



A preliminary Assessment of the Regional Comprehensive Economic Partnership (RCEP)

Regional Cooperation and Integration Open Policy Dialogue (RCI-POD)



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Scope of the analysis

Context:

- RCEP is widely expected to act as unifying factor to strengthen the ultimate goals of a regionwide FTA, addressing challenges of the existing “noodle” bowl of FTAs in the region.
- Compared to the CP-TPP and other agreements of the Asia-Pacific, RCEP does not provide for strong disciplines in new areas and has been qualified as a “shallow” agreement.

Objective:

Shed light on the foundations of these apparently contradictory statements to conciliate expectations and draw policy recommendations

Methodology:

1. Analysis of the textual content of the 20 Chapters of RCEP and related literature.
2. Comparison of RCEP commitments with CPTPP and WTO (and ATIGA on RoO)
3. Identify shallow/deep nature of commitments (value added of RCEP)
4. Formulate policy recommendations for RCEP built-in agenda



Analysis of the textual content of selected Chapters of RCEP and related literature

- Examining the “shallow” side of RCEP
 - a) Sanitary and phytosanitary measures (SPS) and technical barriers to trade (TBTs)
 - b) Trade remedies
 - c) Customs procedures and trade facilitation
 - d) Services, investment and regulatory issues behind the borders cross-cutting chapters

Sanitary and phytosanitary measures (SPS), technical barriers to trade (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 representing an important opportunity for LDCs and middle income RCEP partners

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.
- However, coordination on implementation of TFA provisions not included

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.
- As in the case of trade in goods, RCEP does not extend the benefits of previous market access concessions by a Party to the other Parties → exacerbates “noodles bowl” effect
- 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
- New market access opportunities in a variety of sectors, including educational services, health services, computer-related services, other business services.
- Jointly with ERIA, ADB is carrying out a comparative analysis of schedules of commitments
- Three specific annexes on financial services, telecommunications and professional services, with commitments and frameworks for enhanced cooperation containing signs of incremental value.

Investment

Limited expected value added of this chapter given a number of factors:

- RCEP investors already covered by many international investment agreements (IIAs) and FTAs ;
- Absence of investor-State dispute settlement (ISDS) likely to induce investors to use ISDS that is available in other FTAs and IIAs, rather than State-State dispute settlement mechanism under RCEP.

Despite the shortcomings, several positive features including:

- Adoption of negative list approach on entry into force, although the list of exemptions from the coverage of the Chapter, is long and affects many sectors;
- “TRIMS-plus” prohibition of performance requirements extended to forced transfer of a particular technology, production process, or other proprietary knowledge as well as forced adoption of given rate or amount of royalty under a license contract;

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 regarding 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

Preliminary assessment confirms the shallow nature of several RCEP Chapters: further intergovernmental work needed

- In some chapters there is no WTO-Plus content (SPS/TBT, Trade remedies) or limited (TFA)
- Selected chapters do not provide for built in agenda or limited hortatory language
- On services, further research is ongoing and negative list approach is subject to implementation
- Based on the ASEAN integration history, more work is needed to achieve stronger commitments, further action is needed by RCEP partners.

Will RCEP change the landscape 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*	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
	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						

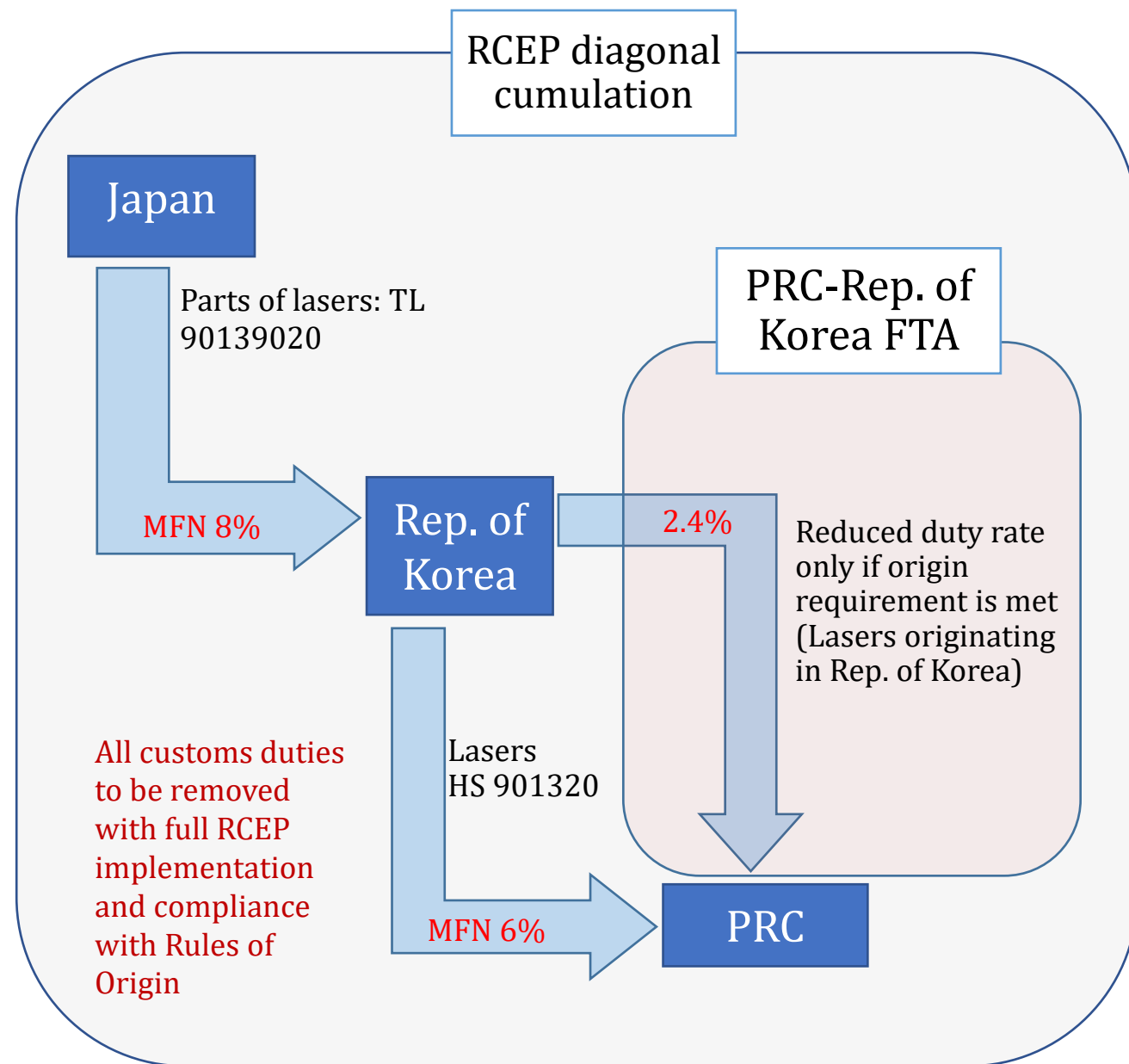
* Signed in 2021 but not in force

How to make RCEP attractive ?

- Multiple FTAs and «spaghetti bowl» effect – the determinants of exporters' choices
 - the coverage of products,
 - the extent of tariff reduction (preference margin)
 - MFN rates and tariff phasing down schedules
 - the ease of complying with rules of origin.
 - RoO Administrative procedures
 - Form and restrictiveness of PSROs
- All these elements are determinant for an effective utilization of the RCEP agreement.

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



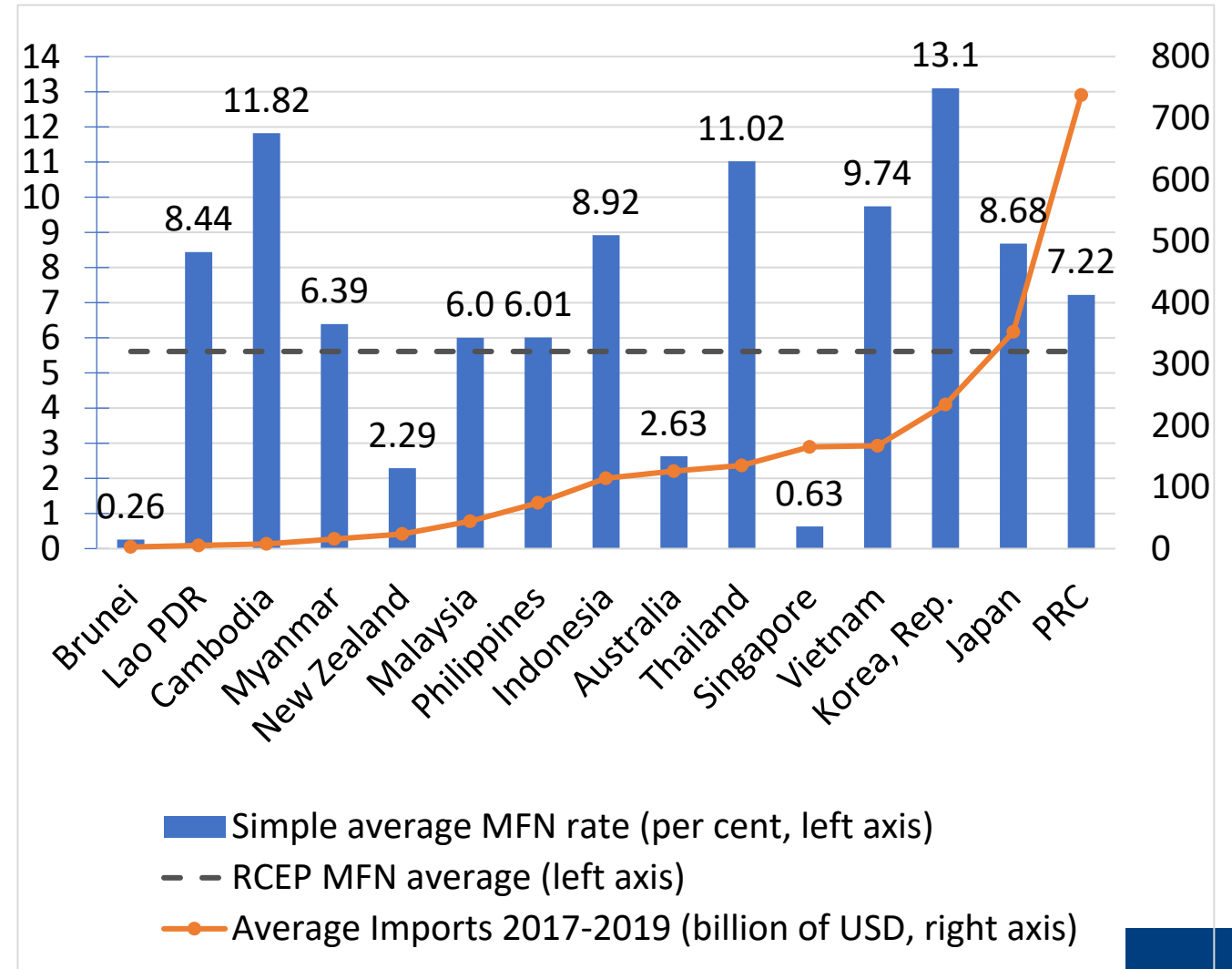
RCEP tariff cutting and rules of origin – potential benefits

- **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.

Is there scope for preferential margin?

- Varying MFN rates from 0.3% in Brunei Darussalam to 13.1% in the Rep. of Korea with an average of 5.6% for all RCEP countries.
- At the end of the tariff phasing down period, most of these tariffs will be down to zero within the RCEP region.
- **High intra-regional trade values**
- **Significant preference margins can trigger substantial tariff savings.**
- Will they materialize?
And when?

Imports from RCEP partners
and MFN tariff rates



To whom are tariff offers addressed?

- **CPTPP**: one single tariff offer *vis a vis* all other partners (exceptions for specific goods).
- **RCEP**: differentiated tariff schedules and phase-out of customs duties depending on the RCEP partner
 - **38 different tariff schedules**;
 - various and sometimes very long timelines of 20 years (or more).

RCEP Tariff schedules		
Single	'Hybrid'	Differentiated
<ul style="list-style-type: none">• Australia• Brunei• Cambodia• Lao PDR• Malaysia• Myanmar• New Zealand• Singapore• Thailand	<ul style="list-style-type: none">• Japan<ul style="list-style-type: none">• One document with most of the tariff offers are applicable to all RCEP countries.• some specific lines include different tariff rates and reduction timelines for different Parties	<ul style="list-style-type: none">• PRC• Indonesia• Rep. of Korea• Philippines• Viet Nam

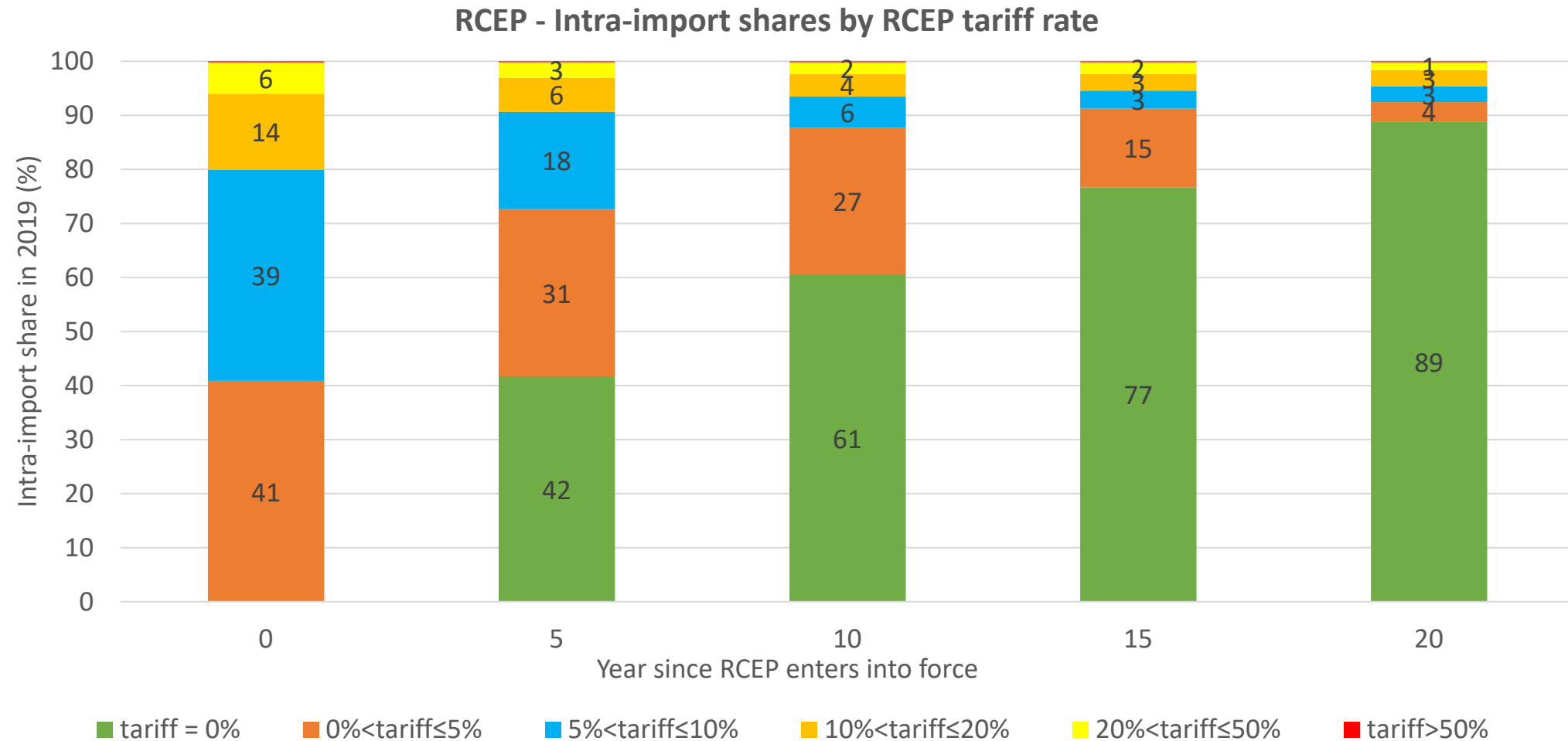
How are tariff offers structured?

An example: Viet Nam's tariff phase-out under RCEP

Category	ASEAN	Australia	PRC	Japan	Rep. of Korea	New Zealand	Total
A1	3242	3242	3242	3242	3242	3242	19452
A10	1661	1661	1661	0	1661	1661	8305
A11	0	0	0	1661	0	0	1661
A15	662	662	0	0	381	662	2367
A16	0	0	0	381	0	0	381
A20	65	0	281	0	0	0	346
AB20	141	206	213	252	252	206	1270
AB25	126	126	109	288	288	126	1063
CKD	87	87	87	87	87	87	522
O	3000	3000	3000	3000	3000	3000	18000
TRQ	30	30	30	30	30	30	180
U	544	544	935	617	617	544	3801
Total	9558	9558	9558	9558	9558	9558	57348

Note: **A1:** Ad valorem duties to be reduced to zero upon entry into force; **A10:** Ad valorem duties to be reduced to zero in year 10 from entry into force and so on; **AB1:** Ad valorem duties to be reduced to a positive tariff upon entry into force; **O:** MFN free, no tariff reduction; **U:** unbound, no tariff reduction; **CKD:** Complete knock down; **TRQ:** Tariff rate quota.

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.

Comparing RoO in RCEP and CP-TPP: What is More in RCEP?

- CP-TPP RoO 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 the Republic of Korea
- Whatever model is used, what matters is enhanced market access in terms of Product specific Rules of origin and related administrative requirements
- RCEP shows inherited features of **scarce predictability** from ASEAN RoO:
 - Cumulation provisions still to be defined
 - Certificate of origin issues
 - Tariff differentials and cumulation

Managing Tariff Differentials and cumulation

- One systemic and important difference between RCEP and CPTPP is the structure and architecture of the tariff offers.
- In a nutshell, if a firm wishes to use the favorable cumulation provisions under RCEP, the clock may turn back with respect to the existing bilateral or plurilateral FTAs since duties may be applicable under the RCEP, while they were completely abolished under the previous FTAs .

Ex. A car manufactured in Cambodia for exports to Viet Nam, under ATIGA no duties and RVC 40%. If an investor wish to cumulate under RCEP parts of vehicles originating in, e.g., PRC, Japan, or the Rep. of Korea it has to meet a 20% local content in Cambodia.

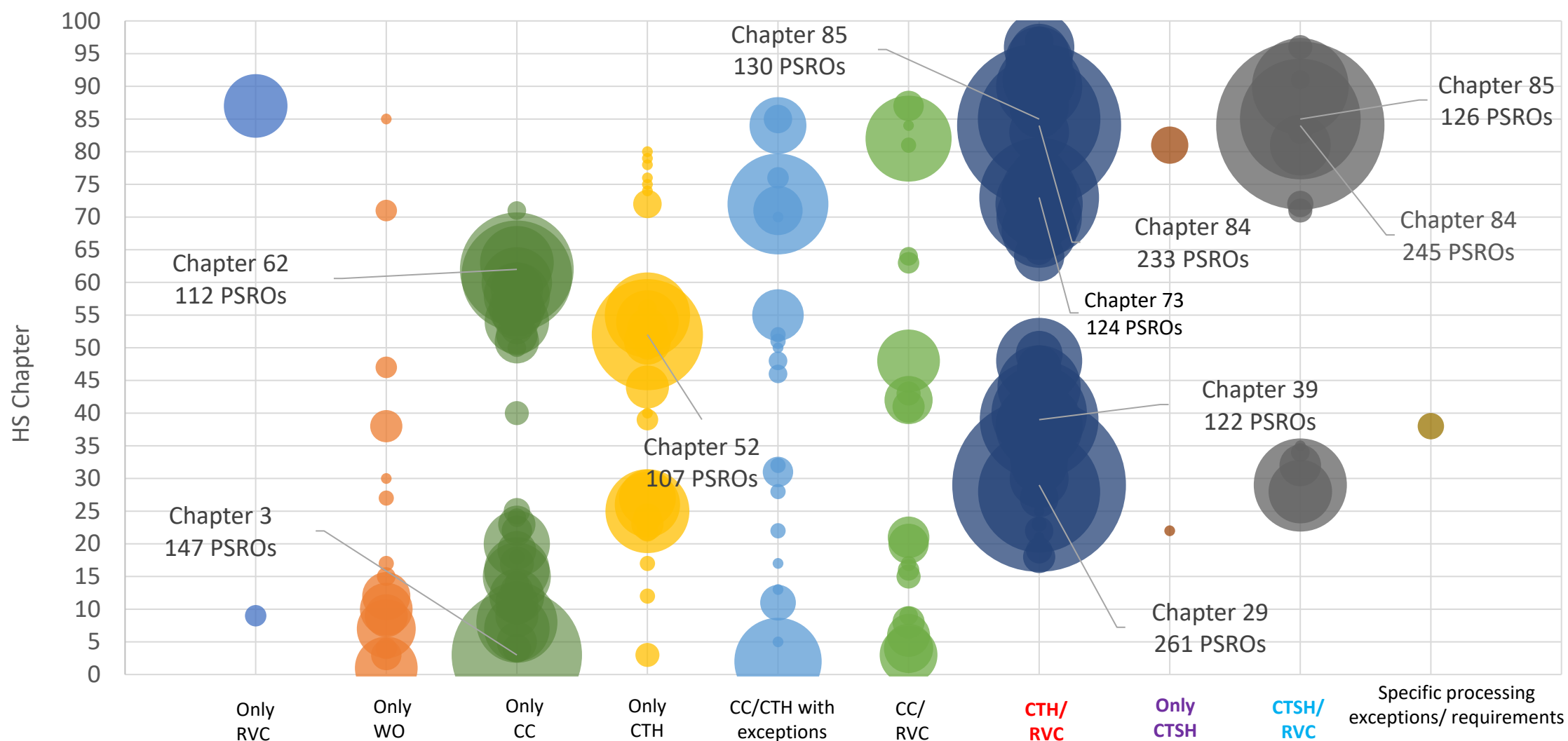
- This raise the question of how effective and commercially viable is cumulation in RCEP?

Product-Specific Rules of Origin (PSROs) Form vs. Substance (stringency) - Example

HS Description	RCEP	ATIGA	CP-TPP
Chapter 1 live animals	WO	WO	01.01 - 01.06 A change to a good of heading 01.01 through 01.06 from any other chapter.

- RCEP and ATIGA require that the products are wholly obtained
 - i.e. the live animals of chapter 1 are born and raised in RCEP or ATIGA countries respectively.
- CP-TPP first breaks down PSROs at heading level and then apply a CC substantive requirement.
- No antecedent in the HS to live animals → same substantive requirement as in RCEP and ATIGA
 - In order to be considered originating the live animals of chapter 1 must be to born and raised in a RCEP, ATIGA or CP-TPP partner.

RCEP - 2075 individual 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 convergence of PSROs

Restrictiveness Code	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**

	Full Convergence	RCEP and CPTPP are the same but ATIGA Diverges	RCEP and ATIGA are the same but CPTPP Diverges
Number of HS Subheading	769	719	1621

RCEP as it stands, sounds like a promise

- a number of actions are needed

Main findings	Way forward
<i>Non-traditional behind the border and regulatory chapters</i>	
<ul style="list-style-type: none"> • Shallow provisions in some chapters; • Unpredictability of implementation of commitments 	Can shallow RCEP chapters be addressed in the <i>ASEAN way</i> ?
<i>Tariff phasing down</i>	
Long, complex and incomplete tariff phasing down period	<ul style="list-style-type: none"> ➤ Built-in agenda (<i>rendez-vous clause</i> to be activated) ➤ RCEP negotiators should stand ready to activate RCEP article 2.5 acceleration of tariff commitments and article 2.21 sectoral initiatives to achieve greater and faster tariff liberalization.
<i>Rules of origin</i>	
<ul style="list-style-type: none"> • Rules of origin criteria and administration not more liberal than in CPTPP and ATIGA • Scope for convergence and simplification • Differentiated offers adding complexity to application of RCEP cumulation 	<ul style="list-style-type: none"> ➤ RCEP may not have the ground-breaking effect of bringing under a common umbrella different sets of rules of origin unless further action is taken. ➤ Act under the built-in agenda where the FTAs are converging to identical or similar PRSOs to towards simplification

Thank you very much for your attention!

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