

A Roadmap for RCEP Implementation

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Pramila A. Crivelli, PhD

Economist

Asian Development Bank

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RCEP: a gamechanger in Asian economic integration ?

- Building upon existing agreements between the 10 ASEAN members states and five of its dialogue partners: Australia, Japan, New Zealand, People's Republic of China, and Republic of Korea.
- **Largest** free trade agreement (FTA) - nearly 30% of the world population, more than 30% of global output, and more than 29% of global merchandise trade (2021 values).
- Developed as a **comprehensive** agreement, covering market access, regulatory coherence across trade in goods and services, investment and other cross-sectoral issues such as intellectual property rights, competition, government procurement, e-commerce, SMEs, and others.
- Observing a gradual approach to trade liberalization and governance, RCEP opted to feature a **built-in agenda** that includes provisions on pending issues that have not been agreed upon during negotiations or to be further developed.



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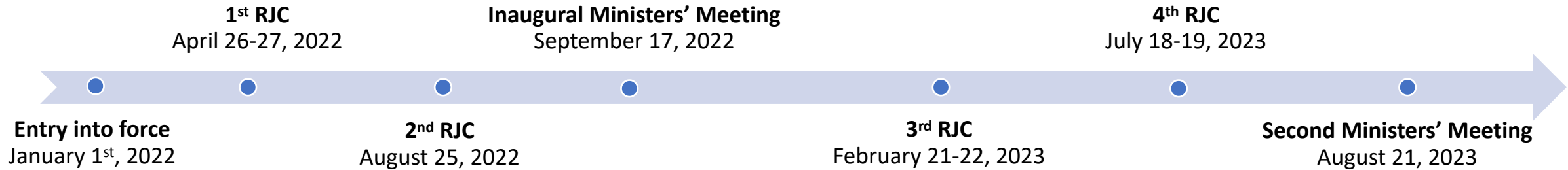
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The RCEP nature and process

- Modern FTAs of latest generation are based on structured commitments locked in legal texts at the outset resulting in substantial trade liberalization.
- RCEP adopts the '*ASEAN way*' of successive implementation meetings where the RCEP legal text will be further developed and made operational.
- RCEP is a framework agreement that needs to be further negotiated and firmed up through the built-in agenda to provide effective benefits over existing FTAs.
- Several improvements in RCEP have been recorded but a careful reading shows that some difficulties persists
 - Example: the final RCEP text did not contain the agreed CO layout that was only finalized after entry into force.



Recent progress on RCEP implementation



- Activation of RCEP built-in agenda depends on the functioning of the institutional provisions contained in chapter 18 of RCEP legal text aiming at establishing the **RCEP Joint Committee (RJC)** and other committees (see table)
- Inaugural Ministerial outlined some operational decisions to make trading under RCEP possible:
 - Revised Implementing Guidelines to implement Chapter 3 (Rules of Origin)
 - Revised Certificate of Origin (CO) Overleaf Notes: to guide businesses on how to complete an RCEP CO as specified in Chapter 5.
- RJC also adopted transposed PSR in HS2022 to be implemented from 1st January 2023.

Committee	Coverage
Goods	trade in goods; rules of origin; customs procedures and trade facilitation; SPS; standards, technical regulations, and conformity assessment procedures; and trade remedies
Services & Investment	trade in services including financial, telecommunication, and professional services; temporary movement of natural persons; and investment
Sustainable Growth	small and medium enterprises; economic and technical cooperation; and emerging issues
Business Environment	intellectual property; e-commerce; competition; government procurement.

Outstanding issues

- The agenda of the RJC appears to be dominated by :
 - The setting up of RCEP secretariat and its funding
 - The procedures for accession of new partners
 - Trade related technical assistance (ECOTECH)
- On more operational ground: the transposition of tariff schedules concessions from HS 2012 to 2017 and 2022
- Most importantly the ASEAN secretariat developed a matrix on the **built-in agenda** to assist RCEP States to identify the work to be undertaken and the relevant committee for each corresponding issue.
- **The following roadmap stems from the initial work of the ASEAN secretariat, amplified and complemented**



Roadmap 1

Unfolding and developing the RCEP built-in agenda



Trade in Goods

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
A review of Article 2.6: Tariff Differentials	Tariff differentials are a stumbling block for the effective utilization of RCEP by firms, creating additional burden further complicating cumulation possibilities	2 years from the date of EIF, and thereafter every 3 years or as agreed among the Parties	The overall ambitions should be to reduce and gradually eliminate tariff differentials to make RCEP more attractive to firms and increase its attractiveness with respect to competing FTAs	Albeit tariff differentials are on the agenda for discussions, there are not systemic attempts to provide solutions, nor there is trace of official records where this issue has been discussed
Review of non-linear phasing of tariff elimination in the Schedules of Tariff Commitment (Annex I) of Indonesia, Malaysia, and the Philippines	The complexity of the tariff offers is a stumbling block to the utilization of RCEP and if there is no incremental value with respect to ASEAN+1 FTAs or bilateral FTAs firms have no incentive to use RCEP.	Parties will commence review of non-linear phasing of tariff elimination in the Schedules (Annex I) of Indonesia, Malaysia, the Philippines, and complete the review within 3 years of the date of entry into force of RCEP. Unless otherwise agreed in the review, linear phasing on all concerned tariff lines shall commence within 3 years after the completion of such a review.	The simplification of tariff schedules should be a priority as there are 38 different tariff offers with long phase-out periods. [1]	The efforts of the RJC have so far have focused on the transposition of the tariff schedules into HS 2017 and HS 2022

[1] See Crivelli and Inama (2022)

Trade in Goods (cont'd)

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Develop a work programme on sector-specific issues on trade in goods	<p>According to Article 2.21, Parties may decide to initiate a work programme on sector-specific issues.</p> <p>This would encourage RCEP parties negotiate and resolve sector-oriented NTBs.</p> <p>Should such initiative be agreed upon, the Committee on goods should oversee the process.</p>	<p>No set deadline for initiating such work program.</p> <p>Article 2.21 only provides that</p> <p><i>“The Parties shall endeavour to finalise such a work programme no later than two years after the initiation of the work programme”</i></p>	<p>Article 2.21 provides a platform for the Parties to resolve NTM issues under RCEP.</p>	<p>The recent reports of the RJC available indicate that there are no ambitions or appetite to embark on NTM issues.</p> <p>Yet, this is an important credibility element of the whole RCEP endeavor.</p>



Rules of origin

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
A review of Article 3.4: Cumulation	<p>Article 3.4 provides only for regional cumulation of originating materials but not for full cumulation, which can accumulate any of working or processing operations.</p> <p>Without full cumulation, LDCs and MSMEs, which have less production capacity, cannot utilize RCEP effectively. As reaching consensus on this article at the time of RCEP negotiations proved not to be feasible, paragraph 2 of Article 3.4 was inserted as built-in agenda provision to review the article from entry into force with conclusions within 5 years</p>	<p>According to Article 3.4 the review should have started from entry into force and be concluded within 5 years of the date of its entry into force</p>	<p>The review is expected to consider the implementation of full cumulation and the extension of the application of cumulation in paragraph 1 to all production undertaken and value added to a good within the Parties</p>	<p>The RCEP cumulation possibilities are often quoted as one of the major achievements of RCEP. Yet the examination of article 3.14 has not yet started. This issue is unlikely to be addressed and solved without a previous understanding reached on the issue of tariff differentials (Art. 2.6).</p>
A review of Article 3.14: Treatment for Certain Goods	<p>Article created to accommodate Korea's request. Similar article under AKFTA on "Treatment for Certain Goods" where ASEAN agreed to grant tariff preferential treatment to the goods produced in Gaesong Industrial Zone.</p> <p>During RCEP negotiations, ASEAN was agreeable to reproduce AKFTA's text in RCEP but some other countries rejected it. The current article is a compromise among RCEP parties.</p>	<p>According to Article 3.14 the Parties and signatory States shall enter into discussions on the treatment for certain goods under this Chapter upon request of a Party and conclude such discussions within three years by consensus.</p>	<p>To impart predictability to goods originating in special economic zones</p>	<p>Political reasons may hamper the formation of consensus among RCEP Parties</p>

Rules of origin (cont'd)

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
<p>A review of Article 3.16: Proof of Origin</p>	<p>Article 3.16 provides for multiple forms of proof of origin with different deadlines for the entry into force of these various forms.</p> <p>A review of this article has been foreseen to clarify such key implementation provision.</p>	<p>Similarly to Article 3.14, paragraph 4 of Article 3.16 provides for a review of this article expected to commence on the day of EIF for all signatory States and to be concluded within 5 years</p>	<p>To clarify and discuss the implementation mechanisms of the different forms of proof of origin contained in the article, and possibly identify best practices.</p>	<p>At present there is no indication that the review of Article 3.16 started.</p> <p>A move towards simplification or convergence on the different proofs of origin would be a key prerequisite for an effective utilization of RCEP.</p>
<p>A review of Article 3.17: Certificate of Origin</p>	<p>Article 3.17 does not provide for an overall review but contains a number of key provisions for making effective trading under RCEP.</p> <p>In addition paragraphs 6 and 7 provide respectively for:</p> <ul style="list-style-type: none"> a) the establishment of a website to exchange specimen of stamps and signatures of certifying offices and b) review the requirement to exchange specimen signatures of the certifying officers 	<p>3 years after the date of entry into force for all signatory States</p>	<p>To address the series of problems emerging with the functioning of such proof of origin mechanism.</p> <p>The establishment of a public website and the elimination of the signatures of the certifying officers should introduce trade facilitations elements in this burdensome procedure</p>	<p>The first RJC has taken action to review and update the overleaf note of the certificate of origin.</p> <p>This revision marks, on one hand, the willingness to take action to make trading under RCEP possible, on the other hand, the delay in starting the review of other key RoO provisions signals a limited ambition.</p>

Trade in Services

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Review of Commitments (Article 8.24)	Deepening commitments Article makes reference to the general review of RCEP contained (Article 20.8) scheduled five years after EIF and every five years thereafter, unless Parties agree otherwise.	A review of commitments on trade in services as necessary, but no later than the general review under Article 20.8, with a view to further improving commitments under this Chapter so as to progressively liberalize trade in services among the Parties	A review of the commitments on trade in services together with an accelerated transition to a negative list approach by all RCEP parties as a priority	Lack of political will and technical capacity may hamper a meaningful implementation of this review
Transition towards adoption of negative list (Article 8.12)	Article 8.12 aims at achieving convergence among RCEP parties to gradually adopt a “negative list” to trade in services liberalization. Yet the transition process embedded in article 8.12 does not automatically provide for additional services liberalization.	A Party making commitments in accordance with Article 8.7.... “shall submit a proposed Schedule of Non-Conforming Measures to the Committee on Services and Investment for circulation to the other Parties, no later than three years , or for Cambodia, Lao PDR, and Myanmar, no later than 12 years , after the date of entry into force of this Agreement	Cambodia, PRC, Lao PDR, Myanmar, New Zealand, the Philippines, Thailand and Viet Nam have adopted a positive list approach. The adoption of the negative list approach is not merely a technical issue on how to transform services commitments from positive listing to negative listing.	Long transitional period: 3 years for PRC, New Zealand, Philippines, Thailand and Vietnam and 12 years for LDCs. Intensive research and capacity building activities are necessary to ensure the transition and an effective implementation of the commitments

Trade in Services (cont'd)

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Transparency Article 8.14	Article 8.14 marks a significant improvement with respect to ATISA and ASEAN+1 FTA with notable efforts to make publicly available legislation concerning trade in service	The series of transparency actions provided under article 8.14 is applicable upon RCEP entry into force. Yet the same article does not provide for a monitoring mechanism , nor built in action by RCEP Parties	This article, together with other provisions represents an incremental value over ATISA and ASEAN+1 FTAs	Since the article does not provide for a built-in agenda or monitoring mechanism its implementation may remain a dead letter.
Domestic regulations Article 8.15	Coordinate multilateral and regional negotiations: According to paragraph 4, “If the results of the negotiations related to paragraph 4 of Article VI of GATS enter into effect, the Parties shall review the results of such negotiations and shall amend this Article as appropriate, after consultation among the Parties to bring the results of such negotiations into effect under this Chapter”.	This paragraph in article 8.15 provides for an updating mechanism in the case where negotiations on paragraph 4 of Article VI of GATS are successful.	The introduction of this paragraph is a good sign as it shows willingness to establish a link among multilateral and regional negotiations	The implementation of this article is depending on the successful conclusion of negotiations at WTO.
Periodic review on the implementation of Annex on Professional Services (Annex 8C para 9)	Key provision for reviewing the progress made in establishing mutual recognition and equivalence to facilitate professional services trade	There is no set date for such built-in mechanism. It is suggested to start such review as early as possible.	To make progress on liberalization of professional services trade	This requires technical skills and strong Government will to negotiate.

Investment (Article 10.18)

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Discussion on the settlement of investment disputes	<p>These are key issues left for further negotiations as there was no consensus during RCEP negotiations.</p> <p>Dispute settlement is a key area to ensure that implementation of commitment is fully implemented.</p>	<p>1) The Parties shall, without prejudice to their respective positions, enter into discussions on:</p> <ul style="list-style-type: none"> (a) the settlement of investment disputes between a Party and an investor of another Party; and (b) the application of Article 10.13 (Expropriation) to taxation measures that constitute expropriation <p>no later than two years after the date of entry into force of this Agreement, the outcomes of which are subject to agreement by all Parties.</p> <p>2) The Parties shall conclude the discussions referred to in paragraph 1 within three years from the date of commencement of the discussions.</p>	The establishment of an efficient dispute settlement in Asia would constitute a watershed and impart predictability to the whole RCEP architecture.	Dispute settlement is an area impinging on sovereign rights where Asian government have been traditionally reluctant.
Application of Article 10.13 (Expropriation) to taxation measures that constitute expropriation				

Electronic commerce

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Review of Article 12.11: Customs Duties	The Parties adhered to the status quo in WTO with a commitment to review it once the WTO negotiating process evolves in this area	A review of this Article in light of any further WTO Ministerial Decisions in relation to the Work Programme on Electronic Commerce	There are no built-in ambitions in this area	The review is pending, being tied to progress in multilateral negotiations
Article 12.16: Dialogue on Electronic Commerce	This article provides an exceptional opportunity for enlarging the scope of the e-commerce chapter and paves the way to discuss digital services	Paragraph 3 of this article 12.6 refers to the general review timeline in article 20.8. However, the same article 12.16 provides that the dialogue could be conducted according to article 18.3 (j) with no timeline.	Discuss the overlapping agenda in the AEC and RCEP with a view to coordinating actions on e-commerce and digital services	RCEP Parties may be reluctant to carry out such coordination efforts.

Roadmap 2

Additional initiatives to be undertaken



Tariffs

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Activation of article 2.5 to accelerate or improve the tariff commitments set out in RCEP Schedules	Make RCEP complex tariff schedules and requirements of ROO and NTMs readily available to firms to increase effective utilization	As soon as possible	The acceleration of RCEP tariff commitments should gradually make other competing FTAs irrelevant and this exercise should address the problem of the competing bundle of FTAs.	RCEP parties may be unwilling to pursue such an ambitious approach.
Establishment of a dedicated RCEP website to make tariff schedules together with ROO and NTMs requirements for each tariff line accessible to firms		A modern and functional website could be established in one year	To disentangle the complex architecture of tariff schedules in a user-friendly and modern website	<p>ASEAN secretariat and RCEP Parties have already established a website and may be reluctant to further develop it.</p> <p>Finding resources to establish and maintain the website while the RCEP Secretariat has yet been established</p>

Rules of origin

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
To initiate a process for convergence on PSRO and OCPs	The convergence of PSROs and OPCs would substantially diminish cost of compliance for firms representing real progress on trade facilitation	Convergence between RCEP and ASEAN+1 FTAs may only be achieved progressively in a medium term of 4-5 years.	To reach convergence on PSRO for 75% of the applicable PSROS across RCEP and ASEAN+1 FTAs in 4 years from the start and a single set of OCP in 5 years.	The convergence process is complex and will require a mixture of political and technical skills
To initiate and establish a notification process of utilization rates of RCEP managed by RCEP Secretariat	To make utilization rates publicly available so that firms and government may take action to make sure that RCEP is effectively used	A time horizon of two years to collect the data and insert them in a user-friendly website	To make RCEP utilization rates a public good for governments and firms	Some RCEP Parties may be reluctant to notify detailed data on RCEP utilization rates



NTMs/NTBs – SPS/TBT

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
To establish a mechanism identifying NTBs and removing them	NTBs/ are a major stumbling block to trade among RCEP Parties;	A proposal for the establishment of such mechanisms should be put on the agenda of the RJC at its next meeting	To remove NTBs of Parties and resolve other NTMs issues	RCEP does not provide for built-in agenda on these issues and Parties may be reluctant to establish an additional mechanism
To establish SPS/TBT committees to address mutual recognition and equivalence to reduce NTBs in RCEP trade as well as to initiate the work programme under Article 2.21	RCEP provisions do not clearly provide for the establishment of SPS/TBT committees . Article 2.21 seems to provide for a built-in agenda for addressing sectoral issues on NTMs. However, there is no indication of any timeline to initiate such a process. Thus, it is necessary to fill this gap by establishing these committees and a work program.		To establish a mechanism, existing in many FTAs, to discuss and agree on mutual recognitions and equivalence on SPS and TBT, thus substantially reducing NTBs	RCEP does not provide for a specific built-in agenda on these issues and Parties may be reluctant to establish an additional mechanism

Services

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Initiate a technical assistance program to ensure implementation of RCEP commitments and transfer to negative list	Strengthening research and capacity in implementing services commitments may be a decisive factor in moving towards a negative list approach	as soon as possible	To achieve full implementation of RCEP commitments on trade in services and move to negative listing ahead of RCEP built-in agenda	Donors may be hesitant funding additional TA or implementation modalities may not be the most appropriate
Increase RCEP participation in WTO's Joint Statement Initiative on Service Domestic Regulations (JSI-SDR) especially LDCs	Participation in this initiative will pave the way for further implementation of RCEP commitments	as soon as possible	To achieve full implementation of RCEP commitments on trade in service	Concerned RCEP parties may be hesitant to join initiative fearing to be constrained by further obligation in WTO
Assisting ASEAN MS in applying APEC's Non-Binding Principles for Domestic Regulation , especially LDCs, APEC non-members.	Participation in this initiative will pave the way for further implementation of RCEP commitments	as soon as possible		Concerned RCEP parties may be hesitant to apply APEC principles fearing to be constrained by further obligations in APEC

Investment

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
Investigate the feasibility for joint implementation of RCEP investment provisions with those of ASEAN Investment Facilitation Framework (AIFF) .	Joint implementation would avoid overlapping and offer the possibility of catching up for ASEAN countries lagging behind such as Brunei, Lao PDR and Myanmar.	The implementation schedule should be accelerated taking into account that the provisions in RCEP and AIFF are already lagging behind.	Strengthen convergence on the regulatory investment framework of RCEP-ASEAN	Governments may be reluctant to accept convergence in investment related areas
Investigate the joint membership and implementation of the WTO Joint Initiative on Investment Facilitation for Development (IFD) .	The membership of RCEP parties in IFD would strengthen the multilateral framework and provide incentives for further convergence	The implementation of IFD is still a pending matter in WTO.	A Multilateral Investment Agreement at WTO would provide incentives to Parties to make further progress in this area	Consensus in WTO may prove to be difficult to achieve
The RCEP Secretariat, together with the ASEAN Secretariat, could prepare the ground for launching an initiative to streamline bilateral investment agreements entered by RCEP parties	To consolidate the overlapping legal frameworks, especially in the area of investment protection	This activity could be undertaken in the medium term by the RCEP secretariat.	To rationalize the overlapping investment agreements to provide a predictable and consistent framework	Parties may not provide such a mandate that in any case would require substantial resources to be carried out.

E-Commerce

Action	Rationale	Timeline in RCEP	Ambitions	Challenges
To initiate, monitor and enhance early implementation of RCEP e-commerce provisions , especially by assisting RCEP parties that are digitally lagging behind to comply with their commitments.	There is an obvious need to coordinate RCEP implementation with AEC, the latter containing a detailed work program and to make sure that LDCs are fully advancing their implementation agenda.	As soon as possible. RCEP implementation should be planned and executed <i>pari passu</i> and in close coordination with AEC implementation	To accelerate and coordinate efforts among AEC and RCEP on ecommerce and digital services	Parties may be unwilling to take up coordinated action on initiatives that started in two different fora
Plan the upgrading of the Electronic Commerce Chapter , by using the RCEP dialogue mechanism on issues not covered by RCEP.	The Electronic Commerce Chapter should be updated and expanded to take into account recent developments, such as the Digital Economy Agreement (DEA), the Digital Economy Partnership Agreement (DEPA) and IPEF	The opening of a discussion on the possibilities to use the dialogue provision of RCEP should be explored as soon as possible in RJC.	Expand and upgrade provisions of Electronic Commerce Chapter to bring them in line with the evolving agenda on e-commerce and digital services in the Asian region.	RCEP parties may not be ready to pursue further integration in the context of RCEP on e-commerce and digital services considering the disparities in infrastructure and preparedness . Yet, the opening of a dialogue should be explored.

Conclusions

- RCEP may become a model for managing the region's diverging interests, and can serve as possible pathfinder for wider multilateral cooperation within and beyond the region.
- Whether the RCEP can help deliver its promise to strengthen the region's trade architecture and deepen economic integration depends on how the agreement is being implemented.
- Activating the RCEP's built-in agenda is of crucial importance to ensure the effective achievement of RCEP's goals.

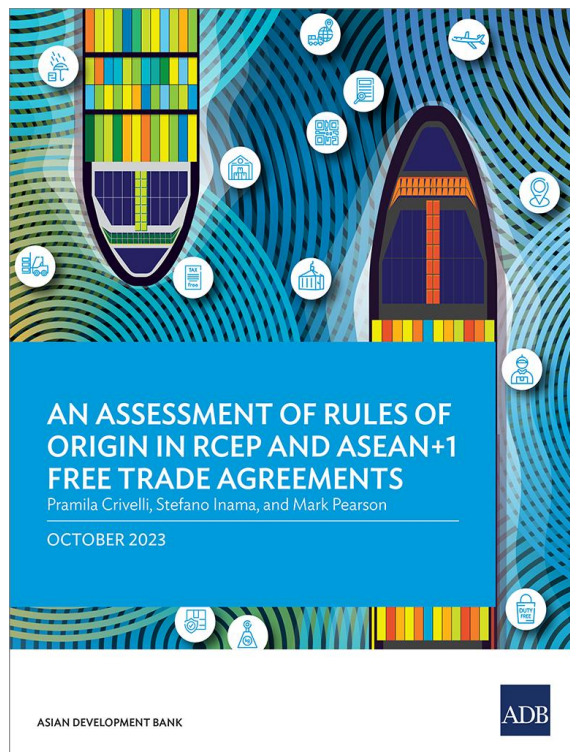


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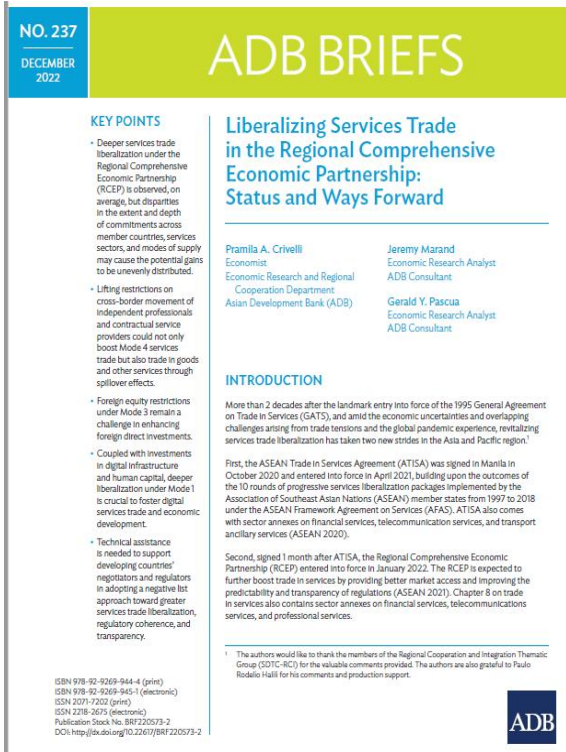
Pramila Crivelli, PhD

Economist

pcrivelli@adb.org



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