ASEAN regionalism in the context of RCEP

Introduction

This case study examines regionalism within the Association of Southeast Asian Nations (ASEAN), in the context of the region's largest free trade agreement (FTA), the Regional Comprehensive Economic Partnership (RCEP). Comprising ten economies of the ASEAN bloc, along with Australia, China, Japan, South Korea and New Zealand, the RCEP is the largest FTA in the world, accounting for a third of the global economic output and population. The agreement became operational from 1 January 2022 – nearly a decade after it was announced at the ASEAN Summit in Cambodia in November 2012.

The RCEP reveals insights on the characteristics of ASEAN-centric Asian regionalism, as opposed to the trans-Pacific approach. It also highlights the myriad challenges of negotiating a comprehensive and modern trade agreement involving members with varying levels of economic development. The RCEP's success in addressing these challenges and becoming operational through consensus among members could not have been achieved without some compromises. The case study looks at all these issues and reflects on the prospects of RCEP in addressing some of the critical challenges of modern trade.

Intra-Asian Regionalism and the ASEAN FTA

Since its formation in 1989, the Asia-Pacific Economic Cooperation (APEC) has promoted economic regionalism on both sides of the Pacific by encouraging members to voluntarily liberalise trade rules in a non-discriminatory fashion. The approach was encouraged for closer integration of the regional economies in the multilateral trade system of the World Trade Organization (WTO).

Among APEC members, regional integration efforts can be broadly distinguished as either intra-Asian or trans-Pacific. The former include those that have grown around the ASEAN architecture and comprise the ASEAN+1 FTAs (ie ASEAN's FTAs with Australia, New Zealand, China, India, Japan and South Korea). The RCEP belongs to this category, as it brings together all countries with which ASEAN has FTAs, except India. Meanwhile, the trans-Pacific efforts are best symbolised by the Comprehensive and Progressive Trans-Pacific Partnership (CPTPP). Indeed, intra-Asian integration efforts substantially accelerated after the emergence of the CPTPP in the late 2010s, with RCEP talks being announced in November 2012.

The trans-Pacific effort represented by the CPTPP did not include several Asian members of the APEC, such as China, Indonesia, Korea, Thailand and the Philippines. These countries were keen on obtaining the benefits of closer regional economic integration and motivated the intra-Asian track. Furthermore, other Asian APEC members of the CPTPP, such as Australia, Brunei, New Zealand, Malaysia, Japan, Singapore and Vietnam, also wanted to stay embedded in the ASEAN-centric regional architecture for concomitant economic benefits and therefore avoided choosing between the trans-Pacific and intra-Asian frameworks.

The Asian brand of economic regionalism premised on the ASEAN framework reflects the spread of the 'bloc' psychology in Asia from the late 1980s, along with that in the US and Europe, notwithstanding the continuation of the Uruguay round of the General Agreement on Tariffs and Trade negotiations. Asian economic regionalism

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kept pace with identical developments in the US and Europe that manifested through the growth of major FTAs like the North American Free Trade Agreement (NAFTA)[1] and within the European Union (EU).

The ASEAN FTA was the first example of a regional trade agreement (RTA) that came up in the Asia-Pacific in January 1992, even before the WTO became functional from 1 January 1995. The fact that the ASEAN FTA took off with six founding members of the WTO – Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand – underscored the strategic value that regional economic agreements had acquired in the Asia-Pacific. More members including the relatively smaller and less economically developed countries of Cambodia, Laos, Myanmar and Vietnam (CLMV) joined the FTA in the mid- to late-1990s.

The ASEAN FTA implemented common effective preferential tariffs for its members and worked on bringing down import tariffs on several goods traded within the bloc to 0%-5%. It also institutionalised a 'special and differential (S&D) treatment' for the less economically developed members of the bloc. This meant allowing the CLMV countries longer time to reduce tariffs and exempting 'sensitive' products, such as rice, from tariff cuts. The S&D treatment, which features prominently in the WTO's rules, is a key characteristic of all subsequent ASEAN FTAs including the RCEP.

Growth of the ASEAN+ Regional Frameworks and FTAs

The Asian financial crisis of 1997 was a game changer in the history of Asian economic regionalism. The crisis was a wake-up call to Southeast and Northeast Asian countries – highlighting the importance of closely aligning their financial and economic architectures to coordinate exchange rate movement and manage foreign exchange reserves. An immediate response was the growth of the ASEAN+3 (China, Japan and South Korea) construct to coordinate regional surveillance efforts like the Chiang Mai initiative which created a common pool of contingent reserves and enabled bilateral currency swaps.

The ASEAN+3 envisioned the creation of an East Asia Free Trade Area (EAFTA). It also marked China's emergence as a key player in Asian regionalism. Its active involvement in the regional integration process after the Asian financial crisis was in contrast to its earlier indifference. The activism, though, disturbed Japan.[2] The subsequent lack of progress on the EAFTA was largely due to strained political relations between China and Japan, and the latter's apprehension of the framework being strategically dominated by China. In response, Japan and several ASEAN countries proposed the ASEAN+6, which included India, Australia and New Zealand. The grouping was subsequently expanded to the East Asian Summit (EAS)[3] that included the ASEAN member states, along with China, Japan, South Korea, India, Australia, New Zealand, Russia and the US.[4]

From the late 1990s, more RTAs and FTAs came up in the region. These can be grouped into 'ASEAN+1' RTAs and non-ASEAN bilateral FTAs. The ASEAN+1 agreements include ASEAN's FTAs with China, Japan, South Korea, India, Australia and New Zealand. Meanwhile, non-ASEAN bilateral FTAs are FTAs between individual ASEAN members and non-ASEAN Asian countries.

The RCEP has occasionally been construed as a strategic 'Asian' response to the US-led TPP. It followed the ASEAN+1 negotiating structure assuming ASEAN centrality. It is the largest ASEAN FTA and epitomises the

[1] The NAFTA has been subsequently renamed as the United States-Mexico-Canada (USMCA) Agreement (USMCA).
[2] Cheol Hee Park, "Intra-regional geopolitical dynamics in Northeast Asia," in *The Asia-Pacific, Regionalism and the Global System*, ed. Christopher Dent and Jörn Dosch (Cheltenham: Edward Elgar, 2012).
[3] Ian Fergusson and Bruce Vaughn, "The Trans-Pacific Partnership Agreement," Congressional Research Service, December 12, 2011, https://sgp.fas.org/crs/row/R40502.pdf
[4] The US signed the Treaty of Amity and Cooperation (TAC) for joining the EAS in July 2009 and became a formal member from October 2010. The Bush Administration in the US had reservations on joining the EAS for several reasons, including the no-intervention clause in the TAC that could have adversely affected its human rights agenda for the region. The Obama Administration, however, signed the TAC and entered the EAS affirming its commitment to a bigger role in the region in line with its 'pivot to Asia' strategy.

'hub-and-spoke' character of regional economic integration in Asia. 'Hub-and-spoke' models are those where a partner in a bilateral FTA signs more such agreements with other countries to become a 'hub' in a series of overlapping FTAs and enjoys simultaneous preferential access to several partner markets. Singapore, Japan and South Korea are prominent regional 'hubs' through their large number of bilateral FTAs. The ASEAN+1 FTAs have also contributed to the growth of the ASEAN bloc as a hub with its external trade partners.

RCEP: Key Features

As a structured rules-based FTA, the RCEP is the largest of its kind. From the perspective of major RTAs in the Asia-Pacific region, its economic dimensions are much larger than the CPTPP.[5] As a proportion of world GDP, the RCEP members account for 30.7%, compared with 12.1% for the CPTPP. On the other hand, the RCEP accounts for 29.1% of the global population, while the CPTPP accounts for only 6.4%.[6]

The RCEP does have some common members with the CPTPP. These include four ASEAN members – Brunei, Malaysia, Singapore and Vietnam – and three non-ASEAN economies that are FTA partners of ASEAN – Australia, Japan and New Zealand. A significant contribution to RCEP's much larger economic size – both in terms of its share in global GDP and population – is due to the inclusion of major regional economies, most notably China, followed by South Korea, Indonesia, Thailand and the Philippines.

The RCEP framework was endorsed at the 19th ASEAN Summit in November 2011 and the negotiations were launched on 20 November 2012 at the 20th ASEAN Summit at Phnom Penh in Cambodia. The main objectives of the negotiations, as announced in the first meeting of the RCEP trade negotiating committee, held in Brunei in May 2013, were:

> "(i) *achieve a modern, comprehensive, high-quality and mutually beneficial economic partnership agreement* establishing an open trade and investment environment in the region to facilitate the expansion of regional trade and investment and contribute to global economic growth and development; and (ii) *boost economic growth and equitable economic development, advance economic cooperation and broaden and deepen integration in the region* through the RCEP, which will build upon our existing economic linkages." [emphasis added by author][7]

The meeting also announced the following features of the RCEP:

a) It will recognise ASEAN centrality and the interests of ASEAN's FTA partners in supporting and contributing to economic integration among participating countries.
b) The framework will achieve significant improvement over existing ASEAN+1 FTAs, while recognising individual and diverse circumstances of participating countries.
c) It will facilitate the engagement of participating countries in global and regional supply chains.
d) Given the heterogeneity in levels of development of members, RCEP will include appropriate flexibility including S&D treatment, along with additional flexibility to the least developed ASEAN member states.[8]

[5] CPTPP includes Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.
[6] Author's calculations from World Bank statistics.
[7] ASEAN Secretariat, "Regional Comprehensive Economic Partnership (RCEP) Joint Statement the First Meeting of Trade Negotiating Committee," May 10, 2013, https://asean.org/regional-comprehensive-economic-partnership-rcep-joint-statement-the-first-meeting-of-trade-negotiating-committee/
[8] ASEAN Secretariat, "Regional Comprehensive Economic Partnership (RCEP) Joint Statement the First Meeting of Trade Negotiating Committee".

A more specific range of what the RCEP had set out to achieve in specific areas is outlined in Table 1 below:

Table 1: Objectives of RCEP in various trade-related domains[9]

Domain	Objectives
Trade in goods	• Progressively eliminate tariff and non-tariff barriers. • Achieve significant tariff liberalisation by building upon existing commitments of members and instituting tariff elimination on a high percentage of tariff lines and trade values. • Prioritise tariff elimination on products of interest to least developed country (LDC) members.
Trade in services	• Substantially eliminate restrictions and discriminatory measures on cross-border trade in services. • Secure liberalisation commitments of members over and above those in the General Agreement on Trade in Services of the WTO and ASEAN+1 FTAs.
Investment	• Create a framework for a liberal, facilitative and competitive regional investment environment.
Economic and technical cooperation	• Enhance mutual economic and technical cooperation, including in e-commerce, to narrow development gaps among members.
Intellectual Property	• Reduce intellectual property-related barriers to trade and investment through emphasis on protection and enforcement.
Competition	• Promote competitive practices and enhance consumer welfare while taking note of the differences in institutional capacities of members.
Dispute settlement	• Provide for a transparent and effective mechanism for consultation and dispute resolution.

Challenges for RCEP

As with other FTAs, there were several challenges that accompanied the progress of the RCEP. Some of these challenges were present even before the RCEP negotiations commenced. Some arose during the negotiations.

Intra-Asian vs Trans-Pacific Integration

The RCEP stood as a contrasting framework to the CPTPP. With both negotiated simultaneously from 2013 onward, the intra-Asian and trans-Pacific integration trajectories in the Asia-Pacific came head-to-head. The challenge of managing the contrasting trajectories arose from the presence of common members, making mutual influences on negotiations inescapable. This meant balancing the higher expectations of CPTPP members in the RCEP with the non-CPTPP members.

The presence of China and India in the RCEP compounded the issue. Neither of the two countries was present in the TPP (the subsequent CPTPP), which was fundamentally driven by the US. The ASEAN-centricity of RCEP, along with presence of China and India, produced a much different perspective on trade reforms for RCEP, compared with the pronounced 'North American flavour' of the TPP which had the US, Canada and Mexico. These three countries composed the NAFTA, which gave rise to the idea that TPP might be an extension of the NAFTA framework in Asia. To some extent, this impression was mellowed by the joining of Malaysia and, more significantly, Vietnam and Japan. Nevertheless, the TPP remained a fundamentally US-driven Pacific-in-character project, distinct from the ASEAN-centric, Asian RCEP.

[9] ASEAN Secretariat, "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership", 2012, https://asean.org/wp-content/uploads/2012/05/RCEP-Guiding-Principles-public-copy.pdf

US-style FTAs, such as the NAFTA, typically demonstrate less flexibility towards specific situations of members and more binding provisions. This contrasts with the ASEAN-style FTAs. Both China and India were much more comfortable with FTAs that demonstrated an ASEAN character. This ensured that more flexible and less-binding content was an important part of RCEP negotiations, as this was what the two largest RCEP members preferred. However, RCEP members that were part of the TPP, such as Australia, Japan and New Zealand, were arguably more comfortable with a US-FTA style approach that would have called for binding rules in the RCEP. The variations in approaches between members in RCEP, therefore, clearly stood out.

Another difference between the CPTPP and the RCEP is that the latter is a much more heterogeneous economic grouping. It has members such as Cambodia, Laos and Myanmar, which are among the world's poorest countries. At the same time, RCEP also has some of the highest per capita income economies of the world, such as Australia, Singapore, Brunei, Japan, Korea and New Zealand, along with populous large and middle-income economies like China, India, Indonesia, the Philippines, Thailand and Vietnam. This heterogeneity is absent in the TPP, which, except Vietnam, largely comprises economically-advanced economies. The RCEP's economically diverse and heterogeneous character makes it a far more inclusive group – requiring it to balance the interest of low-income members while at the same time working on high-quality outcomes.

Compromising on Ambition

RCEP was expected to be a trade agreement which, while achieving "significant improvements over the existing ASEAN+1 FTAs",[10] would likely limit itself to moderate ambition. This was particularly true in its treatment of new-generation trade issues: domains where the WTO had found it challenging to make rules (eg investment, services, competition policy, e-commerce), and those that had hardly figured at the WTO despite becoming significant in global trade (eg labour, environment, state-owned enterprises).

The eventual RCEP agreement[11] had provisions on some of the new-generation issues, such as e-commerce, investment, trade in services and competition. However, for all these issues, while improving upon existing ASEAN+1 FTAs, it fell short of substantial improvement, particularly if compared with the CPTPP and other contemporary FTAs, such as those between the EU and some RCEP members (eg Australia, Japan, Vietnam). Further, RCEP had no provisions on the more controversial issues like labour and environment standards and regulation of state-owned enterprises. Thus, while being the world's largest FTA on key metrics, it remained relatively shallow in its coverage of new-generation trade issues.

The shallowness, arguably, was on account of it having to balance multiple contrasting perspectives among its members, ranging from the high ambitions of the advanced, industrial and heavily outward-oriented members (eg Australia, Singapore, Japan, South Korea, New Zealand), to the more cautious and circumspective visions of the low-income economies as well as large economies with complex domestic problems (eg China, India, Indonesia).

Heterogeneity and Flexibility Issues

The RCEP was fully committed to the S&D treatment with the scope of differentiation being larger for the LDC members. This was consistent with ASEAN+1 FTAs having longer tariff phase-out periods for the economically weaker members. The latter were also allowed more exemptions and greater negative lists in applying tariff cuts. Similar flexibilities were allowed to these members in choosing sectors for permitting foreign investment.

[10] ASEAN Secretariat, "Guiding Principles and Objectives for Negotiating the Regional Comprehensive Economic Partnership", 2012, https://asean.org/wp-content/uploads/2012/05/RCEP-Guiding-Principles-public-copy.pdf

[11] Enterprise Singapore, "Regional Comprehensive Economic Partnership Agreement (RCEP) Legal Text", April 2024, https://www.enterprisesg.gov.sg/-/media/ESG/Files/Non-Financial-Assistance/For-Companies/Free-Trade-Agreements/RCEP/RCEP_legal_text

Apart from being sensitive towards LDCs, ASEAN+1 FTAs have been empathetic towards specific circumstances of non-LDC members too, especially if these are politically sensitive. RCEP maintained the same tradition.

The eventual RCEP outcomes reflected allowances made to accommodate various members. The agreement aimed to eliminate more than 90% of tariffs on goods traded between members. But in some cases, the implementation period was as long as two decades, with the LDC members allowed the most flexibilities. For trade in services, members were allowed to choose between 'negative list' and 'positive list' approaches for specifying market access commitments.[12]

Members employing the 'negative list' in negotiations included Australia, Brunei, Indonesia, Japan, South Korea, Malaysia and Singapore. The 'positive list' adopting members were Cambodia, China, Laos, Myanmar, New Zealand, the Philippines, Thailand and Vietnam.[13] The latter committed to graduate to a 'negative list' within a certain period from the date of commencement of the agreement.

RCEP is expected to achieve more liberalisation in trade in some important services, such as telecommunications and financial services, compared with most other ASEAN+1 FTAs. However, the fact that it did not include an important investor protection provision, like the investor-state dispute settlement, underscored its hesitation to embrace aggressive policies.

The hesitation also underpinned the differences among most of the ASEAN members, apart from Singapore and Brunei, vis-à-vis the non-ASEAN Organisation for Economic Cooperation and Development members of RCEP, such as Australia, Japan and South Korea, in achieving internal progress on implementing modern domestic regulations. These economies were comfortable with the TPP negotiations, which followed the US-led Pacific style approach: minimising the scope of S&D treatment, actively regulating new-generation issues and emphasising a binding approach for members in following rules. The RCEP deliberately avoided this approach to embrace flexibilities.

India's Withdrawal from RCEP

The biggest controversy surrounding the RCEP negotiations was India's withdrawal. Nearly seven years after its announcement in 2012, the RCEP negotiations were finally concluded at the ASEAN Summit in Bangkok on 4 November 2019. But as fifteen RCEP members agreed to begin work on preparing the legal text of the agreement for its final signing and ratification, India opted out, citing significant unresolved outstanding issues. The decision was surprising as India had actively participated in 29 rounds of negotiations since 2013.

India's withdrawal was entirely due to domestic pressures. RCEP never enjoyed domestic support in India and was prominently viewed as an FTA with China. This was mostly because India had bilateral FTAs with almost all the RCEP members except China, Australia and New Zealand.[14] The idea of entering into a bilateral trade agreement with a bloc that included China caused great anxieties among Indian policymakers and businesses as India ran a high trade deficit with China.[15]

[12] Employing a 'negative list' approach means all sectors of the member offer similar market access conditions, except those that feature in a negative list. A 'positive list' approach means only sectors mentioned in a list are eligible for market access.
[13] Ramonette Serafica and Intan Ramli, "RCEP Services Liberalisation: Key Features and Implications," in *Regional Comprehensive Economic Partnership: Implications, Challenges, and Future Growth of East Asia and ASEAN*, ed. Fukunari Kimura, Shandre Thangavelu, and Dionisius Narjoko (Jakarta: Economic Research Institute for ASEAN and East Asia, 2022), https://www.eria.org/uploads/media/Books/2022-RCEP-Book1/RCEP-Implications-Challenges-Future-Growth.pdf
[14] India and Australia have since concluded a bilateral trade agreement in 2022.
[15] Amitendu Palit, "Domestic Politics Force India's Withdrawal from RCEP and Broader Trade Disengagement," East-West Center, November 26, 2019, https://www.eastwestcenter.org/publications/domestic-politics-force-india%E2%80%99s-withdrawal-rcep-and-broader-trade-disengagement

India's inability to develop broad-based domestic manufacturing capable of producing both parts and components and final products has resulted in a high reliance on imports, particularly from China, given the latter's proficiency in manufacturing. At the same time, high imports from China were also considered responsible for adversely affecting the prospects of local businesses, particularly small and medium enterprises. There was, therefore, considerable reluctance on the part of India to agree to tariff cuts as this will allow preferential access to more imports from China.

This hesitation was compounded by India's difficult and complex political relations with China. The two countries had a historical dispute over a contentious land border in the Himalayas that remained unresolved for decades. In more recent years, their relations were further strained with both countries trying to expand their sphere of geopolitical influence in South Asia. During the later stages of the RCEP talks in 2017, Indian and Chinese military forces were involved in a stand-off for several days at the Doklam Plateau in Bhutan over border issues. These were tensions that were arguably brought forward to the negotiating table and likely impacted India's decision about entering an FTA that included China.

The possible harmful effects of RCEP on India's domestic economy were highlighted by major protectionist lobbies in India like the Swadeshi Jagran Manch in the run-up to the final round of negotiations. The Swadeshi Jagran Manch – a lobby group espousing economic nationalism – was closely affiliated with the Rashtriya Swayamsevak Sangh, which contributed significantly to the shaping of the political outlook and agenda of the government. The agitation against RCEP by a Rashtriya Swayamsevak Sangh-supported group increased the political cost of going ahead with the RCEP.

The government was also aware of the opposition to RCEP mounted by the Gujarat Cooperative Milk Marketing Federation that produces and markets the immensely popular 'Amul' brand milk and dairy products in India. Lowering import tariffs on dairy products, as proposed in the RCEP negotiations, was domestically projected as an attempt to finish off small local dairy farmers who were instrumental in making India the largest milk producer in the world.

RCEP negotiations were a formidable challenge for India. India continued with the negotiations for several years as it visualised the geo-strategic gains arising from being an active participant in regional rulemaking and from the further strengthening of ties with the ASEAN architecture that came with being a part of RCEP. Unfortunately, this geo-strategic understanding could not be complemented with the portrayal of economic gains for domestic businesses. The fact that most Indian manufacturers were at an inherent comparative disadvantage vis-à-vis most of ASEAN and China meant that Indian exports had limited prospects in ASEAN markets.

Nevertheless, being a part of RCEP would have facilitated India's deeper presence in regional supply chains by drawing export-oriented foreign direct investments to India from other RCEP members. It would have also given Indian exporters preferential access to large regional markets in the Asia-Pacific.

RCEP as the First Deal Involving China, Japan and South Korea

The RCEP was the first FTA that included China, Japan and South Korea – the three largest economies of East Asia. While the three countries had worked on the possibility of creating an FTA among them, it had not happened as problematic political relations obstructed progress.

There were distinct implications from the three countries being common members of an FTA. While the RCEP was structurally an ASEAN+ FTA, it was also the first mega-FTA for East Asia.[16] The agreement was particularly significant for Japan. While China and South Korea had a bilateral FTA, Japan did not have any with either of

[16] Kazushi Shimizu, "RCEP's Great Impact on Japan and East Asian Economies," The Japan Institute of International Affairs, August 2, 2022, https://www.jiia.or.jp/en/ajiss_commentary/rceps-great-impact-on-japan-and-east-asian-economies.html

the two. South Korea has yet to join the CPTPP though it has officially decided to do so.[17] Until it does, it will not be a part of any RTA with Japan. Therefore, from a Japanese perspective, the RCEP was the only FTA that gave Japanese industries preferential access to Chinese and South Korean markets. Interestingly, from a geo-strategic perspective, the RCEP was a comfortable arrangement for Japan, as the ASEAN-centrality of the agreement was expected to balance China's influence.[18]

Looking at trade results for the first year after the introduction of RCEP, early estimates pointed to an increase in China's trade with both South Korea and Japan. Chinese exports to both Japan and South Korea were higher in 2022 – the year of RCEP's introduction – compared with 2021.[19] For South Korea though, exports to China in 2022 were lower than those in 2021, while those to Japan showed a marginal increase.[20] However, these results need to be interpreted with caution. Since 2022 was the first year after a significant recovery from the COVID-19 pandemic, trade patterns for the year might not be reflective of a general trend.

The RCEP's coming into force from 1 January 2022 also coincided with the growing global and regional emphasis on a 'China plus' business strategy – underlining efforts to shift parts of productions of various supply chains away from China to reduce the risks of disruption arising from excessive concentration of sourcing and production in China. The relocation of production might happen within the rest of the RCEP bloc, particularly the ASEAN members.

Whether the RCEP's rules will enable the 'China plus' strategy is difficult to predict. But the fact that the RCEP rules extended over a very large economic geography comprising Southeast Asia and most of East Asia might actually help the strategy in some cases, as the preferential benefits apply to all members, even if they substitute their sourcing from China with those from elsewhere within the bloc.

Special and Differential (S&D) Treatment for Low-Income RCEP Members

As mentioned earlier, the RCEP provided significant flexibilities for low-income members of the group: Cambodia, Myanmar and Laos. The flexibilities included longer time for implementing the commitments for tariff reduction, trade in services, trade facilitation, foreign investments and e-commerce. These flexibilities were consistent with those offered in other ASEAN+1 FTAs.

ASEAN FTAs followed the tradition set by the WTO which granted extensive S&D provisions for LDCs. In this respect, some opinions pointed to the RCEP's success in reaching conclusions after protracted negotiations and commencing operations as a 'victory' of multilateralism, given the multiple challenges that arose during the talks and the significant economic heterogeneity of the group.[21]

The issue, though, is whether RCEP, or for that matter future ASEAN FTAs with extra-regional partners, will be able to achieve high-quality trade outcomes if they insist on accommodating S&D provisions, the way current ASEAN FTAs do. This was a tension that prevailed throughout RCEP negotiations and was largely responsible for constraining its ambitions.

Many external partners might not be willing to accommodate the S&D provisions in their FTAs with ASEAN. Indications to the effect are available from the EU's current stance in negotiating trade deals with ASEAN.

[17] Yonhap News Agency, "South Korea decides to join CPTPP trade agreement", April 15, 2022, https://en.yna.co.kr/view/AEN20220415009051320

[18] Kazushi Shimizu, "RCEP's Great Impact on Japan and East Asian Economies".

[19] Hong Yu, "The First Anniversary of the Implementation of the Regional Comprehensive Economic Partnership", National University of Singapore-East Asian Institute, January 27, 2023, https://research.nus.edu.sg/eai/wp-content/uploads/sites/2/2023/01/EAIC-64-20230127-1.pdf

[20] Hong Yu, "The First Anniversary of the Implementation of the Regional Comprehensive Economic Partnership".

[21] Cathleen Cimino-Isaacs, Ben Dolven, and Michael Sutherland, "Regional Comprehensive Economic Partnership (RCEP)," Congressional Research Service, October 17, 2022, https://crsreports.congress.gov/product/pdf/IF/IF11891

Instead of focusing on a bloc-wide engagement, the EU is pursuing bilateral FTAs with individual ASEAN members. After concluding FTAs with Singapore and Vietnam, bilateral FTA talks are taking place between the EU and Thailand, Indonesia and the Philippines. The EU expects that in the longer term, these FTAs will pave the way for a greater bloc-wide FTA with ASEAN.[22] It prefers engaging ASEAN countries bilaterally instead of engaging the entire bloc as that would make S&D treatments difficult to avoid.

It is important for ASEAN as a group to take a long-term view on persisting with S&D provisions. The key issue over here is whether the latter have actually served their purpose of enabling the LDC and low-income members to develop capacities and economic strengths. In the ASEAN region, Vietnam shines as a success story in this regard. However, the rest of the CLMV countries have yet to graduate out of LDC status. This should necessitate a closer look at the S&D provisions in an FTA like RCEP that – as a 'living agreement' – cannot afford to sacrifice the necessity of upgrading itself by including more new-generation issues over time.

RCEP and the Challenges of Modern Trade

Global trade is struggling to address new challenges. These challenges of modern trade represent imperatives that countries, societies, businesses and households face in adjusting to socio-economic transformations. They are as relevant for ASEAN members and their regional trade partners as they are for the rest of the world. It is therefore essential for the ASEAN trade frameworks, particularly the signature construct of RCEP, to be prepared to respond to these challenges. Two of the most significant challenges are the digital economy and sustainable development. Further challenges – connected to these two and having significant bearing upon trade rules – are new regulations for services and investment, and standards for ensuring inclusion (eg labour, environment and gender).

Digital Economy

ASEAN FTAs need to respond to the urgency of facilitating the growth of digital economies among their members, across the region and in the wider trade and business relationships that members have with their FTA partners. The RCEP's connection to the idea of digital economy is through its provisions on e-commerce. These pertain to some important elements of the digital economy: paperless trading, electronic authentication and signature, online consumer and personal information protection, domestic regulatory framework, cybersecurity and cross-border electronic commerce.[23] While not being substantive across all these issues, RCEP made a modest beginning towards creating an ASEAN+ digital economy. This needs to be complemented with other regulations and policies.

The RCEP is closely aligned with the ASEAN Agreement on Electronic Commerce.[24] Both agreements can be used to expand digital trade among members. The effectiveness with which RCEP can do so will depend upon convincing all ASEAN member states to agree to binding commitments on actions to enhance digital trade and intra-RCEP digital connectivity. The fact that ASEAN members are working on implementing the Digital Economy Framework Agreement should be of help in this regard.

Some areas where RCEP must emphasise brisk action are in the use of electronic trade documents, electronic signatures and contracts. It is noteworthy that the non-ASEAN RCEP members have implemented these practices in most of their domestic and cross-border business transactions. Singapore has also done so, while Malaysia and Thailand are at advanced stages. The eventual challenge for RCEP will be to bring up to speed

[22] Ulrich Jochheim and Dorothée Falkenberg, "Trade Negotiations between the EU and ASEAN Member States," European Parliamentary Research Service, December 2023, https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/754629/EPRS_BRI(2023)754629_EN.pdf
[23] Enterprise Singapore, "Regional Comprehensive Economic Partnership Agreement (RCEP) Legal Text".
[24] ASEAN Secretariat, 'ASEAN Agreement on Electronic Commerce', January 22, 2019, https://agreement.asean.org/media/download/20190306035048.pdf

the economies that are lagging. There might not be any option other than a binding approach, even if it militates against the generic character and approach of ASEAN regionalism.

Sustainable Development

The RCEP did not contain specific provisions on sustainable development and environment. There were no region-wide frameworks on these issues like the ASEAN agreement on e-commerce. But there is little doubt about the grave importance of addressing climate change. At this stage, it is perhaps not conceivable for RCEP to include a new chapter on environment. But since RCEP is expected to adapt and upgrade as it evolves, incorporating provisions on sustainability should be a priority.

A prospective chapter on environment should focus on facilitating trade in green goods within the bloc and on mobilising finance for climate action. However, given that there is no precedence within the ASEAN on green regulations in its FTAs, addressing sustainability concerns in a rules-based trade framework will be a formidable challenge.

New Regulations for Services and Investment

RCEP has attempted to significantly liberalise services trade. But as observed earlier, granting market access to various services has been heavily conditioned by national circumstances and priorities. As a result, market access commitments in RCEP reflected significant imbalances among members. Moving forward, RCEP will be required to address these imbalances, particularly in view of the need to effectively regulate digitally provided cross-border services (eg education, healthcare) and environmental services (eg recycling waste, sewage and sanitation, clean energy provision).

While existing provisions on e-commerce and digital trade facilitation will help to make future rules on digital cross-border services, lack of similar provisions for environment will inhibit progress on environmental services. For the former too, it is imperative for RCEP and other ASEAN FTAs to engage closer with existing member regulations on cross-border data transfers and security. Moving on these services reforms will also require considerable emphasis on creating investment rules that allow service providers – both digital and environmental – to establish commercial presence in RCEP member economies through provisions allowing liberal foreign investment and sufficient investor protection.

Standards for Ensuring Inclusivity

ASEAN FTAs have traditionally been careful to avoid ‘sensitive’ areas like labour and environmental standards. There does not appear to be any great appetite among the RCEP’s stakeholders, particularly ASEAN economies and China, to regulate these areas in the foreseeable future. However, if labour and environmental standards come up in other frameworks, such as in the CPTPP, or bilateral FTAs of ASEAN members with extra-regional economies, or in new regional rules frameworks such as the Indo-Pacific Economic Framework for Prosperity, then some RCEP members figuring in these frameworks might push for their adoption by RCEP also. The latter, then, will need to give up on the traditional approach of avoiding politically uncomfortable policies. This might entail significant costs, notably in terms of straining the cohesion within the ASEAN community. Within the broad scope of labour standards, it might be easier for ASEAN and RCEP stakeholders to start by prioritising greater economic participation among women, as this is a subject that will not result in sharp splits in member perceptions.

Is RCEP a Success?

While falling short of being a high-quality agreement by global and regional standards, especially if compared with other major regional agreements like the CPTPP, the RCEP was able to improve over existing ASEAN+1

FTAs. It increased the coverage of tariff elimination to more than 90% of traded goods, expanded the scope of trade in services, introduced rules for mutual conformity in product standards, encouraged trade facilitation through paperless trade and developed initial rules for promoting e-commerce. All these achievements are expected to contribute significantly to economic growth and development in the region and strengthen the foundation of ASEAN economic regionalism.

To make a positive contribution to economic growth and development, RCEP must ensure that it is able minimise the economic costs that prevail in the Asia-Pacific from the proliferation of RTAs and FTAs. Accelerated growth in trade agreements over the last couple of decades has generated concern over their counterproductive outcomes as they led to higher trade costs arising from different overlapping rules for exporters and multiple blocs.[25]

Indeed, the rapid growth in regional FTAs has been on account of over-reliance on the 'hub-and-spoke' model.[26] The positive trade creation and welfare effects of new FTAs through the hub-and-spoke form have been outweighed by their negative externalities. The latter have specifically affected small and medium enterprises as they are forced to navigate between multiple tariff schedules and norms. The inevitable result is low use of many FTAs due to administrative and procedural costs[27] and lack of information on specific preferences offered by different FTAs.[28]

The RCEP can be an exception in this regard. Its common rules of origin can reduce costs of production for enterprises across regional supply chains as they allocate production resources among bloc members and obtain benefits of preferential tariffs by trading raw materials, intermediates and finished products among the bloc.[29] A single certificate of origin and the facility of self-certification will help, as will the move to document trade invoices in paperless electronic format.

While all these are important steps, there are some glitches that need to be overcome. As mentioned earlier, achieving the tariff cuts is going to be a long-drawn process for some countries, possibly taking up to 20 years. Such delays will prolong the process of effective integration within the bloc. Further, some countries are also not ready for self-certification,[30] therefore reducing the effectiveness of common rules of origin.

What Lies Ahead

Within less than two years of its commencement, RCEP was officially approached for membership by Sri Lanka.[31] More requests might be forthcoming as several economies in the region, particularly from neighbouring South Asia, consider favourably the prospect of joining a trade bloc with a market size of around one-third of the world economy. Indeed, the presence of prominent industrialised economies like Japan, South

[25] Ann Capling and John Ravenhill, "Multilateralising Regionalism: What Role for the Trans-Pacific Partnership Agreement?", *The Pacific Review* 24, no. 5 (2011): 553-575. https://doi.org/10.1080/09512748.2011.634078

[26] Sangkyom Kim, Innwon Park, and Soonchan Park, "Regional Economic Integration in the Asia-Pacific Region: Is an FTAAP the Catalyst for One Community?", Korea Institute for International Economic Policy, 2011, http://dx.doi.org/10.2139/ssrn.2319781

[27] Masahiro Kawai and Ganeshan Wignaraja, "Free Trade Agreements in East Asia: A Way Toward Trade Liberalization?", Asian Development Bank, 2010, https://www.adb.org/publications/free-trade-agreements-east-asia-way-toward-trade-liberalization

[28] Rules of origin in FTAs across Asia are classifiable among those requiring change in tariff classification, value addition content and specific product. FTAs can involve all three, combinations among the three, or one of the three. The most significant problem for exporters caused by the rules of origin is reportedly the difficulty and cost of documentation. See: Yunling Zhang, "The Impact of Free Trade Agreements on Business Activity: A Survey of Firms in the People's Republic of China," Asian Development Bank Institute, 2010, https://www.adb.org/sites/default/files/publication/156106/adbi-wp251.pdf

[29] Hong Yu, "The First Anniversary of the Implementation of the Regional Comprehensive Economic Partnership".

[30] Thomson Reuters, "RCEP is transforming trade in Asia Pacific and creating advantages for companies", April 4, 2022, https://www.thomsonreuters.com/en-us/posts/international-trade-and-supply-chain/rcep-asia-pacific-advantages/

[31] Presidential Secretariat, "Sri Lanka aims for RCEP membership and free trade agreements with ASEAN", 2023, https://www.presidentsoffice.gov.lk/index.php/2023/08/10/sri-lanka-aims-for-rcep-membership-and-free-trade-agreements-with-asean/#:~:text=The%20President%20also%20announced%20that,China%2C%20Japan%2C%20and%20SouthKorea.

Korea, China, Singapore and Australia is enticing for small economies like Sri Lanka looking to attract long-term foreign investments and to access new export markets on preferential terms.

What do these interests imply for ASEAN-centric Asian economic regionalism? ASEAN's efforts at bringing Asia closer through a rules-based economic framework has seen it expanding its regional architecture beyond Southeast Asia. The ASEAN+1 FTAs have stretched ASEAN-centricity to East Asia (Japan, South Korea, China), Oceania (Australia, New Zealand) and South Asia (India). The RCEP has integrated all these regions, except India and South Asia. The entry of Sri Lanka will enable the inclusion of South Asia as well. This should augur well for greater Asian regionalism.

If more economies like Sri Lanka join RCEP, it will expand the outreach of ASEAN to more parts of Asia, strengthening ASEAN's role as an economic hub in the expanding hub-and-spoke network. Adding more members will strengthen the appeal of the ASEAN-centric architecture as a politically neutral multilateral entity. However, RCEP and ASEAN stakeholders need to be mindful of the fact that adding more members will enhance the bloc's economic diversity and heterogeneity. As already experienced, this might increase the difficulty of achieving their goals. At the end, RCEP will need to strike the right balance between expanding strategic outreach and improving policy outcomes.

Discussion Questions

1. What are the reasons behind the RCEP not being able to achieve high-quality outcomes compared with the CPTPP?
2. Should RCEP and future ASEAN FTAs continue to provide S&D treatment and other flexibilities like they currently do?
3. How should RCEP address the challenges of digital transformation and climate change?