaysia's Trade in Services – Exports (cont.)

## Export of services by selected components



**Selected business services***

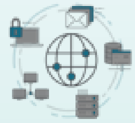
2019: RM29.3bn (17.2%)

2020: RM27.1bn (29.2%)

**Transport**

2019: RM21.7bn (12.8%)

2020: RM13.7bn (14.7%)



**Telecommunications, computer and information services**

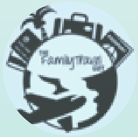
2019: RM12.4bn (7.3%)

2020: RM13.4bn (14.5%)

**Manufacturing services on physical inputs owned by others**

2019: RM11.9bn (7.0%)

2020: RM12.8bn (13.8%)



**Travel**

2019: RM82.1bn (48.3%)

2020: RM16.6bn (13.6%)

**Financial services**

2019: RM2.6bn (1.5%)

2020: RM2.7bn (2.9%)

**Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*

## Selected major trading partners

**United States**

2019: RM23.1bn (13.6%)

2020: RM24.8bn (26.8%)

**Singapore – *RCEP***

2019: RM41.0bn (24.1%)

2020: RM18.9bn (20.4%)

**United Kingdom**

2019: RM7.3bn (4.3%)

2020: RM5.9bn (6.4%)

**China – *RCEP***

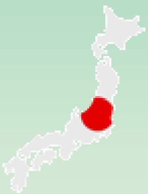
2019: RM17.8bn (10.4%)

2020: RM4.4bn (4.8%)

**Indonesia – *RCEP***

2019: RM14.8bn (8.7%)

2020: RM3.7bn (4.0%)



**Japan – *RCEP***

2019: RM5.2bn (3.1%)

2020: RM3.1bn (3.3%)

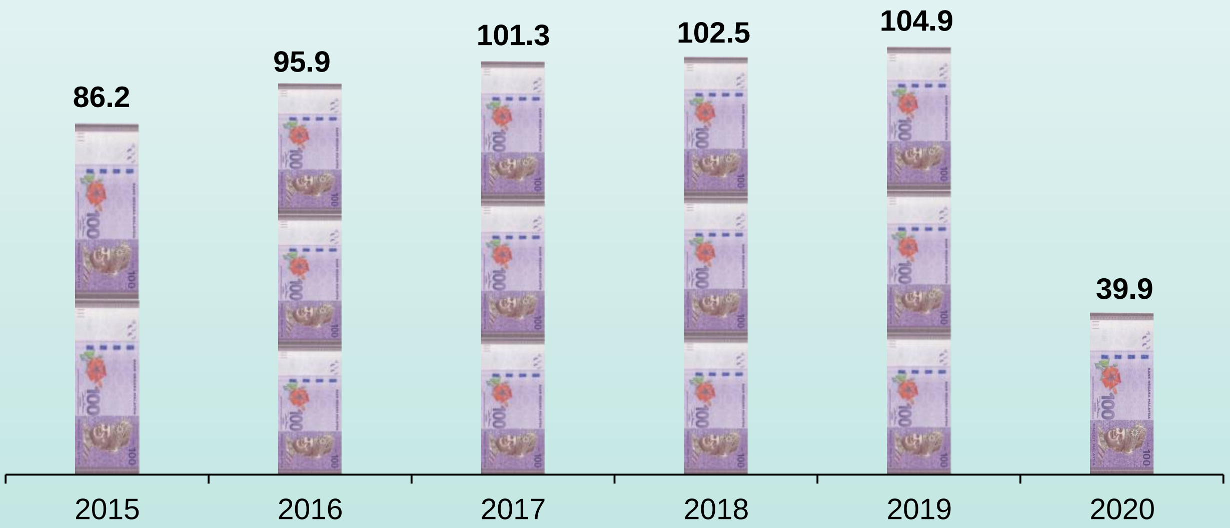
*Note: Figure in parenthesis indicates share of total export of services*

*Source: DOSM*

# Malaysia's Trade in Services with RCEP Partners

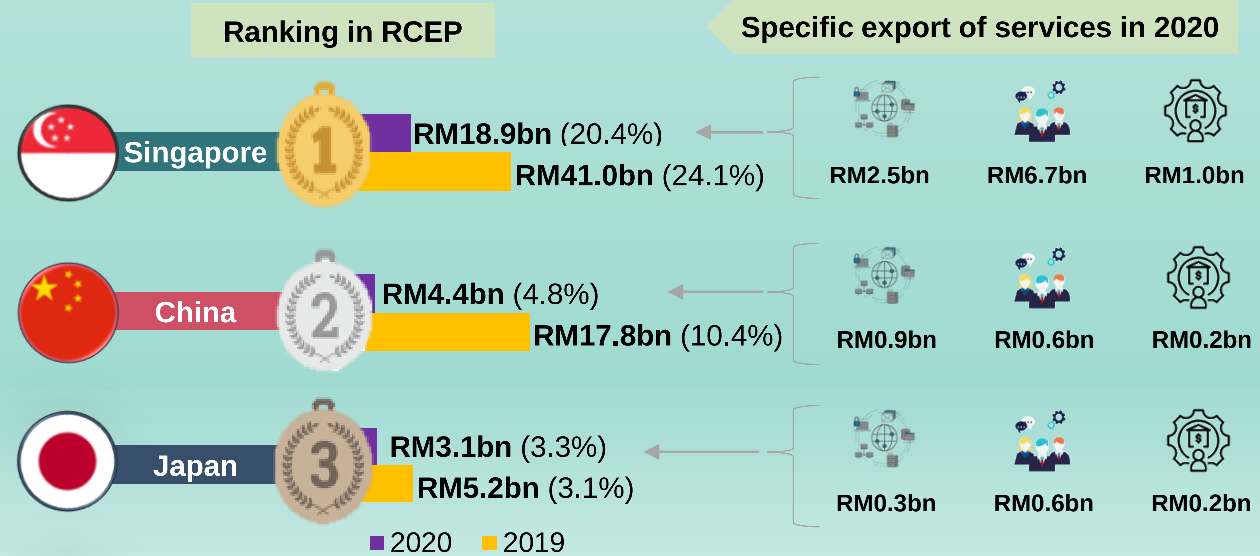
## Export of services to RCEP Partners

**Malaysia's Exports of Services to RCEP members (2015-2020)**
(RM billion)




## Major trading partners in RCEP

- **Singapore, which has been the leading market for Malaysia's export of services in 2010-2019, relegated to second place** with RM18.9 billion in 2020 (2019: RM41.0 billion), pulled down by decline in travel services. This was followed by China and Japan in 2020.




**Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*
*#Other services includes Maintenance & repair services, Insurance & pension services, Financial services and Charges for the use of intellectual property*
*Note: Figure in parenthesis indicates share of total export of services*
*Source: DOSM*

**Telecommunications, computer and information Services**

**Selected business services***

**Other services#**

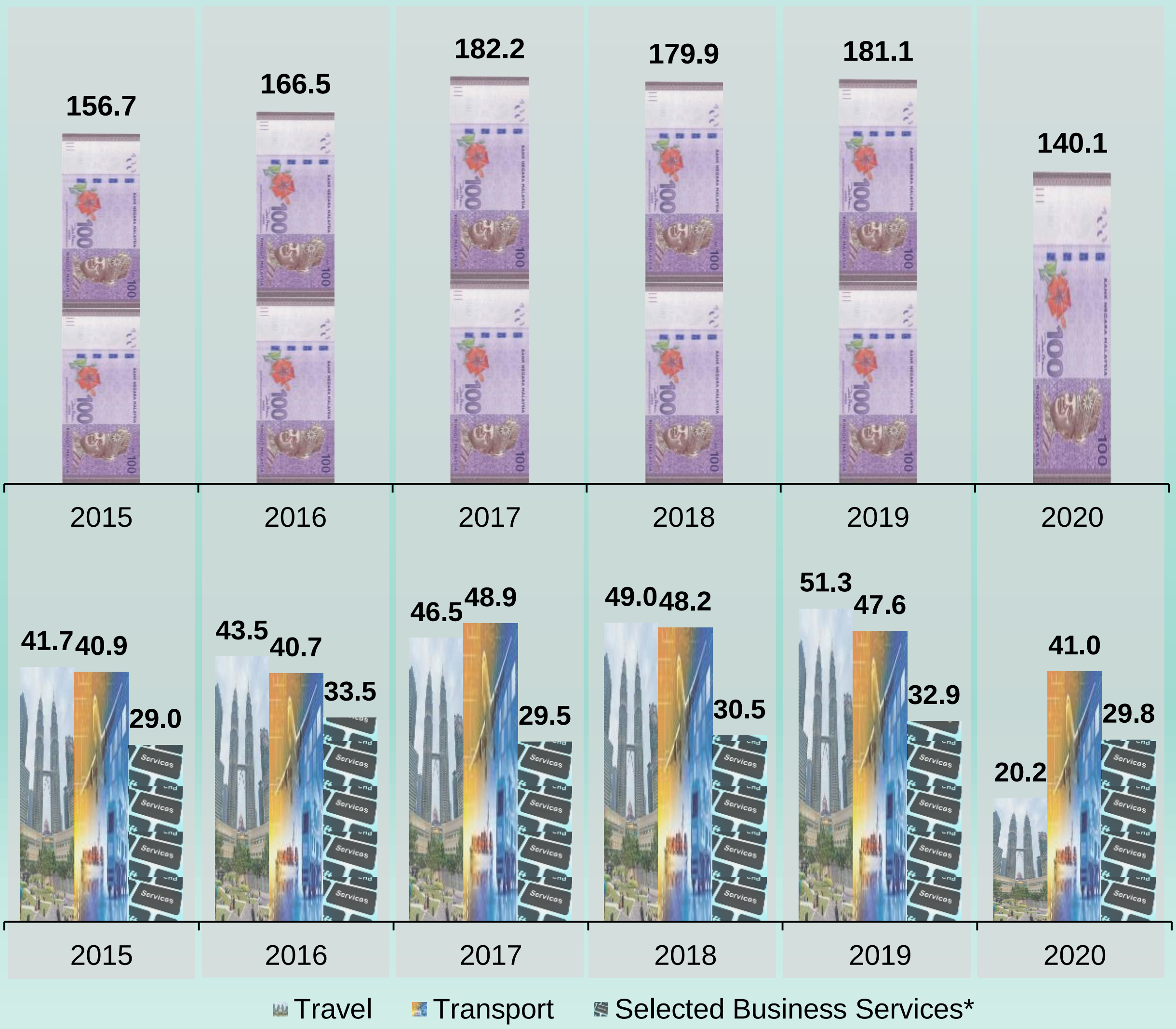
# Malaysia's Trade in Services - Imports

- **Malaysia is a net importer of services** rendered by foreign service providers as reflected in incurring persistent years of **deficits in services current account since 1947**, except for the period 2007-2011.

- Malaysia's **imports of services increased marginally from RM179.9 billion to RM180.7 billion in 2019,** boosted by the outbound activities and other business services.

- Due to the COVID pandemic, **imports of services declined substantially by 22.6% to RM140.1 billion in 2020 from RM181.1 billion in 2019**, which was smaller relative to the decline in exports of services (-45.6% to RM92.6 billion in 2020). **Transport services have contributed largely to the decline in import of services in 2020**, due to massive travel disruptions and decline in other business services.

**Malaysia's imports of services by key components**
(RM billion)

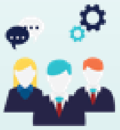



** Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*
*Source: DOSM*

# Malaysia's Trade in Services - Imports (cont.)

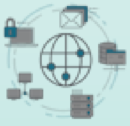
## Import of services by selected components

**Transport**
2019: RM47.6bn (26.3%)
2020: RM41.0bn (29.3%)



**Selected business services***
2019: RM32.9bn (18.2%)
2020: RM29.8bn (21.3%)


**Travel**
2019: RM51.3bn (28.3%)
2020: RM20.2bn (14.4%)



**Telecommunications, computer and information services**
2019: RM14.6bn (8.1%)
2020: RM16.8bn (12.0%)

**Charges for the use of intellectual property**
2019: RM11.9bn (7.0%)
2020: RM12.8bn (13.8%)


**Financial services**
2019: RM2.8bn (1.5%)
2020: RM2.5bn (1.8%)

**Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*

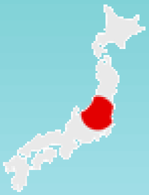
## Selected major trading partners

**United States**
2019: RM23.1bn (12.8%)
2020: RM31.5bn (22.5%)

**Singapore – *RCEP***
2019: RM38.6bn (21.3%)
2020: RM23.4bn (16.7%)

**China – *RCEP***
2019: RM23.0bn (12.7%)
2020: RM12.8bn (9.2%)

**United Kingdom**
2019: RM10.5bn (5.8%)
2020: RM8.6bn (6.1%)



**Japan – *RCEP***
2019: RM8.3bn (4.6%)
2020: RM7.5bn (5.4%)

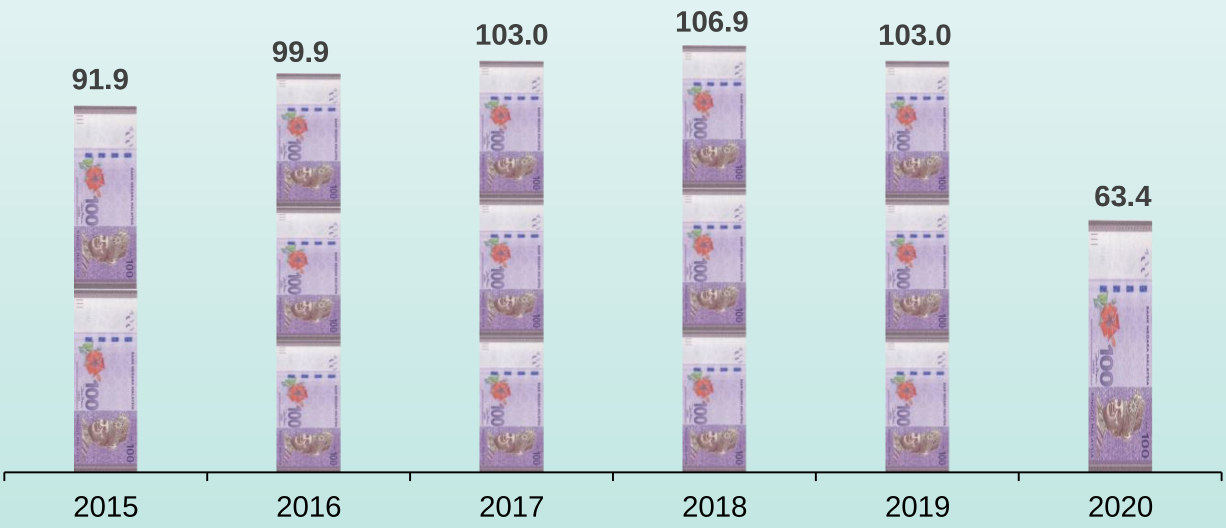
**Hong Kong**
2019: RM5.7bn (3.1%)
2020: RM6.2bn (4.5%)

*Note: Figure in parenthesis indicates share of total import of services*
*Source: DOSM*

# Malaysia's Trade in Services with RCEP Partners

## Import of services to RCEP Partners

**Malaysia's imports of Services from RCEP members (2015-2020)**
(RM billion)




## Major trading partners in RCEP

- In 2020, Malaysia's imports of services from major trading partners countries (RCEP members) were Singapore, China and Japan. **Singapore was relegated to second place** with RM23.4 billion in 2020 from RM38.9 billion in 2019 **due to massive travel disruptions.**

**Ranking in RCEP**

**Specific import of services in 2020**

Singapore 1
**RM23.4bn** (16.7%)
**RM38.9bn** (21.3%)
**RM5.0bn** **RM5.7bn** **RM2.6bn**

China 2
**RM12.8bn** (9.2%)
**RM23.0bn** (12.7%)
**RM0.3bn** **RM1.9bn** **RM1.7bn**

Japan 3
**RM7.5bn** (5.4%)
**RM8.3bn** (4.6%)
**RM0.3bn** **RM1.3bn** **RM2.5bn**

■ 2020 ■ 2019

**Selected business services comprises of research and development services, professional and management consulting services, and technical, trade-related and other business services.*
*#Other services includes Maintenance & repair services, Insurance & pension services, Financial services and Charges for the use of intellectual property*
*Note: Figure in parenthesis indicates share of total import of services*
*Source: DOSM*

**Telecommunications, computer and information Services**

**Selected business services***

**Other services#**

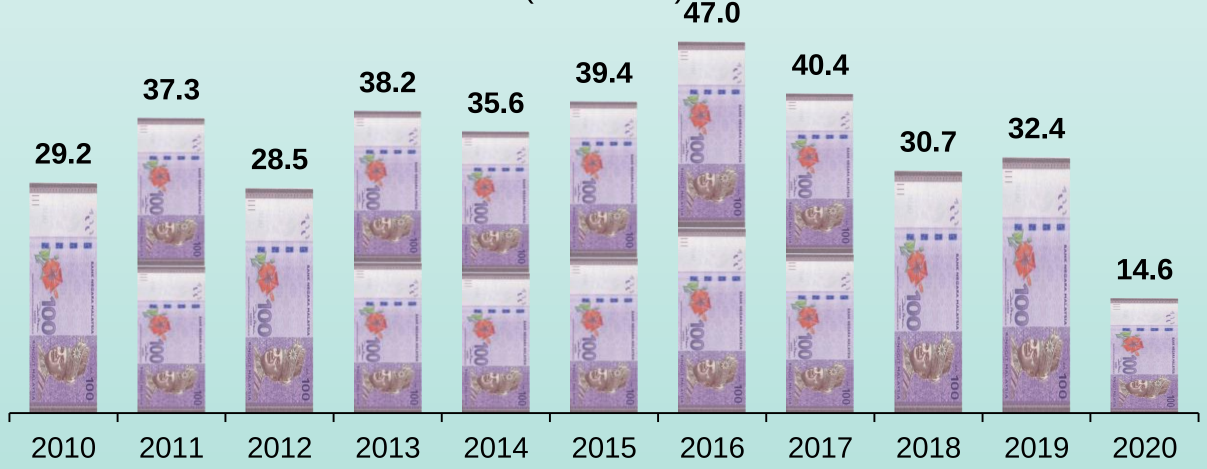
# Malaysia's Investment Track

## FDI inflows

**In 2020, Malaysia attracted FDI inflows of RM14.6 billion.**

**Services and Manufacturing sectors (RM6.9 billion)** were the main contributors of FDI inflows in 2020, contributing a combine share of 47% of total investment.

**Net Inflows into Malaysia**
(RM billion)

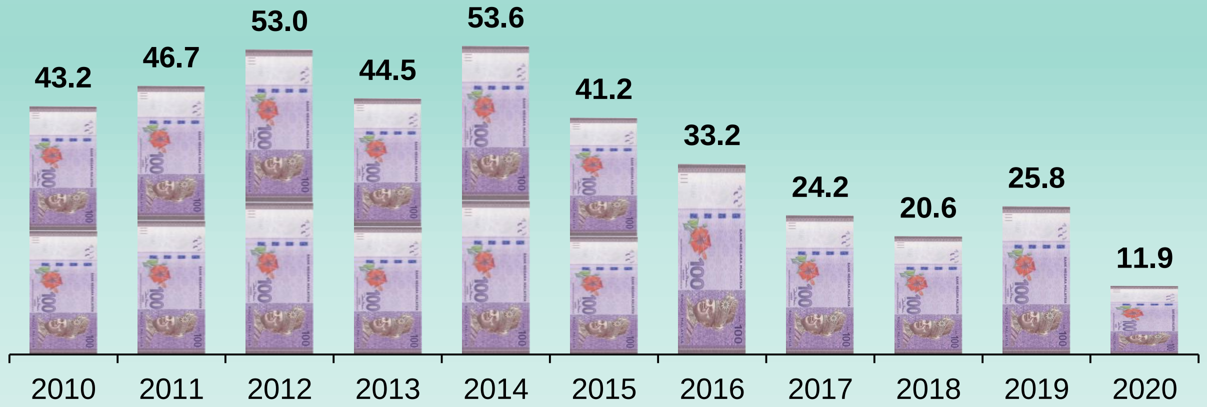



## DIA outflows

**In 2020, Malaysia registered DIA outflows of RM11.9 billion.**

**Services (RM6.4 billion) remained a prominent sector of DIA flows** in 2020, contributing 54% of total investment.

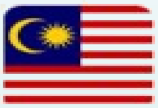
**Net Outflows from Malaysia**
(RM billion)




*FDI = Foreign direct investment; DIA = Direct investment abroad*
*Source: DOSM*

# Investment Relations between Malaysia and RCEP

## FDI inflows

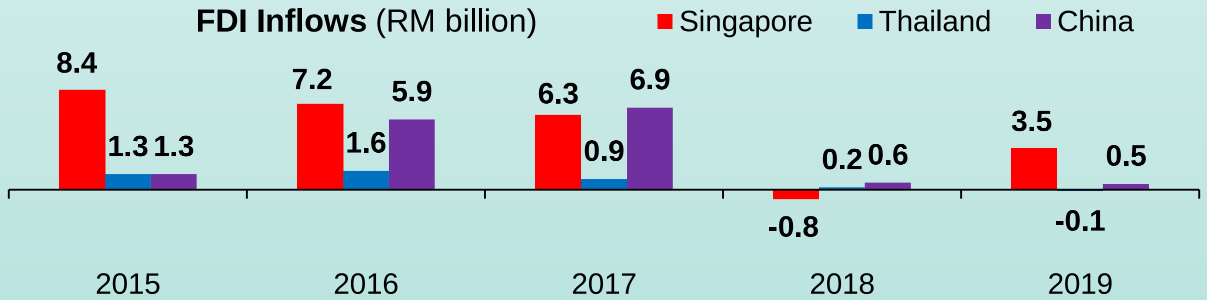


### Top 3 Investors of Net FDI Flows (2020)

**Singapore**
2019: RM3.5bn (10.9%)
2020: RM5.7bn (38.6%)

**Thailand**
2019: -RM0.1bn (-0.3%)
2020: RM3.2bn (21.8%)

**China**
2019: RM0.5bn (1.5%)
2020: RM2.6bn (17.8%)

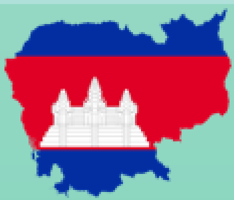



## DIA outflows

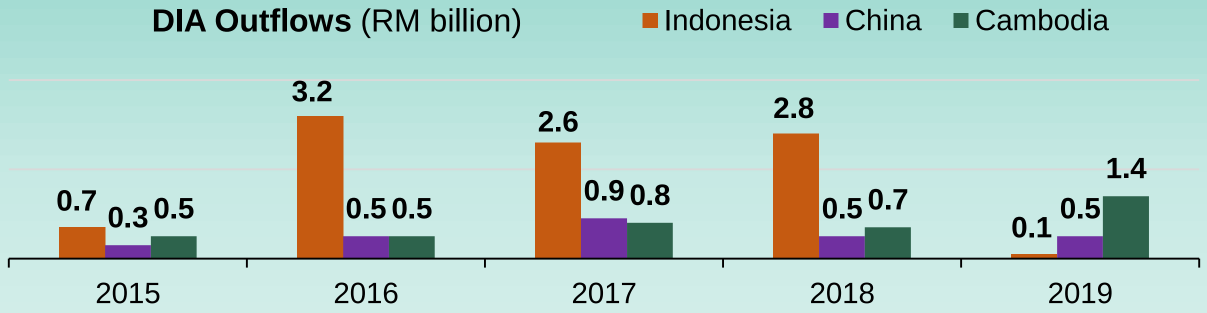
### Net DIA flows by main destination: RCEP partners (2020)

**Indonesia**
2019: RM0.05bn (0.2%)
2020: RM3.2bn (26.8%)

**China**
2019: RM0.5bn (1.9%)
2020: RM1.2bn (10.2%)



**Cambodia**
2019: RM1.4bn (5.5%)
2020: RM1.0bn (8.1%)




*Note: Figure in parenthesis indicates % share to total FDI /DIA flows*
*Source: DOSM*

# RCEP's Benefits to Malaysia

## Inject Investment Impetus and Competitiveness

- While the liberalization promotes cross-borders' services and investment flows in the RCEP region, it stirs stiff competition in all aspects of the respective country in attracting more inflows of investment.

- The Government needs to enhance the country's investment climate and ease cost of doing business while local companies manufacture high-quality and innovative products or services in order to stay relevant in the marketplace.

## Joint Venture Opportunities

- Foreign investors investing in Malaysia tend to source parts and raw materials from local companies due to the logistic concerns and familiarization. Therefore, Malaysian companies could benefit through either joint ventures or being integrated into part of the supply chains.

- A wider outreach of customers and suppliers, especially in China, Japan and South Korea — three of the four largest economies in Asia will increase opportunities for local companies to tap on.

- It is expected that strategic collaboration and joint ventures will promote the transfer of technology and technical know-how that could benefit local companies through increasing efficiency, productivity and competitiveness.

## Create High Skilled Jobs

- The expansion of quality investment and services not only help to improve the level of technology and quality of manpower through providing better training and spillovers for local workers also encourages the creation of high income jobs.

- Throughout the period 2017-2020, Malaysia's 14 RCEP partners had invested a total RM104.6 billion (54.9% of total approved investment) in the manufacturing projects in Malaysia, generating more than 90,000 job opportunities. This goes to show that more investment and employment opportunities ahead if Malaysia sustains its competitive landscape.

# RCEP's Benefits to Malaysia (cont.)

## Mechanism for Future Liberalization

- The RCEP services chapter has included a most-favoured nation (MFN) provision treatment. This means that the Malaysian service suppliers will automatically receive the benefits of any additional liberalization that RCEP members might provide to other countries in the future agreements.

- The RCEP also includes a "ratchet-mechanism" in which RCEP members commit to automatically extend the benefits of any future autonomous liberalization to all other RCEP members. This mechanism future-proofs the RCEP agreement and ensures that its commitments are up-to-date and commercially meaningful.

## Facilitate Freer Business People Mobility

- Business persons mobility across-borders is an integral feature of a modern business world. Hence, it is a crucial contributor to the growth of commercial relationships.

- When travelling across the RCEP region for business and investment prospecting, Malaysia's business persons will benefit from the enhanced certainty on entry and the length of stay, reduced barriers to people (manpower) mobility, and the preferential temporary entry arrangements under RCEP.

- Malaysia will benefit through permitting a higher number of Malaysian business persons to enter and work in the RCEP markets such as intra-corporate transferees, contractual service suppliers and business visitors.

# RCEP's Benefits to Malaysia (cont.)

## Certainty and Transparency

- As all RCEP members are required to administer streamlined and transparent procedures for temporary entry applications, it helps to assist individuals and businesses exploring and taking up commercial opportunities offered through RCEP.

- These commitments are expected to provide certainty, improve policy transparency, and reasonable cost for those making informed investment decision and undertaking commercial ventures in the RCEP region. Facilitating the movement of people will ensure that Malaysians are able to make the most of the trade and investment commitments under RCEP.

## Expand Malaysia's International Trade in Services

- The services commitments under RCEP are of particular interest to Malaysian companies as Malaysia progresses towards the advancement of services-led growth economy.

- Growth in the trade of services sector would get a big acceleration. According to McKinsey, trade in services is growing by 60% faster than the trade in goods and Asia's services trade is growing 1.7 times faster than the rest of the world.

- RCEP will make it easier for the Malaysian service exporters to understand what export opportunities exist throughout the region and provides certainty that these opportunities will remain in place.

- RCEP will reduce the confusion and lack of transparency created by numerous FTAs concurrently existing between RCEP members.

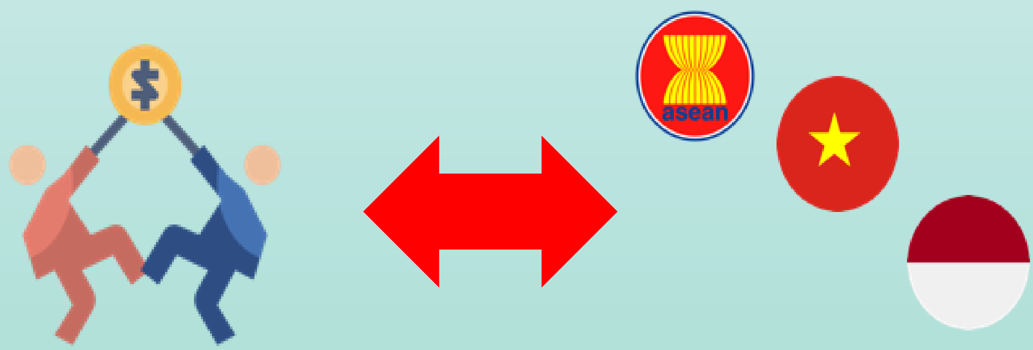
- Provide opportunities to foreign and domestic companies to position Malaysia as their regional hub for global trade and services.

## Scale Up Competition

- With market barriers easing with greater liberalisation, it also means that **significant investment opportunities will flow out from more developed RCEP member countries to less developed RCEP member countries, including Malaysia.**

- While significant increases in investment opportunities will boost Malaysia's economy, **the competition between RCEP members also increases** as countries race to up the ante in enticing more investments.

- Malaysia's industries and businesses in consumer products, wood products and furniture, wearing apparels, and food products are expected to **face intense competition from China, and ASEAN countries, especially Vietnam and Indonesia.**




- **Vietnam** is a strong rival in ASEAN as its has a relatively stable government, cheap labour cost as well as very attractive investment incentives. These pull factors create lower-cost destination that attracts most investment, especially during the US-China trade tension.

- **Indonesia** has passed the Omnibus law in 2020, which is aimed to strengthen Indonesia's economy by increasing competitiveness, creating jobs and improving the overall ease of doing business, particularly for foreign investors.

## Limitations in the Agreement\

- **RCEP’s data provisions are more limited than other FTA agreements**. While RCEP prohibits members from requiring the localization of data as a requirement for doing business, it does not include broader provisions to guarantee freedom of cross-border data flows or a prohibition on localization requirements, unlike the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

- Despite RCEP is expected to boost trade in services in the regional markets, RCEP members might face challenges as the mixed approach and incomplete coverage could make it unclear to what extent and when the trade in services will be more liberalized later, as there are eight members are currently applying positive list approach.

- Even though when five of them (China, New Zealand, Philippines, Thailand, and Vietnam) will shift to negative list approach in six years time (Cambodia, Laos and Myanmar are allowed for 15 years) upon entry into force, there are no specific restrictions on the degree of the negative list. For example, Schedules of Reservations and Non-Conforming Measures for Services and Investment for Indonesia has a combined 170 pages currently.

- **Investor-State Dispute Settlement (ISDS)** is a dispute resolution mechanism that allows investors to pursue remedies directly against governments concerning breaches of investment provisions. However, **RCEP does not include an ISDS mechanism**.

- The RCEP also removes the capacity for investors’ attempting to access ISDS in other investment agreements through the RCEP's MFN clause. Nevertheless, the Agreement has the provision for the RCEP Parties to discuss the exclusion of ISDS within two years from entry into force, and three years from the date of commencement of the discussions, but any changes require consensus of all RCEP members.

# Recommendations

## Create Conducive Investment Climate

- **Political stability and credible macroeconomic management, creating a conducive investment climate and the implementation of good governance** are important prerequisites for attracting more investments into Malaysia.

- To attract investment, Malaysia must **ensure the implementation of transparent and stable, inclusive and efficient policies as well as good regulatory practices** to minimize uncertainty, unclear guidelines and rules, which matter to businesses and also the confidence of investors.

## Competitive Corporate Tax Rate

- To increase Malaysia's cost and tax competitiveness, it is **recommended that to lower Malaysia's corporate tax rate by 2% points for both large corporations (from 24% to 22%) and SMEs (to 15%) in YA 2022 and another 2% points in YA 2023.** Malaysia's current corporate tax rate (24%) is the second-highest in ASEAN-6 countries, followed by Indonesia (22%; will reduce to 20% in 2022), Thailand (20%), Vietnam (20%) and Singapore (17%).

## Business Regulatory Impact Assessment

- Businesses should **perform a self-assessment analysis to determine the benefits derived and challenges faced from the RCEP agreement before RCEP coming into effect**. For all RCEP members, there are many pre-existing FTAs and other trade agreements currently available for businesses that can be accessed to and may already have the benefits offered by RCEP. Hence, **this must be taken into consideration when assessing the impact of RCEP to ensure enjoying the fullest benefits from the agreement.**

- By comparing the benefits between existing FTAs and RCEP, this **allow companies and investors to develop an optimal trade and investment strategy to grow their business.**

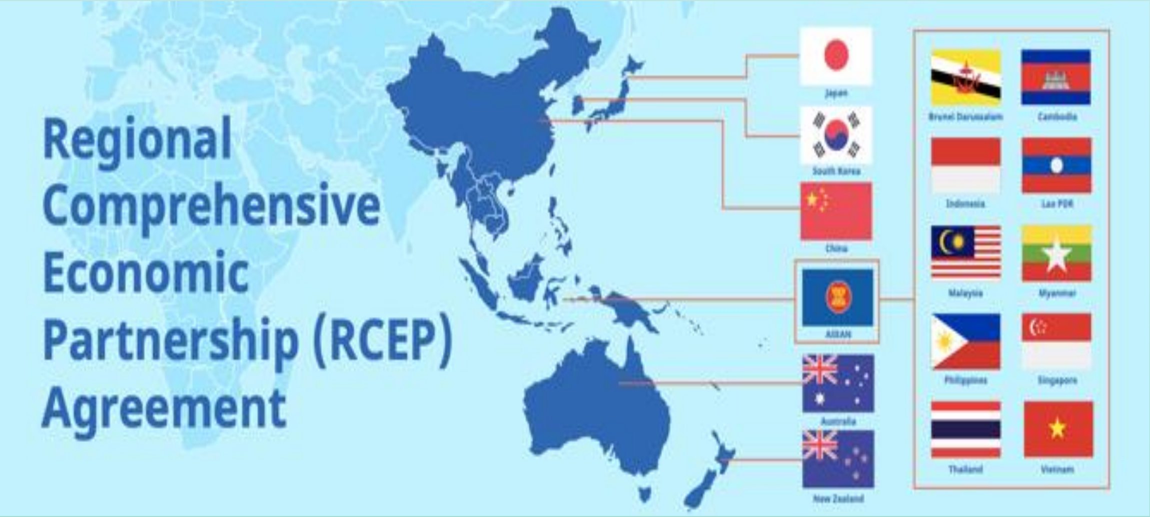
# Conclusion

- With the market liberalization in RCEP, **it provides a strong platform to expand trade in services and investment in the RCEP region.**

- New services market access commitments provided by some RCEP Parties go beyond the existing FTAs. These provisions will provide greater market access into several RCEP markets, and more certainty around the trade in services within the region.

- **RCEP would compel the RCEP members to improve their investment and business environment regime owing to their peers' pressures.** The provisions and commitments will shelter Malaysia's investors investing in the RCEP region against the discrimination (compared with domestic or other foreign investors) and also will enhance their ability to retain control of their investment.

- **RCEP will support the business people mobility across the region.** Cross-border freer movement of business people is critical to support the growth of business relationships and commercial cooperation.



# Appendix

**Legal text of the RCEP Agreement and respective Annexes under Chapter 8, 9, and 10:**

**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)

**Annex II – Schedules of Specific Commitments for Services**

- Cambodia
- Laos
- Myanmar
- Philippines
- Thailand
- Vietnam
- China
- New Zealand

**Annex III – Schedules of Reservations and Non-Conforming Measures for Services and Investment**

- Brunei (Services & Investment)
- Cambodia (Investment)
- Indonesia (Services)
- Indonesia (Investment)
- Laos (Investment)
- Malaysia (Services & Investment)
- Myanmar (Investment)
- Philippines (Investment)
- Singapore (Services & Investment)
- Thailand (Investment)
- Vietnam (Investment)
- Australia (Services & Investment)
- China (Investment)
- Japan (Services & Investment)
- Korea (Services & Investment)
- New Zealand (Investment)

**Annex IV – Schedules of Specific Commitments on Temporary Movement of Natural Persons**

- Brunei
- Cambodia
- Indonesia
- Laos
- Malaysia
- Myanmar
- Philippines
- Singapore
- Thailand
- Vietnam
- Australia
- China
- Japan
- South Korea
- New Zealand

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