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## Regional Comprehensive Economic Partnership: Issues & Challenges



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### Abstract

The RCEP is the largest FTA in the world. The Agreement, as it is currently constructed has, however, only created another option for businesses, rather than making it the FTA of choice for integration of the region. The potential of the RCEP to contribute to the growth of individual members and the region as a whole can be enhanced if several issues and challenges are adequately addressed by its members. These include deepening and accelerating tariff liberalization; improving and simplifying rules of origin (ROO); expanding and accelerating services liberalization through the adoption of a single mode of liberalization; enhancing capacity building for weaker members; effective implementation of members' commitments; and adequate creation of awareness of the benefits and opportunities of the RCEP to the stakeholders. These issues to improve the Agreement need to be considered in the early days of its enforcement through the various review provisions, and without having to undergo prolonged negotiations. The end objective of addressing the issues and challenges is to make the RCEP the preferred vehicle to invest, trade and do business in the region.

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### Introduction

The Regional Comprehensive Economic Partnership (RCEP) is a multilateral FTA comprising Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Vietnam, Australia, China, Japan, South Korea, and New Zealand. It is the largest FTA in the world, accounting for 30% of global GDP and more than a quarter of world merchandise trade. With a market size of over 2.3 billion people or 30% of the world's population, the RCEP has overtaken bigger FTAs such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the North American Free Trade Agreement (NAFTA).

The negotiations to establish the RCEP were launched at the ASEAN Summit in 2012 in Cambodia and concluded in 2020, after more than 30 rounds of negotiations. Negotiations involved all 10 ASEAN member states and the six FTA partners i.e., Australia, China, India, Japan, New Zealand and South Korea. On the eve of the conclusion of the negotiations, India, however, withdrew from the RCEP following domestic considerations.

The objective of the RCEP Agreement is to establish a modern, comprehensive, high-quality, and mutually beneficial economic partnership that will facilitate the expansion of regional trade and investment and contribute to global economic growth and development. The RCEP is an embodiment of a mini-WTO with membership comprising developed and developing countries and covering almost similar issues as the world trade body. The successful conclusion of the negotiations is an attempt at competitive liberalization to counter larger free trade groupings like the CPTPP, NAFTA and the European Union. It is a resolve by the participating countries to liberalize trade barriers and enhance economic co-operation in order to achieve regional integration. The negotiations also demonstrated a willingness on the part of some members to shift away from a position of protection in certain traditionally sensitive sectors.

Prior to the RCEP Agreement, there was already preferential access into the RCEP market for ASEAN and some other members through regional or bilateral FTAs. The RCEP provided an additional vehicle for these countries. This is, however, not the case for some of the other RCEP countries that did not have any bilateral FTAs. The case in point is China and Japan, and South Korea and Japan. The RCEP provided these countries, for the first time, with a vehicle to gain preferential access into each other's market.

The scope and coverage of the RCEP is wide and includes areas not found in current regional FTAs. It is, however, not comprehensive enough, and short on rules and disciplines in new areas, to be classed as a modern-day gold standard trade agreement if compared to the coverage in the CPTPP or the TPP Agreement (TPP). Two significant subjects not covered are labor and environment.

### **Current Status**

The agreement requires at least six ASEAN member states and three non-ASEAN countries to ratify the Agreement in order for it to enter into force. This requirement was met with the ratification by the requisite number of countries – i.e., Brunei, Cambodia, Laos, Thailand, Singapore, Vietnam, Australia, China, Japan and New Zealand – and the Agreement entered into force for these countries on Jan. 1, 2022. To date, Malaysia, Indonesia, the Philippines, Myanmar and South Korea have all ratified the Agreement. This means the RCEP has come into effect for all members.

As required by the Agreement, RCEP ministers have met yearly since the entry into force. The third annual meeting was held in September 2024 in Vientiane, Laos. The ministers reaffirmed their commitment to actively promote the RCEP Agreement so it can be effectively utilized by businesses in the region and contribute to further deepening regional economic integration. As provided by the Agreement, the RCEP Joint Committee, comprising senior officials of each member, have met several times since the entry into force of the Agreement and have established the relevant subsidiary bodies to oversee the implementation of the Agreement.

In line with the requirements of the Agreement, the Joint Committee was tasked to establish and supervise a RCEP Secretariat. The Secretariat's role is to provide secretariat and technical support to the Joint Committee and its subsidiary bodies. The Joint Committee has successfully worked out the terms of establishment and the RCEP Support Unit (RUS) was set up with the appointment of an executive director in September 2024. The Support Unit is based in the ASEAN Secretariat in Jakarta, Indonesia. This early establishment of the RUS augurs well for the RCEP as not only will it service the Joint Committee and its subsidiary bodies, but just as important, monitor and evaluate the implementation of the Agreement.

## Issues & Challenges

The objective of the RCEP in the beginning was to engage all ASEAN FTA partners, Japan, China, India, Australia, New Zealand and South Korea and to streamline all the FTAs with these partners. But the RCEP Agreement, as it is now, has only created another option for businesses, rather than making it the FTA of choice.

In discussing the issues and challenges, we must first identify the inherent shortcomings of the agreement and suggest remedial measures to strengthen the RCEP to achieve its stated objectives. Three identifiable areas which involve market access that need to be given due attention are tariffs, ROO, and services. Secondly, we need to look at the timely and effective implementation of the Agreement by members by identifying what they need to do, individually or collectively, to meet their obligations. Thirdly, we must identify ways and means to promote the benefits of the RCEP to its stakeholders. No FTA with all its positive attributes is worthy of praise if there is low utilization and no one enjoys the benefits due to ignorance or lack of awareness.

### i) Tariffs

Tariff liberalization is the main goal of most FTAs. The depth and breadth of tariff cuts is the focus of all FTA negotiators. The treatment of tariffs in any FTA is the first thing that an exporter would look at to evaluate the benefits to business.

The RCEP has some weak treatment of tariffs which questions the value-added of an agreement which was meant to be better than the existing regional FTAs. For an agreement which is built upon many other FTAs that have been implemented for almost a decade, the RCEP should have provided accelerated tariff liberalization and created better market access opportunities. There are still products of crucial interest to members not making any headway in market access, because of lengthy reduction periods or even total exclusions. A lot of items in the agricultural, automotive, machinery, and chemical sectors are either in the longest time frame for liberalization, or they are in the sensitive list.

The slide below shows the percentage of tariff lines with duty elimination for each RCEP member at the entry into force and at the end of the implementation period, which is about 20 years for most members. It can be seen that there is still a large percentage of tariff lines that need further action by many members (*Table*).

Despite being hailed as the biggest FTA in the world, there are many manufacturers and exporters who are disappointed with the RCEP as they do not see much value as far as tariff liberalization is concerned. It also undermines the contribution the RCEP can provide for the region in the supply chain of manufactured or value-added products. This may discourage exporters from using the RCEP as their preferred FTA to do business.

RCEP members should take advantage of the ample opportunities under the RCEP Agreement to alter the implementation period, which is about 20 years for most members and accelerate or improve their commitments set out in their Schedules of Tariff Commitments. The Agreement provides for a collective amendment on the timeframe by members to accelerate their tariff liberalization schedule. It also allows two or more members to negotiate accelerated implementation of their liberalization commitments for selected products. This accelerated timeframe would have to be extended to all other members. In addition to these two avenues,

members can also unilaterally reduce or eliminate duties earlier than the timeframe in their Schedule of Tariff Commitments and extend the benefits to all members.

Acceleration and improvement of the Schedule of Tariff Commitments should be a priority action in the work of the Joint Committee to make the RCEP an attractive FTA to be immediately utilized by businesses. Accelerated tariff liberalization and minimal exclusions will be a powerful incentive for them to move away from the existing FTAs.

TABLE

**Duty elimination by RCEP parties at EIF & final year**

Percentage of Tariff on Import Duty Elimination (%)		
ASEAN	Entry into Force (EIF)	Final Year
Brunei	77	98
Cambodia	30	87
Indonesia	65	91
Laos	30	86
<b>Malaysia</b>	<b>70</b>	<b>90</b>
Myanmar	30	86
Philippines	83	91
Singapore	100	100
Thailand	66	90
Vietnam	65	89
<b>Partners</b>		
Australia	75	98
China	70	89
Japan	73	88
South Korea	64	88
New Zealand	65	92

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**ii) Rules of Origin**

ROO is one of the key determinants of whether market access opportunities in an FTA can be realized. They are necessary to ensure that only goods originating in the RCEP region benefit from tariff reduction or elimination. The RCEP has adopted forward-looking ROO which include product specific rules, cumulation, and regional value content. Cumulation is a facility that allows for inputs from the whole RCEP region to be counted as local for a given product made in any RCEP country. Cumulation is a key advantage that regional FTAs have over bilateral arrangements.

In order to get preferential access into the RCEP market, exports must be accompanied by a certification that the goods originate from the region. Currently, in most of ASEAN’s FTAs, this certification is done by governments and, in some countries, by trade bodies appointed by the government. The practice of certifying the origin of the product has become a burden to many governments due to the large number of applications from exporters under the various regional as well as bilateral FTAs. In addition, it has also become cumbersome, time-consuming and costly for exporters seeking certification. In order to enjoy the benefits of the RCEP, there must not be any deterrent or hindrance for exporters to utilize ROO in obtaining preferential access.

The RCEP provides for self-certification, a facility where an exporter declares that the goods seeking preferential treatment originate from the RCEP region. However, only a limited number

of RCEP members have opted to use this facility. The others have availed themselves of an extended timeframe before utilizing this facility. The RCEP provides for a built-in review to be undertaken on the use of self-certification. It is suggested that the review leads to an accelerated implementation of self-certification. This would certainly create the right momentum for exporters to increase the utilization of ROO to gain preferential access. It would also lessen the burden of governments that are currently the sole authority responsible for issuing certificates of origin.

### iii) Services

Services liberalization in most FTAs in the past was done on a positive list approach, where participating countries would schedule the commitments in areas where they are prepared to liberalize. More often than not, these commitments would be in the non-sensitive sectors, areas where their existing domestic players are competitive or in areas where there is no interest shown by domestic service providers. This approach had seen very limited market opening and mostly in areas which are not attractive to foreign service providers.

The liberalization of the services sector through the scheduling of commitments or the positive list, was replaced in the TPP negotiations with what is known as the negative list approach. Under this approach, limited reservations are taken for sensitive sectors or non-conforming measures. The negative list approach not only opens up bigger market opportunities but also provides transparency of the regulatory measures in place in a given country.

The RCEP too has adopted this approach, which is commendable, given the level of development of some of the members. The timing of implementation, however, differs as transition periods are provided. The countries that submitted a schedule of non-conforming measures or the negative list are Brunei, Indonesia, Malaysia, Singapore, Australia, Japan and South Korea. The positive list approach was adopted by Cambodia, Laos, Myanmar, the Philippines, Thailand, Vietnam, China and New Zealand. The transition period to take commitments on a negative list approach is no later than 15 years for Cambodia, Laos and Myanmar. The other countries using the positive list approach have up to six years to convert their commitments into the negative list.

In order for the RCEP to move forward in the services sector, all members must open up their services and investment sector by scheduling their non-conforming measures in an accelerated manner. This will help develop a robust and competitive services sector in each member and enhance services trade among members of the RCEP. Scheduling of non-conforming measures will also provide transparency and certainty for investors looking for opportunities in the services sector.

### **Implementation**

Based on the experience of past FTAs, implementation has always been an issue for most countries. Implementation of FTA commitments requires a consolidated effort of all the different government ministries and agencies. Besides undertaking the simple tariff reduction and elimination exercise, members are also required to change or fine-tune policies and even enact new legislation or amend existing laws, in line with the requirements of the RCEP. The successful implementation of the obligations and commitments under the Agreement will also depend very much on the political will of governments.

Another important aspect in the implementation of the RCEP is the need for greater coordination with businesses. Many of the existing FTAs in the region have seen low utilisation due to lack of knowledge of the market opening offered by their FTA partners, cumbersome procedures to be met to qualify for preferential tariffs, or the cost-benefit assessment simply does not weigh in favor of exporting under these FTAs.

Promoting the RCEP to its stakeholders is an integral part of the implementation process. While it is impossible to reach out to every single manufacturer or exporter, the government should enlist the services of the private sector bodies such as chambers of commerce and industry associations. A major target group will be the small and medium-sized enterprises (SMEs) that would need assistance in not only getting information on business opportunities but also preparing for the competition brought about by the liberalization of the domestic market.

Implementation of the RCEP Agreement needs close monitoring. Experience has shown that due to lack of effective monitoring, many of the obligations under the regional FTAs were not implemented according to schedule. The establishment of the RCEP Support Unit has an important role in monitoring the timely implementation of all commitments by all members.

### **Capacity Building**

One of the cornerstones of the RCEP is that it should be mutually beneficial to all members. With a diverse membership comprising both advanced and developing countries, the development gap needs to be mitigated with actions that help the developing members to also benefit from the Agreement. Although there may be special and differential treatment provided in the RCEP, such as longer timeframes for implementing commitments, it is not sufficient for the developing countries to be able to take advantage of market opening opportunities. What is needed is capacity building in a wholesome way that prepares developing countries to participate in the regional value chain, while undertaking obligations arising from their membership of the RCEP.

In areas such as the digital economy, there is a lot of assistance and collaboration needed by SMEs. The digital economy assumes a lot of importance as e-commerce is now the trend and viable trading platform as demonstrated during the Covid-19 pandemic. Digital-based trade facilitation needs to be enhanced to facilitate cross-border movement of goods and services. SMEs stand to gain the most from e-commerce but they need to be quickly equipped to participate in the various digital trade platforms. Assistance to the SMEs can come from domestic sources as well as through collaboration with other members of the RCEP.

Besides building capacity for the private sector to benefit from the Agreement, technical assistance must also be provided to government officials from the developing country members, to equip them with the knowledge and expertise to implement obligations and commitments, especially in the new areas included in the Agreement.

### **Awareness & Outreach**

The political achievement of concluding the world's largest FTA must be accompanied by full implementation by the authorities and effective utilization by the intended beneficiaries. These include investors, exporters, importers, traders, producers and manufacturers and service providers. Effective utilization of the RCEP by the business community can only happen if they fully comprehend the provisions of the Agreement. The task of translating a mammoth legal agreement and the more than 14,000 pages of schedules listing out market opening

commitments into easily understood terms rests mainly with RCEP governments, individually or collectively. These efforts must be complemented by other knowledgeable trade bodies such as chambers of commerce and industry associations.

We often hear negotiators hailing an FTA as the gold standard, but it is usually so complex that they are not easily understood by the business sector. Therefore, a lot of outreach activities need to be undertaken by governments to the stakeholders to translate the political achievements and legal texts into simple, comprehensible and user-friendly terms. Many governments do this at the conclusion of the negotiations or after they have signed the agreement. This is hardly sufficient. Outreach must be done on a constant and continuous basis as there are always new entrants into the market place that need to be apprised of the opportunities created by these FTAs.

The implementation of effective outreach in most countries is made difficult as a result of lack of resources, expertise and loss of institutional memory due to the constant change or retirement of government officials responsible for the negotiations or knowledgeable about the agreements.

Here are some suggestions on what can be done to have effective outreach to create awareness and promote the utilization of the RCEP:

- i) Establish a common set of Frequently Asked Questions (FAQs) that would provide an authoritative guide to queries commonly raised by the business sector across the membership of the RCEP. This set of FAQs should contain responses agreed by all members to provide a common understanding of the Agreement and avoid misinterpretation of the provisions by the business sector. The FAQs can be drawn up with the assistance of the RCEP Support Unit. The set of FAQs should be supplemented by individual FAQs done by the respective members to address country-specific issues related to market access schedules and other commitments.
- ii) Outreach activities of individual members must be held regularly across the whole country, giving every stakeholder an opportunity to be enlightened on the specific provisions of the Agreement. These outreach sessions must focus on educating the stakeholders on how they can benefit from the RCEP. In particular, stakeholders must be fully conversant with the procedures and the conditions to be fulfilled, especially in the area of ROO, in order to enjoy preferential access to the RCEP markets.
- iii) Outreach programs must not only focus on disseminating the benefits to stakeholders, but also alert them to the potential challenges arising from competition brought about through liberalization of their own market. This is important so that stakeholders can factor in these challenges in whatever business decisions they would have to make.
- iv) The outreach programs, besides clarifying the opportunities and challenges, must also explain to stakeholders, interest groups and civil society how the government has addressed their particular concerns and sensitivities. This is important to get the buy-in and support from these groups for the smooth implementation of all existing commitments of the RCEP and future commitments pursuant to the built-in reviews and further negotiations to be undertaken.
- v) Set up a mechanism where there is institutional memory, retained in the governments so that proper explanations can be given to stakeholders. The RCEP is a living agreement

and there will be continuous need for knowledgeable officers to explain the provisions of the Agreement and how stakeholders can utilize the benefits arising from it.

### **Future Expansion**

The RCEP is an open and inclusive agreement and provides for accession by any interested state or separate customs territory, 18 months after the Agreement enters into force. As an original negotiating country, an exception is made for India, which can accede any time after the Agreement enters into force. The Agreement is silent on which countries are eligible and decisions on accession will have to be made by consensus.

Ideally the RCEP should be open to all interested countries that share the objectives and goals of the RCEP, and willing to adhere to the rules and disciplines as well as able to implement the liberalization commitments under the Agreement. This is important to ensure that the RCEP becomes the primary vehicle for fostering economic growth, check protectionism and foster regional integration. The issue, however, is the timing of the accession. Is it really desirable to take in new members at this early stage of implementation of an agreement of this scale? It would be better to put in abeyance the issue of accession of interested countries, except for India which, as an original negotiating country, is already familiar with the provisions and commitments under the RCEP.

Undertaking accession negotiations in any FTA is always an arduous task and could distract the more important issues that arise in the implementation of the Agreement. Many of the developing partners in the RCEP may have yet to put in place their full implementation machinery as well as policy changes required under the agreement. In addition, there are a number of provisions for reviews, further negotiations and economic and technical cooperation activities that should be given priority by the original members of the Agreement.

### **Conclusion**

The RCEP has been hailed as the largest FTA in the world. It has all the components to contribute towards regional growth in trade and investment, create jobs and strengthen supply chains in the region. It is still early days to evaluate the effective implementation of the Agreement as it only entered into force just over two years ago. The contribution of the RCEP will always be compared with the CPTPP, which has been considered the gold standard for FTAs because of its scope and coverage of issues, including labor and environment currently excluded in the RCEP, the depth of liberalization commitments, and setting of rules and disciplines in new areas such as e-commerce and competition policy.

The potential of the RCEP to contribute to the growth of individual members and the region as a whole can be enhanced if the identified issues and challenges are adequately addressed by members. These include tariff liberalization, ROO, services commitments, implementation and awareness. The improvements to the Agreement can be done through the various built-in review mechanisms provided under specific chapters or the overall review of the Agreement.

The following is a summary of the suggestions that can be considered to address the identified issues and challenges:

- i) effective implementation of the Agreement by all members and monitoring of the implementation by the RCEP Support Unit



- ii) acceleration of the pace of tariff liberalization by reducing the phasing period for tariff reduction and elimination and limiting the number of products to be excluded in the Schedules of Tariff Commitments
- iii) accelerating the adoption of self-certification or self-declaration of origin status by exporters
- iv) reducing the transition period to adopt the negative list or scheduling of non-conforming measures in the services sector
- v) implementing urgently on a need basis capacity building activities as provided for under the Economic and Technical Cooperation chapter
- vi) conducting regular and concerted awareness programs to all stakeholders on the provisions of the RCEP, market access and investment opportunities and the challenges to be faced by domestic players.

Although members of the RCEP already have one or more FTAs to access the RCEP markets, it is only the RCEP itself that can provide the vehicle for the achievement of the wider objective of integration of the region, through the bigger membership and market. The end objective of addressing the issues and challenges of the RCEP is to make it the preferred vehicle to invest, trade and do business in the region.

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Jayasiri Jayasena served in MITI Malaysia from 1981-2018 and was secretary-general of MITI prior to retirement. He was a key member of the Malaysian negotiating team in the WTO and Malaysia's chief negotiator in the Malaysia-Japan EPA, ASEAN-China FTA, TPP and CPTPP.