Procedures for Accession to the Regional Comprehensive Economic Partnership (RCEP) Agreement

These Procedures for Accession to the Regional Comprehensive Economic Partnership (RCEP) Agreement (hereinafter referred to as the "Procedures") are made in line with paragraph 5 of Article 20.9 (Accession) of the RCEP Agreement.

Any decision on an accession process will be made by consensus in line with paragraph 2 of Article 18.1, paragraph 1 of Article 18.4, and paragraph (c) of Article 18.7 of the RCEP Agreement.

1. Request for accession

1.1. The applicant will submit its formal request to accede to the RCEP Agreement in writing to the Depositary.

1.2. The Depositary will acknowledge the receipt of the request for accession to the RCEP Agreement and promptly notify the applicant and the signatory States and RCEP Parties of such request.

2. Consideration of the request for accession

2.1. After the notification of the request for accession by the Depositary, the RCEP Joint Committee (RJC) will discuss and decide, by consensus, whether to recommend to the RCEP Ministers to commence the accession process with the applicant.

2.2. RCEP Parties may have consultations with an applicant, with a view to addressing questions or concerns in the interested areas. These consultations will not constitute a negotiation process.

2.3. For the consideration of each RCEP Party, the applicant must demonstrate:

a) its readiness and means to comply with all provisions and existing rules contained in the RCEP Agreement; and

b) its readiness to deliver commercially meaningful market access consistent with the ambitions of RCEP Parties.

2.4. The RJC will submit its recommendation to the RCEP Ministers on the commencement of the accession process for their consideration. The RCEP Ministers will decide on whether to approve the RJC recommendation within a reasonable period of time.

2.5. The RJC recommendation will include a report, as applicable:

a) whether to establish an *ad hoc* Accession Working Group (AWG) which will deal with accession request(s);

b) whether to establish a special AWG for the accession of India or a new ASEAN Member State; and/or

c) whether to negotiate the accession of India or a new ASEAN Member State in parallel with any on-going accession negotiations.

2.6. If the RJC is unable to decide whether to make a recommendation to the RCEP Ministers, the RJC will decide, based on consensus, whether to elevate the request to the RCEP Ministers for their consideration and decision.

2.7. For greater clarity and in line with the Ministers' Declaration on India's Participation in the RCEP on 11th November 2020, an accession request submitted in writing to the Depositary by India or a new AMS will be deemed to be approved by the RJC and the RCEP Ministers and the accession process can be commenced under the terms specified in paragraph 2.5.

3. Accession process

3.1. If the RCEP Ministers decide, based on the recommendation by the RJC, to commence the accession process, the RJC will establish an AWG to undertake the accession negotiations.

3.2. The AWG is deemed to be a subsidiary body for the purposes of paragraph 3 of Article 18.6 of the RCEP Agreement.

3.3. The RJC will finalise the Terms of Reference (TOR) of the AWG before making a recommendation to the RCEP Ministers to commence the accession process. The TOR should include the operation of the AWG and details of the accession process, including the submission of the applicant's market access offers and subsequent negotiations thereafter. In principle there will be only one TOR that will be applied horizontally to all accession process. However, if necessary, the RJC may consider by consensus the incorporation of tailored elements into the TOR for individual applicant.

3.4. The TOR will be subsidiary to these Accession Procedures (which will prevail to the extent of any inconsistency with the TOR) and may be modified by the RJC.

3.5. The AWG will undertake the accession negotiations in line with the TOR of the AWG.

3.6. The applicant will have to demonstrate at the AWG its readiness to comply with all the provisions and the existing rules contained in the RCEP Agreement, including to amend its domestic laws and regulations, if necessary. The AWG may invite the applicant, if necessary, to respond to questions put forward by the AWG.

3.7. The applicant must undertake to deliver commercially meaningful market access in all areas for each RCEP Party in a well-balanced outcome that strengthens the mutually beneficial linkages among the applicant and the RCEP Parties.

3.8. Upon the completion of the accession negotiations, the AWG will submit a written report (AWG Report), which must be decided by consensus to the RJC.

4. Approval of accession and entry into force

4.1. The RJC will consider the AWG Report and decide whether to submit the AWG Report to the RCEP Ministers for approval.

4.2. If the RCEP Ministers approve by consensus the accession to the RCEP Agreement by the applicant, the Co-Chairs of the RCEP Ministers' Meeting will notify the applicant of the RCEP Parties' decision. The RCEP Parties and the applicant will draft and sign a legal instrument on the terms and conditions of the accession of the applicant. The Co-Chairs will also notify the period of time within which the applicant will deposit its instrument of accession to the Depositary as specified in the legal instrument on the terms and conditions.

4.3. The applicant will deposit its instrument of accession with the Depositary after completing its applicable legal procedures for conclusion (ratification, acceptance, or approval). Following the deposit of the instrument of accession by the applicant, the Depositary will promptly notify all RCEP Parties of such deposit.

4.4. All the RCEP Parties will notify the Depositary of the completion of their respective applicable legal procedures for concluding the legal instrument on the terms and conditions of the accession of the applicant to the RCEP Agreement signed by the applicant and all the RCEP Parties. Following the receipt of such notification, the Depositary will promptly notify all the other RCEP Parties of such notification.

4.5. In line with paragraph 4 of Article 20.9 (Accession) of the RCEP Agreement, the applicant will become a Party to the RCEP Agreement either:

a) 60 days after the date on which it deposits an instrument of accession with the Depositary indicating it accepts the terms and conditions; or

b) on the date on which all the RCEP Parties have notified the Depositary that they have completed their respective applicable legal procedures, whichever is later.

4.6. The Depositary will notify the RCEP Parties and the applicant of the date on which the latter becomes a Party to the RCEP Agreement.

5. Final Provisions

5.1. The Procedures will come into operation upon the adoption of the RJC.

5.2. In the event of any inconsistency between the Procedures and the RCEP Agreement, the latter will prevail.

5.3. The Procedures may be modified upon the approval of the RJC.

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