



Emerging economies, economic and geopolitical shocks, international trade and investment agreements

The Regional Comprehensive Economic Partnership Agreement: A new paradigm in Asian regional cooperation?

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RCEP expectations and challenges

Expectations

- A unifying factor in the existing “noodle” bowl of Asian FTAs.
- Strengthening regional value chains, investment, economic growth and job creation.

Challenges

- Weaknesses: “shallow” agreement? RCEP, at current juncture, has gaps.
- Implementation is not going to be an easy task
- Built-in provisions provide hope for greater liberalization or improved regulatory coherence in the future.



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Outline

- **Textual Analysis of Selected chapters**
 - a) Sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBTs)
 - b) Customs procedures and trade facilitation
 - c) Investment
 - d) Cross-cutting regulatory issues
- **Key market access provisions for trade in goods and services**
 - a) Services liberalization rates
 - b) Market access in trade in goods
 - i. Tariffs commitments and rules of origin
 - ii. Rules of origin
- **Research and capacity building program**
 - a) Raising the attractiveness of RCEP for the private sector
 - b) Expanding commitments' coverage and depth

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a-b) SPS/TBTs, Customs procedures and trade facilitation

SPS/TBTs

- No WTO-plus provisions for RCEP and less coverage than CPTPP.
- Unlike CPTPP, no provision for the establishment of an SPS or a TBT Committee to bring forward the agenda
- Lack of a built-in agenda cast doubts over the effectiveness of market access especially on agricultural and agro-processing products

Customs procedures and trade facilitation

- Covers same areas as WTO's Trade Facilitation Agreement and CPTPP.
- Two ambitious WTO-plus issues using hortatory language:
 - 1) Customs clearance of goods within 48 hours of arrival; within six hours for express consignments,
 - 2) Time limit of 150 days for issuance of advance rulings.
- Coordination on implementation of TFA provisions not included

c) Investment

Limited expected value added of this chapter :

- RCEP investors already covered by many international investment agreements (IIAs) and FTAs ;
- Absence of investor-State dispute settlement (ISDS)

Despite the shortcomings, several positive features including:

- Adoption of negative list approach on entry into force (but long list of exemptions);
- “TRIMS-plus” prohibition of performance requirements extended to forced transfer of a particular technology, production process, or other proprietary knowledge ;

d) Cross-cutting RCEP Chapters

Intellectual property (chap 11)

- Quantum leap in comparison with ASEAN FTAs.
- Covers similar provisions of TRIPS Agreement as well as new fields, namely genetic resources, traditional knowledge, and folklore

Government procurement (chap 16)

- Provisions contained in this chapter are perhaps the shortest and most modest.
- No provisions on international labor rights, reflecting the position of a number of RCEP developing countries, including PRC

Competition (chap. 13)

- Insertion of chapter on Competition – positive note with respect to ASEAN FTAs.
- No specific provisions on SOEs, unlike CPTPP devoting them an entire separate chapter
- Absence of an RCEP commitment on the private right of action constitutes one of the most conspicuous differences.

Electronic commerce (chap 12),

- RCEP commitments are first for non-CPTPP Members, going beyond those in FTAs between RCEP countries and the ASEAN Agreement on Electronic Commerce.
- Provisions on **data flows and data localization**, fundamental for firms providing computer services, are less stringent in RCEP, thus allowing for more policy space.
- Establishment of a Dialogue on commitments are first of this kind for non-CPTPP Electronic Commerce

Digital Provisions in RCEP, ASEAN Agreement on E-Commerce, and CPTPP

Categories	Provisions	Number of Provisions		
		RCEP	ASEAN E-Commerce	CPTPP
Trade Facilitation		5	4	6
Provisions designed to create a facilitating environment for digital trade in general.	Ban on Customs Duties on e transmission	1	0	1
	Non-discriminatory treatment of digital products	0	0	1
	Domestic electronic transactions framework	1	1	1
	Electronic authentication	1	1	1
	Electronic signatures	1	1	1
	Paperless trading	1	1	1
Enabling Business		2	2	4
Provisions to minimize the commercial and regulatory burden for digital trade providers.	Access to and use of the internet for e-commerce	0	0	1
	Free flow of data	1	1	1
	Prohibition of data localization	1	1	1
	Prohibition on forced transfer of source code	0	0	1
	Open government data	0	0	0
Consumer Protection		3	2	3
Provisions to protect interests and enhance trust of consumers	Online consumer protection	1	1	1
	Personal information protection	1	1	1
	Unsolicited commercial electronic messages	1	0	1
Regulatory Autonomy		2	4	3
Provisions to help governments to reserve the space necessary to address various social policy objectives*	Cybersecurity	1	1	1
	Exceptions	0	1	0
	Cooperation	1	1	1
	Dispute settlement	0	1	1
Total		12	12	16

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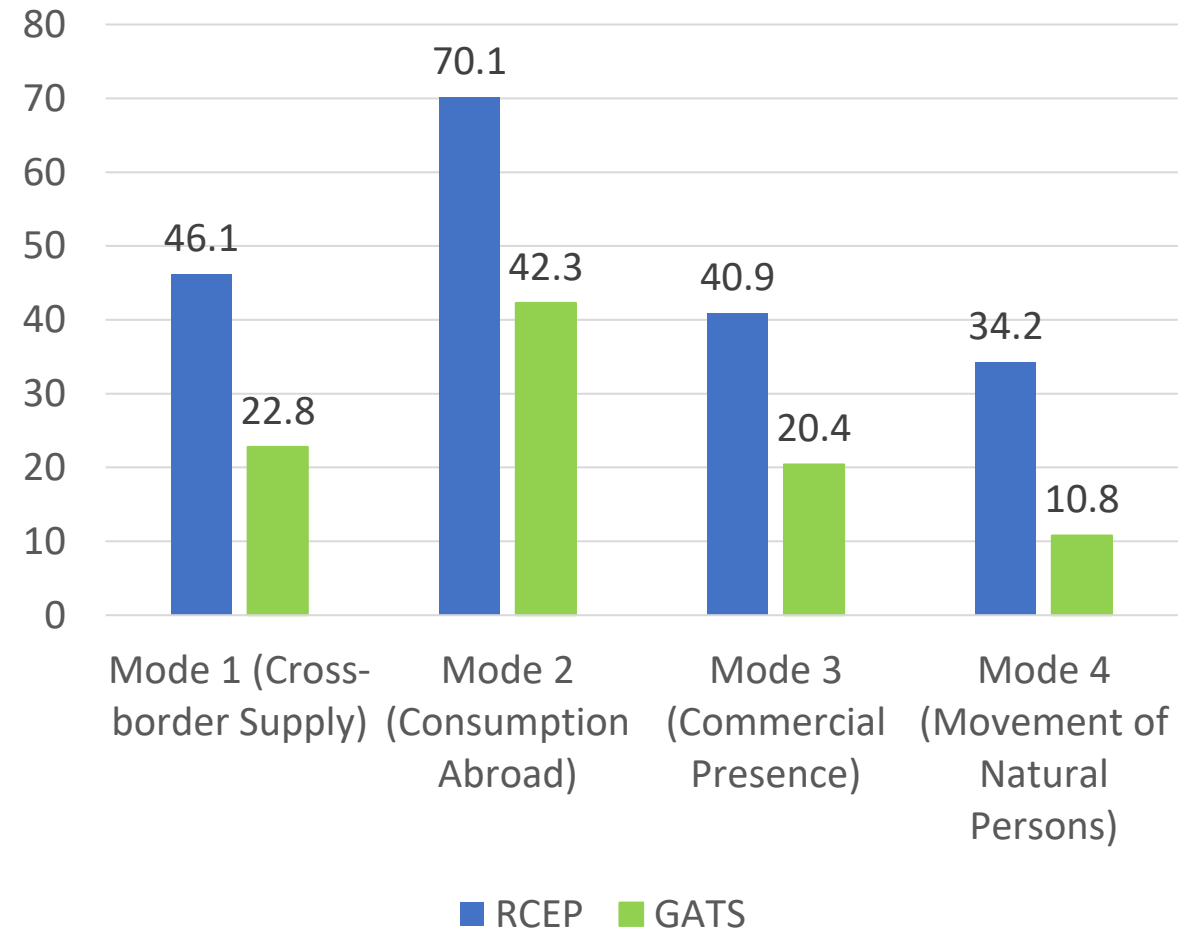
a) Trade in Services

(incl. financial and professional services, and telecommunications)

- Scope and structure of RCEP's chapter on trade in services replicate those of ASEAN plus One FTAs and CPTTP.
- New market access opportunities in a variety of sectors, including educational services, health services, computer-related services, other business services.
- Three specific annexes on financial services, telecommunications and professional services, with commitments and frameworks for enhanced cooperation containing signs of incremental value.
- With the progressive adoption of **negative list schedules** by all Members, albeit with different timelines, RCEP may cover a greater share of overall trade in services → TECHNICAL ASSISTANCE REQUIRED

RCEP services liberalization rates

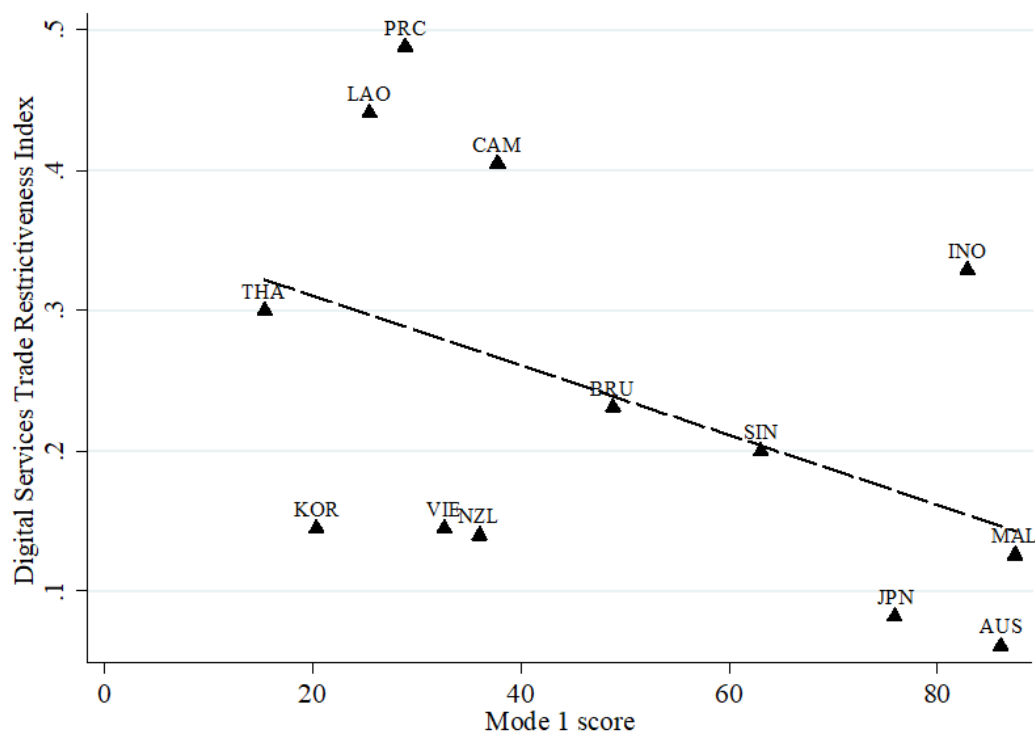
- Significant variations across member economies, services sectors, and modes of supply.
- Lifting restrictions on cross-border movement of independent professionals and contractual service providers to boost Mode 4
- Foreign equity restrictions under Mode 3, including legal and operational restrictions on the establishment of joint ventures with foreign companies, remain a challenge in enhancing FDI in the RCEP region.



Crivelli, Marand, Pasqua (2022 – forthcoming)

RCEP digital services trade liberalization and domestic constraints

Digital Services Trade Restrictiveness Index (score), 2021, and Mode 1 RCEP Liberalization rates (%)



AUS = Australia, BRU = Brunei Darussalam, CAM = Cambodia, INO = Indonesia, JPN = Japan, KOR = Republic of Korea, LAO = Lao People's Democratic Republic, MAL = Malaysia, MYA = Myanmar, NZL = New Zealand, PHI = Philippines, PRC = People's Republic of China, RCEP = Regional Comprehensive Economic Partnership, SIN = Singapore, THA = Thailand, VIE = Viet Nam.
Note: Countries in blue adopted the negative list approach.

- Coupled with investments in digital infrastructure and human capital, deeper liberalization under Mode 1 is crucial to foster digital services trade and economic development in the region
- RCEP **mode 1** liberalization rates reflect the stringency of domestic regulations.
- There may be little room for further liberalization unless regulatory reforms are implemented at the national level.
- Crucial to identify **strategic sectors** that will potentially benefit from further services liberalization.

Outline of the presentation

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Will RCEP change the landscape for market access in trade in goods?

Economies/ Regions		RCEP					
		ASEAN	Australia	PRC	Japan	New Zealand	Rep. of Korea
RCEP	ASEAN		AANZFTA, 2010 Singapore, 2003 Thailand, 2005 Malaysia, 2013 CPTPP, 2018 Indonesia, 2020	ASEAN, 2005 Thailand, 2003 Singapore, 2009 Cambodia, 2022	ASEAN, 2008 Singapore, 2002 Brunei Darussalam, 2008 Indonesia, 2008 Malaysia, 2006 Thailand, 2007 Philippines, 2008 Viet Nam, 2009 CPTPP, 2018	AANZFTA 2010 Thailand, 2005 Malaysia, 2010 CPTPP, 2018 Singapore, 2001 TPSEP/P4, 2006 DEPA, 2021	ASEAN, 2007 Singapore, 2006 Viet Nam, 2015 Philippines* Cambodia, 2022**
	Australia			2015	Bilateral, 2015 CPTPP, 2018	CER, 1983 CPTPP, 2018 AANZFTA, 2010 PACER Plus, 2020	2014
	PRC				No FTA	2008	2015
	Japan					CPTPP, 2018	No FTA
	NZ						2015
	Rep. of Korea						

* Concluded negotiations in October 2021, expected to enter into force in 2023, ** Entering into force on 1st December

How to make RCEP trade preferences attractive ?

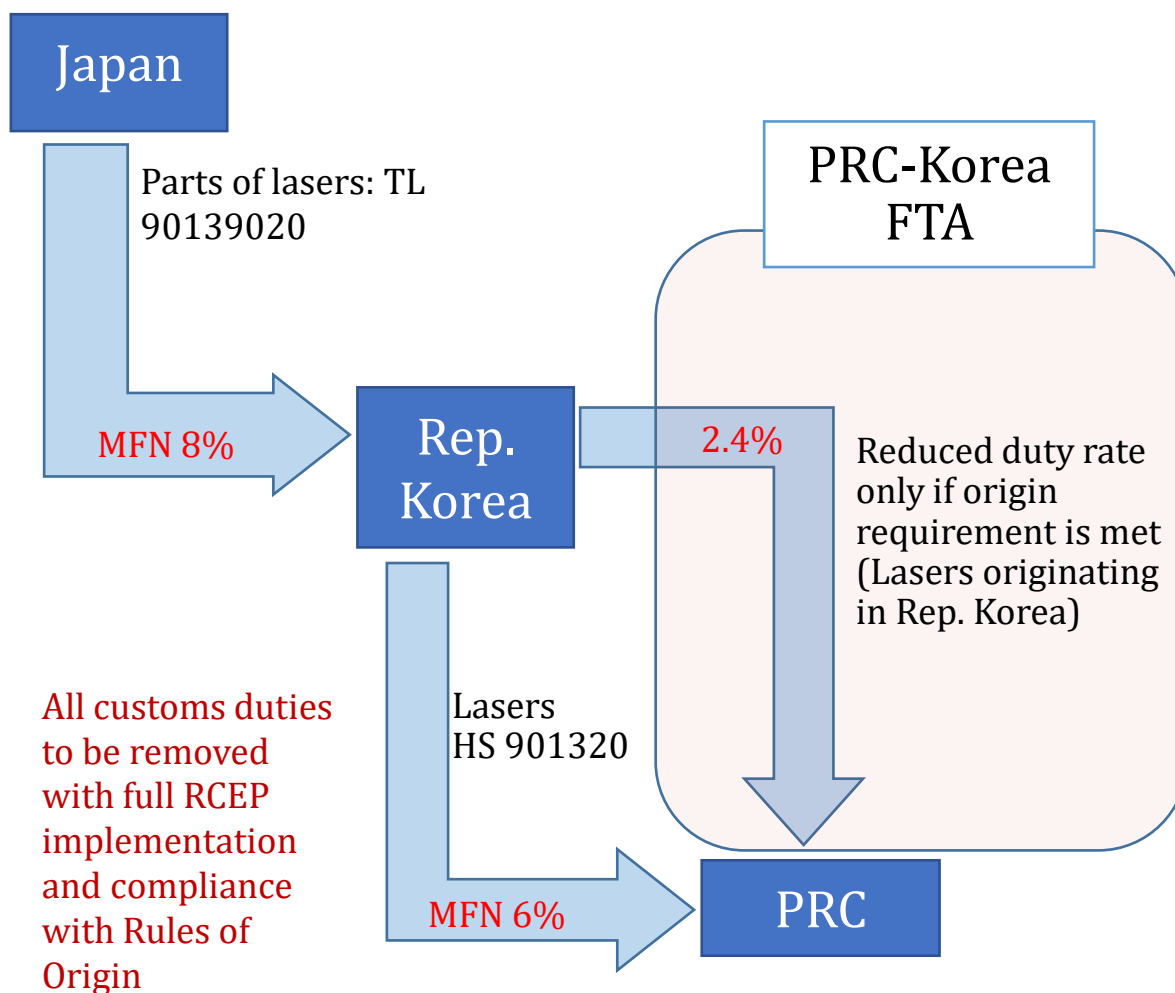
- Multiple FTAs – the determinants of exporters' choices
 - ❖ coverage of products
 - ❖ extent of tariff reduction (preference margin)
 - MFN rates and tariff phasing down schedules
 - ❖ ease of complying with rules of origin and customs procedures
 - Form and restrictiveness of PSROs
 - RoO Administrative procedures
 - Other customs procedures
- Goal: effective utilization of RCEP agreement.

RCEP tariff cutting and rules of origin – potential benefits

- **Tariff savings:** lower tariffs and coverage
- **One set of rules in all 15 countries:** RCEP provides the first opportunity to have a common trade platform on rules of origin among members.
- **Wide RCEP membership expands geographic scope of regional cumulation:** potential to foster regional integration and value-chain creation by providing incentives to source intermediates within the RCEP region.

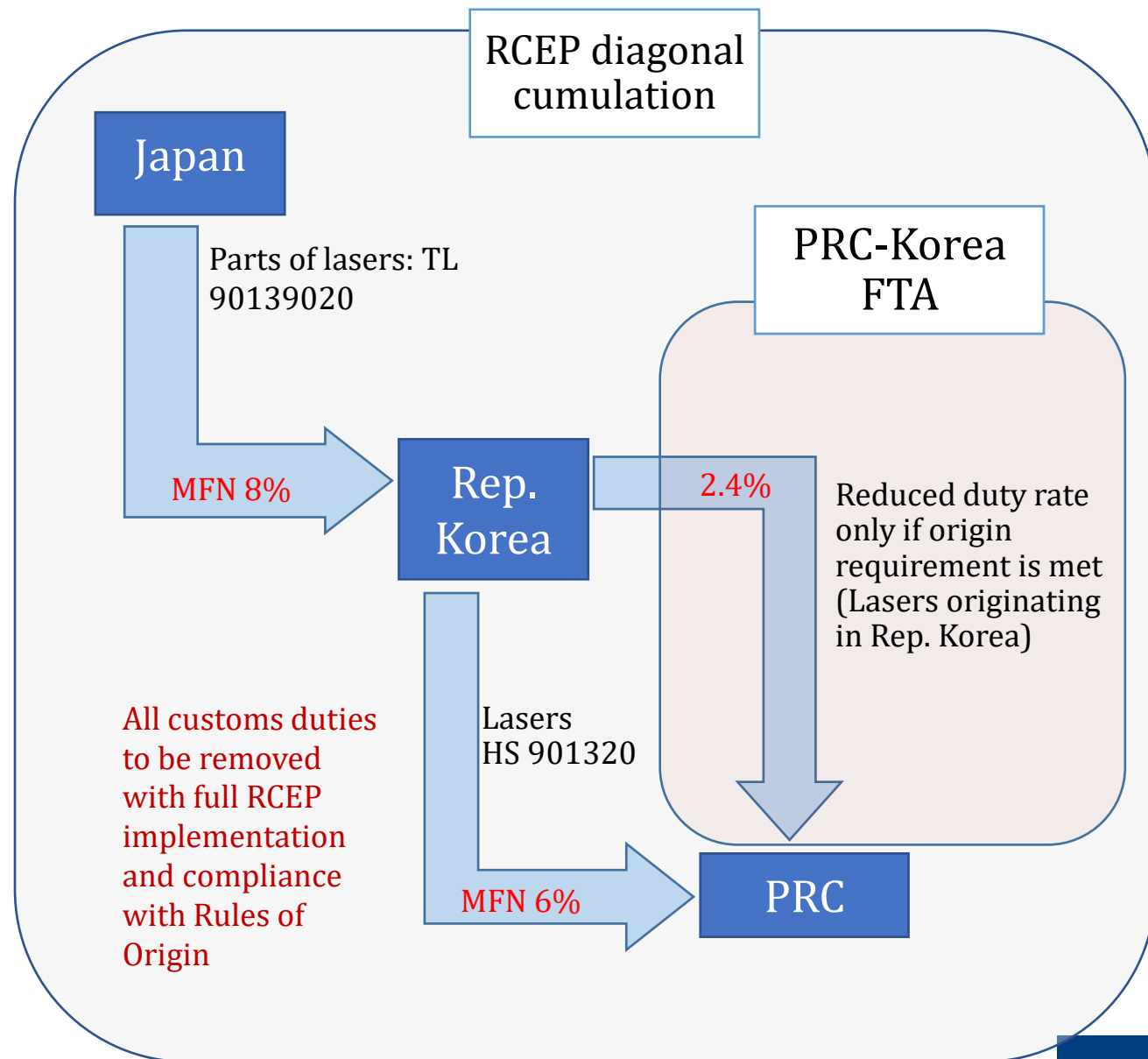
An example of trade liberalization within RCEP

- Tariff-cutting “quick wins” are conditional on compliance with rules of origin.
- If rules of origin requirements are not met, the MFN tariff is levied



An example of trade liberalization within RCEP (con't)

- RCEP diagonal cumulation may facilitate the compliance with RoO when exporting from Rep. Korea to PRC



Long and complex tariff phasing out

- Tariff phasing out periods up to 20 years
- Average of 7.5% of tariff lines excluded (U)
- **38 tariff schedules:** for a given product, the tariff rate and phase-out period may vary.
- **Differentiated offers:** Additional layer of complexity to use the tariff preferences terms of rules of origin (limited cumulation) and related administrative requirements.

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KEY POINTS

- The substantial gains expected from the Regional Comprehensive Economic Partnership (RCEP) depend on the agreement's effective implementation and development of its built-in agenda in key areas.
- Trade in services, investment, e-commerce and digital trade, among other behind-the-border areas, show relatively modest commitments.
- RCEP's complex, lengthy tariff phasing down, rules of origin, and related administrative procedures are expected to delay the Agreement's potential benefits and may deter firms from using RCEP's trade preferences.
- A combined agenda of implementation leveraging built-in provisions to achieve greater trade liberalization is necessary to compensate for the initial "shallow" RCEP commitments in regulatory and behind-the-border measures.
- Further intergovernmental work and strong political will are needed to unlock the potential of RCEP, overcome implementation challenges, deepen its provisions, and expand its coverage in the future.

A Preliminary Assessment of the Regional Comprehensive Economic Partnership

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INTRODUCTION

Mega-regional trade deals require economies to forge appropriate policy responses to navigate implementation challenges and unlock potential opportunities. The Regional Comprehensive Economic Partnership (RCEP), which entered into force on 1 January 2022, is no exception.¹ Partnering 10 Southeast Asian nations with Australia, the People's Republic of China (PRC), Japan, the Republic of Korea, and New Zealand, RCEP is the most recent plurilateral initiative to foster regional cooperation and integration in Asia and the Pacific.² As a strong commitment to open, transparent, and inclusive trade and investment regimes, the agreement is expected to strengthen the region's manufacturing supply chains, raise productivity, and increase wages and employment, with world income gains estimated at \$263 billion (Park, Petri, and Plummer 2021).

At the same time, compared to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and other agreements in Asia and the Pacific, RCEP does not provide strong disciplines in new areas and has been qualified as a "shallow" agreement.

¹ The authors thank Regional Cooperation and Integration Division Director Cyn-Young Park and Paulo Halli for the comments and suggestions provided. The brief also benefited from comments from participants at the EUI/UNCTAD executive workshop on rules of origin for least developed countries and in selected mega-regionals of 12 October 2021, the Regional Cooperation and Integration Policy Open Dialogue (RCI-POD) on the Implementation Challenges of the Regional Comprehensive Economic Partnership of 20 October 2021, and the EUI/UNCTAD Executive Roundtable on Rules of Origin: Moving towards Convergence² of 16 November 2021. Research support was provided by Thi Hang Binh, ADB consultant.

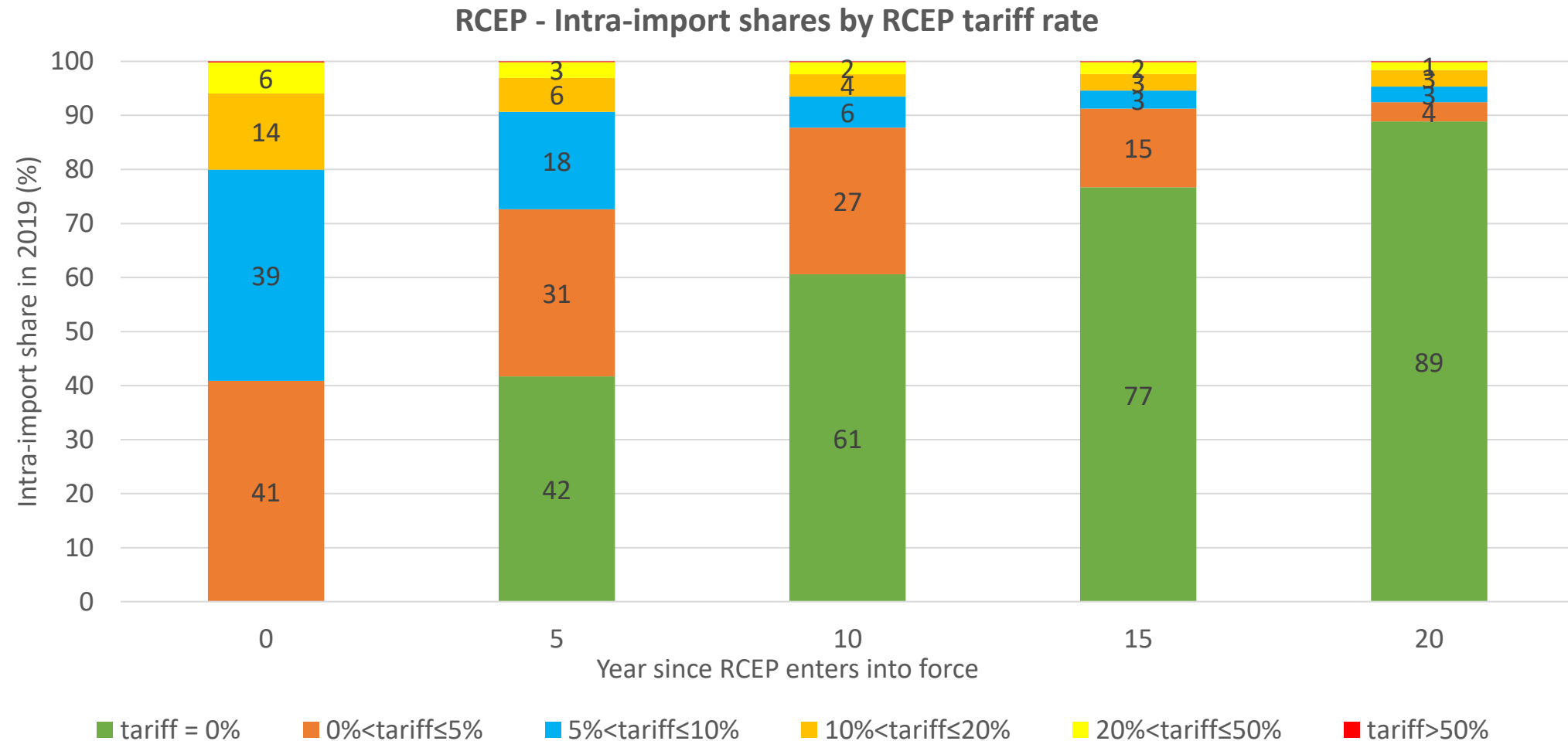
² The 10 signatory states that have initially deposited their instruments of ratification, acceptance, or approval are Australia, Brunei Darussalam, Cambodia, the PRC, Japan, the Lao People's Democratic Republic, New Zealand, Singapore, Thailand, and Viet Nam. In the Republic of Korea, RCEP agreement enters into force on 1 February 2022. See https://www.meti.go.jp/english/press/2021/1103_001.html and https://www.meti.go.jp/english/press/2021/1206_002.html. See Kang et al. (2020) for an overview of the agreement and economic impact.

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RCEP intra-regional import shares (2019) and RCEP tariffs phasing down over years



Notes: i) Intra-imports of RCEP countries are taken from COMTRADE data in 2019.

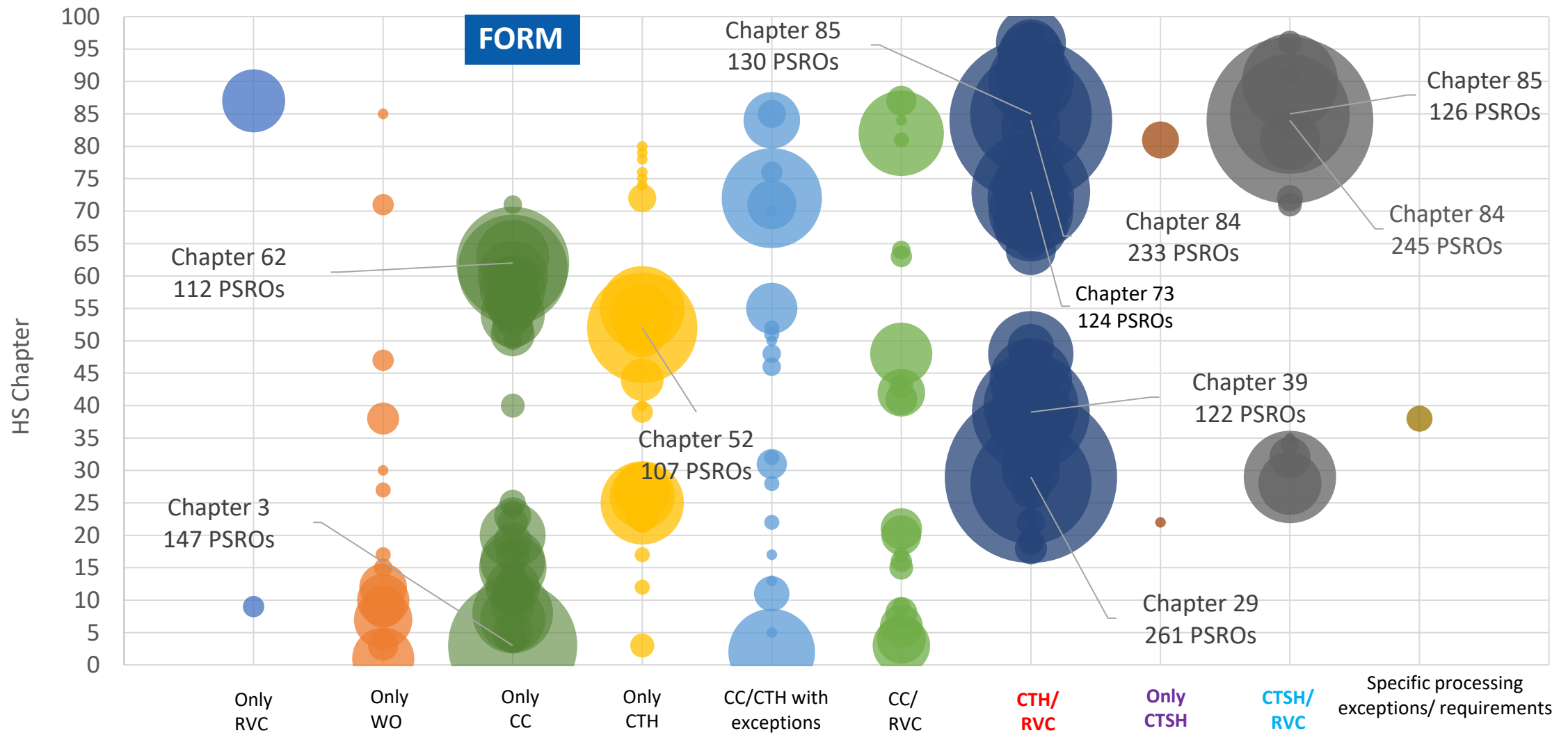
ii) Tariff lines with a base rate of 0% and tariff lines subject to non-ad valorem duties are excluded from total imports.

iii) Import at the national tariff line level is computed by using the share of tariff line in each HS6 category as a proxy for the proportion of trade of each tariff line within each HS6 category.

Rules of origin under RCEP compared with CPTPP

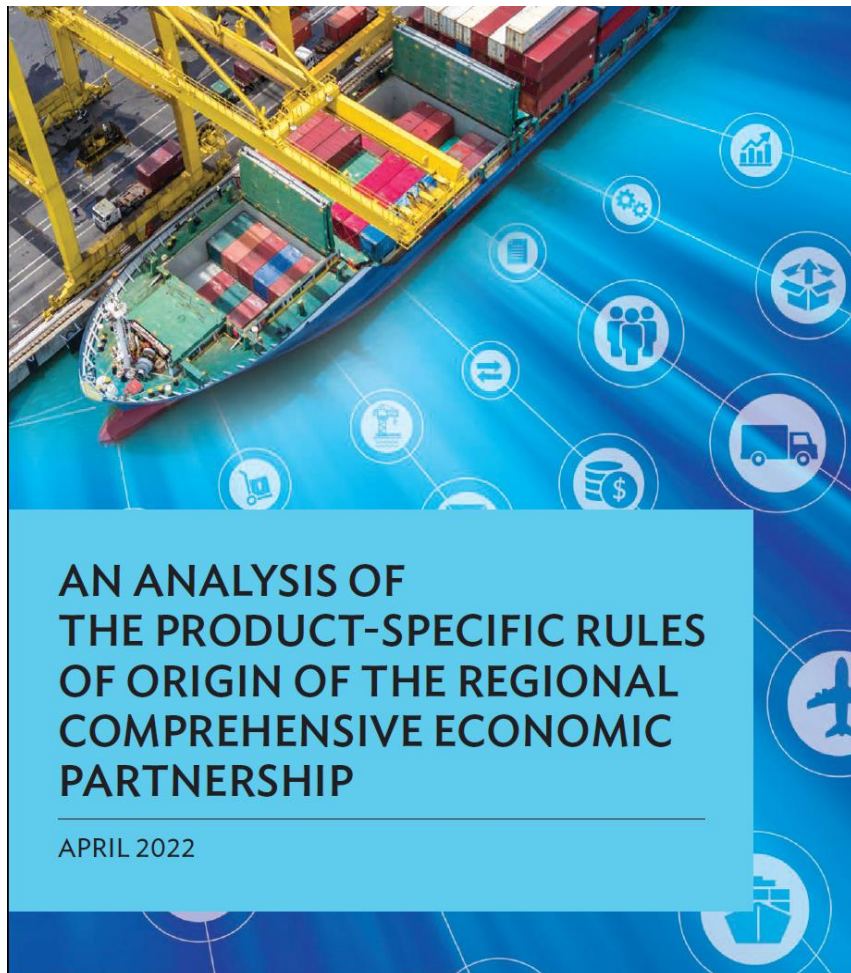
- CPTPP rules of origin negotiated on the basis of a North American model
- RCEP is a mix of ASEAN and inherited North American model from Australia, Japan, New Zealand, and Republic of Korea
- Wide geographical scope of RCEP tilt the balance in favor of RCEP as it ...
 - Provides a single set of RoO
 - Expand scope for cumulation bringing major players into the picture
- Shortcomings to be addressed:
 - Scarce predictability (inherited features from ASEAN RoO)
 - Absence of full cumulation
 - Proof of origin
 - Tariff differentials and «Conditional cumulation»

Analysis of the form of 2075 Product-specific rules as applied to 5203 subheadings



Note: RVC: Regional value content; WO: Wholly obtained; CC: Change of tariff chapter; CTH: Change of tariff heading; CTSH: Change of tariff subheading.

Restrictiveness and of convergence of PSRO



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RESTRICTIVENESS	Free Trade Agreement (FTA)		
	ATIGA	RCEP	CPTPP
1: Least restrictive	3321	1774	2706
2: "Intermediate"	1807	3292	1386
3: Most restrictive	75	137	1111

- Looking only at the stringency, there is **no evidence that RCEP is more liberal** than other agreements!
- But there might be **convergence... → scope for simplification**

CONVERGENCE	#HS6
Full Convergence	769
RCEP and CPTPP are the same but ATIGA Diverges	719
RCEP and ATIGA are the same but CPTPP Diverges	1621

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Proof of Origin (PoO): Mega-regionals as unifying factor?

No, a world of difference

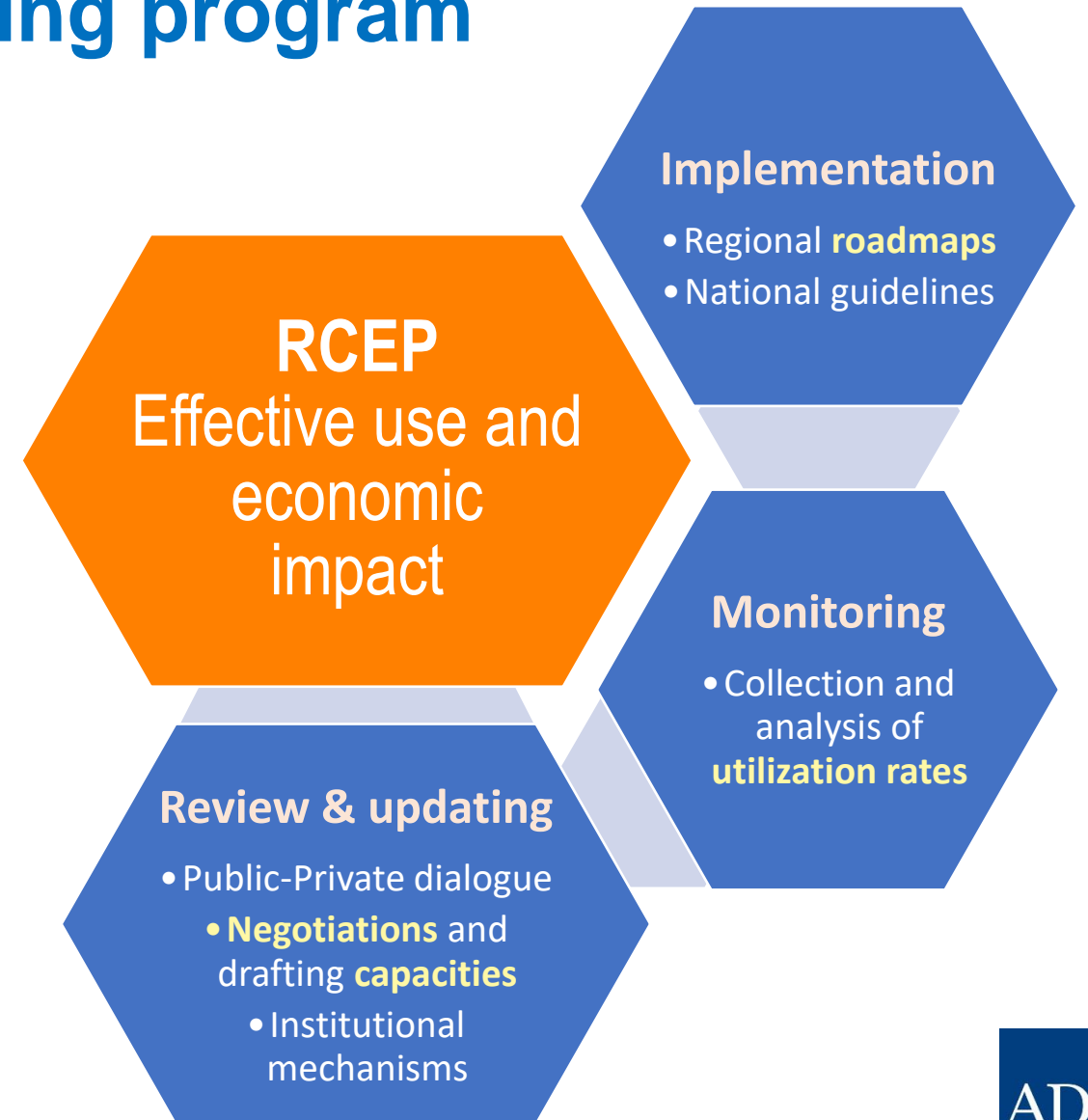
RCEP	CPTPP
Article 3.16: Proof of Origin	Article 3.10 Proof of Origin
<p>1. Any of the following shall be considered as a Proof of Origin:</p> <ul style="list-style-type: none">(a) a Certificate of Origin issued by an issuing body in accordance with Article 3.17 (Certificate of Origin);(b) a Declaration of Origin by an approved exporter in accordance with subparagraph 1(a) of Article 3.18 (Declaration of Origin); or(c) a Declaration of Origin by an exporter or producer in accordance with subparagraph 1(b) of Article 3.18 (Declaration of Origin), and subject to paragraphs 2 and 3, <p>NOTE : Establishment of approved exporter database managed by RCEP joint committee for paragraph (b)</p> <p>10 or 20 years implementation for paragraph (c)</p>	<p>Except as otherwise provided in Annex 3-A (Other Arrangements), each Party shall provide that an importer may make a claim for preferential tariff treatment, based on a certification of origin completed by the exporter, producer or importer</p> <p>3. Each Party shall provide that a certification of origin:</p> <ul style="list-style-type: none">(a) need not follow a prescribed format;(b) be in writing, including electronic format;(c) specifies that the good is both originating and meets the requirements of this Chapter; and(d) contains a set of minimum data requirements as set out in Annex 3-B (Minimum Data Requirements).

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Research and capacity building program

- Raising the attractiveness of RCEP for the private sector
 - What is the value added of RCEP over existing agreements?
 - How to make use of the agreement?
- Expanding commitments' coverage and depth towards greater liberalization and regulatory coherence
 - Activate built-in mechanisms



Raising the attractiveness of RCEP for the private sector

Priority Areas	Methods	Outputs
Trade preferences and rules of origin	Textual comparative analysis; Analysis of restrictiveness and convergence of product-specific rules of origin in RCEP, CPTPP, ATIGA and ASEAN+1 FTAs	Regional and national roadmaps <ul style="list-style-type: none"> Analytical studies, comparative analysis Country-level dissemination Country-specific research and guidelines Capacity building for implementation and domestic reforms Databases (RCEP and other FTAs) <ul style="list-style-type: none"> Trade and tariff commitments Product-specific rules of origin Services liberalization rates Utilization rates database (see WTO/UNCTAD model based on notification of member states)
Certification and administrative issues	Comparative analysis and firms' survey	
SPS/TBT resolution mechanism	Textual comparative analysis and identification of best practices	
Services commitments and non-conforming measures	RCEP Services liberalization rates – State of play of and impact for digital services trade	
E-commerce and digital economy	Study the potential of Digital Economy Agreements to complement RCEP	

Expanding commitments' coverage and depth

Priority Areas	Methods	Outputs
Public-Private dialogue	Act as facilitator to support the establishment and functioning of a public-private dialogue and other institutional mechanisms to bring the agenda forward	Tailored capacity-building programs for negotiators (practical training sessions, advisory services, workshops) <ul style="list-style-type: none">• Research dissemination• Enhanced drafting skills• Data analysis tools and methodologies• Assessment of trade interests• Negotiating strategies
Specialized working groups		
Drafting, technical, and negotiating skills	<ul style="list-style-type: none">• Research in priority area (see previous slide)• In-depth analysis of utilization rates• Identification of best practices• Activate built-in mechanism to accelerate and simplify tariff commitments, review cumulation, certification, and ancillary provision	

Thank you very much for your attention!

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