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THE RCEP E-COMMERCE CHAPTER: IMPLICATIONS FOR THE ASEAN ECONOMIC COMMUNITY

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Abstract: The paper analyses the e-commerce chapter of the Regional Comprehensive Economic Partnership (RCEP) from the perspective of the ASEAN Economic Community. Part One traces the RCEP origins, evolution and interim results. Part Two is focuses on the provisions of Chapter Twelve that outlines the RCEP e-commerce-related parameters of cooperation. Arguably, their most salient features suggest that China may well use them to its best advantage by synergizing the RCEP institutional mechanisms with its mega-strategy the Belt and Road Initiative (BRI). Part Three assesses the impact of the RCEP e-commerce chapter on the Association, most importantly, on the establishment of the ASEAN Economic Community 2025. The author argues that for the association the RCEP e-commerce provisions can be a point of vulnerability rather than a reason for optimism, as ASEAN's spectrum of the AEC-related instruments may narrow. By adapting the digital transformation to the ASEAN context, the paper takes a step forward in increasing knowledge on ASEAN evolution amidst the current global trends. In light of this, the paper contributes to the existing research on ASEAN and ASEAN-led multilateralism, as the implications of the RCEP e-commerce component have not yet been analyzed from an AEC perspective. The findings and assessments of the paper are of both academic and practical significance.

Keywords: *economic regionalism, RCEP, ASEAN Economic Community, China, Belt and Road Initiative, global value chains, digital transformation, e-commerce*

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Научная статья. Политические науки

ОЦЕНКА ГЛАВЫ ВРЭП ПО РАЗВИТИЮ ЭЛЕКТРОННОЙ ТОРГОВЛИ С ТОЧКИ ЗРЕНИЯ ФОРМИРОВАНИЯ ЭКОНОМИЧЕСКОГО СООБЩЕСТВА АСЕАН

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Аннотация: В статье проанализирован раздел Всеобъемлющего регионального экономического партнерства (ВРЭП), посвященный развитию электронной коммерции, с точки зрения ее влияния на формирование Экономического сообщества (ЭС) АСЕАН. В первом разделе рассмотрены истоки, эволюция и промежуточные результаты инициативы ВРЭП. Во втором разделе представлены положения Главы 12, где изложены особенности, задающие параметры сотрудничества между участниками ВРЭП в сфере электронной коммерции. На взгляд автора, их наиболее значимые черты свидетельствуют, что с максимальной выгодой для себя их может использовать Китай, увязывающий институциональные механизмы ВРЭП с собственной мега-стратегией Инициатива «Пояс и Путь». В третьем разделе проводится оценка влияния положений ВРЭП об электронной коммерции на Ассоциацию, прежде всего, на формирование ЭС АСЕАН до 2025 года. С точки зрения автора, положения ВРЭП об электронной торговле могут стать для Ассоциации скорее фактором уязвимости, чем давать ей повод для оптимизма, поскольку спектр инструментов АСЕАН, связанных с формированием ЭС, может сузиться. Адаптируя цифровую трансформацию к контексту развития АСЕАН, статья содействует приращению знаний об эволюции АСЕАН на фоне современных глобальных тенденций. Таким образом, работа дополняет существующие труды по АСЕАН и ведомым ее усилиями многосторонним диалоговым форматам и инициативам, поскольку влияние условий развития электронной коммерции между участниками ВРЭП на формирование ЭС АСЕАН до сих пор не являлось предметом специального исследования. Представленные в статье выводы и обобщающие оценки имеют как научное, так и практическое значение.

Ключевые слова: *экономический регионализм, ВРЭП, Экономическое Сообщество АСЕАН, Китай, Инициатива «Пояс и Путь», глобальные цепочки стоимости, цифровая трансформация, электронная коммерция*

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The Regional Comprehensive Economic Partnership (RCEP) is a multilateral initiative that will profoundly influence on the evolution of Asia-Pacific economic regionalism. The fact that the Association of Southeast Asian Nations (ASEAN) is the RCEP "driving force" is ASEAN's remarkable achievement with far-reaching implications for ASEAN's key prospective project, namely, the establishment of the ASEAN Economic Community as part of the ASEAN Community.

The RCEP is a product of several factors. It has absorbed many components of other Asia-Pacific multilateral dialogue initiatives in order to remain relevant to the long-term strategically oriented priorities of their participants. Specifically, the RCEP provides its members with digital instruments of trade exchanges, part of which is e-commerce.

At the same time, owing to many external and internal factors, the RCEP e-commerce-related component may well become ASEAN's point of vulnerability. In light of this, to trace the RCEP e-commerce provisions through the AEC prism is a timely and relevant exercise.

The RCEP as a Multilateral Initiative

The journey to the Regional Comprehensive Economic Partnership started in the mid-late 2000s. After the East Asia Summit (EAS) was established, economic cooperation logically became part of its agenda. As a result, two competing initiatives were introduced.

The first was East Asia Free Trade Area advocated by China. It aimed mostly at eliminating tariffs in intra-EAS trade and embraced thirteen states – members of the ASEAN Plus Three format. The other was Comprehensive Economic Partnership in East Asia (CEPEA). It was offered by Japan and, in contrast to the Chinese proposal, focused on advanced forms and diversified directions of cooperation between sixteen EAS participants. The problem was further aggravated by a simultaneous escalation of disagreements between the EAS members over political-security issues. Those factors, both individually and collectively, derailed economic cooperation in the EAS framework.

At the same time, however, the EAS external context pushed ASEAN for action. The establishment and the evolution of the Trilateral Summit China – Japan – South Korea threatened to undermine ASEAN's position of the "driving force" of regional multilateral economic cooperation. Specifically, an imbalance between ASEAN's formal position as the agenda-setter of ASEAN+3 and its real contribution, as compared to that of its Northeast Asian partners, to the Chiang Mai Multilateral Initiative and the East Asian Emergency Rice Reserve caused ASEAN's growing con-

cern. More specifically, the Trans-Pacific Partnership could potentially have undermined ASEAN's prospective plans, as only four of ten ASEAN states joined that initiative. Simultaneously, the TPP anti-Chinese component became increasingly evident. Most importantly, the Asia-Pacific cooperative security system led by ASEAN needed a strong economic foundation.

Within ASEAN, Indonesia undertook the initiative in responding to those developments. In 2011, the Indonesian Ministry of Trade officials discussed ASEAN's appropriate response to EAFTA and CEPEA and agreed that a pan-regional ASEAN-led initiative must be developed in order to provide the AEC with favorable external context[1]. In November 2012, talks on the Regional Comprehensive Economic Partnership started. The RCEP negotiations guidance document stated that the initiative would "have broader and deeper engagement with significant improvements over the existing ASEAN+1 FTAs", as well as it would "facilitate the participating countries engagement in global and regional supply chains". Also, the RCEP participants agreed upon maintaining "appropriate forms of flexibility". Most notably, ASEAN's status as the RCEP "driving force" was confirmed[2]. Although the RCEP negotiations encountered serious challenges, including different status and contents of FTAs concluded by ASEAN and its EAS partners, as well as due to their trade-related and security-related disagreements, nevertheless, the talks were finalized in November 2020.

The RCEP agreement was signed without India. The reasons why New Delhi withdrew from the negotiations were numerous. India encountered a growing trade deficit with many of its RCEP partners. For instance, between 2012 and 2019, India's deficit in trade with China grew from 39.4 to 51.2 billion dollars[3]. During the same period, India's trade deficit with ASEAN grew from 15.9 to 19.5 billion dollars[4]. Despite its advantages in the ICT sector and pharmaceuticals, India cannot not penetrate China's market. During the negotiations, liberalization of trade in services turned out problematic. Political contradictions between India and China, ranging from the territorial disputes to India's participation in the US-led initiative Indo-Pacific region, also played a role.

Anyway, the RCEP is a major milestone in Asia-Pacific economic cooperation. The fact that the negotiations were finalized in the midst of the COVID-19 pandemic and a rise of nationalism and protectionism in other regions indicated that Asia-Pacific remained committed to multilateral trade integration. Simultaneously, China expanded a range of its economic instruments, as the PRC aims to synergize the BRI with the RCEP institutions. As the US is not the RCEP member, Washington is losing the initia-

tive in shaping the Asia-Pacific multilateral economic and, by extension, security dialogue.

A special point relates to the RCEP implications for Asia-Pacific global value chains (GVC). According to ASEAN Investment Report 2020-2021, the RCEP members account for about 50% of the world manufacturing and automotive production and 70% of electronics. From 2010 to 2018, GVC-related trade of the RCEP countries increased by 34%, while intra-regional GVC-generated trade grew by 50%[5]. This is especially important owing to the COVID-19 implications for the global value chains and the US-China tensions over trade and technological issues. The latter is of profound significance, as MNEs have to take into consideration not only the cost of production, but also many additional, including political and security, factors.

Lastly, the RCEP security payoffs matter, as the RCEP implications move beyond economy per se. The RCEP provides the ASEAN-led Asia-Pacific multilateral dialogue venues with a firm economic foundation based on advanced trade practices. This stands in contrast with the Indo-Pacific Economic Framework Agreement that is not a classic FTA. Consequently, its four pillars – trade, supply chains, clean economy and fair economy – are just goal-setting statements rather than practically oriented plans of action. According to B.Weisel, former Assistant US Trade Representative for Southeast Asia and the Pacific, the IPEF participants just want to find out what they can do together in those directions, as well as to strengthen their competitiveness in areas like climate change, supply chain resiliency and digital economy[6]. However, lack of market entry provisions undermine the IPEF value in the order of economic priority of its participants, while the RCEP has major substantial and reputational assets. As M.Pangestu and Lili Yang Ing argue, the RCEP, together with the G20, can address four big trends, namely, border procedures facilitating trade flows, trade in services, substantiated by job creation and digital transformation, links between trade and climate change and equitable development[7].

The afore-mentioned factors must be seen in the context of fundamental global trade-related trends. Since 2010, a lower global export growth in comparison with the global GDP growth has been a notable development. The reason is mostly a slowdown of the BRICS economic growth, largely predetermined by a depletion of the BRICS members' development models. A decrease in global prices of raw materials, specifically, oil and agriculture, has played a role. Protectionism has been on the rise, as a decrease in real incomes and rising inequality became politically sensitive issues. The nascent "Asia for Asia" global paradigm, formed institu-

tionally by the RCEP and substantially by the BRI, has made Asia-Pacific trade initiatives inward-oriented.

A confluence of the afore-discussed trends suggests that the initiatives that were able to develop, or at least to agree upon, basic parameters of practically oriented cooperation before the 2020-2023 global changes are most competitive. The RCEP in which influential Asia-Pacific actors participate, and which offers them strategically important assets, substantiates this assessment.

The RCEP E-Commerce Chapter

Before turning to the RCEP chapter that specifies its e-commerce provisions, it is necessary to discuss briefly the global context in which digitalization-related issues evolve. Several points are noteworthy in this regard.

First, the term "digital economy" remains far from clear. Its core is presented by the information and communication technologies (ICT) sector that serves as a basis for digitalization-related economic and commercial activities, including new business models. Since the ICT technologies evolve faster than ICT-related regulatory mechanisms, the latter are quickly losing their practical relevance. As exemplified by the internet, the television and the mobile communication sector, convergence of markets that have traditionally been regulated separately is a common occurrence. This ambiguity poses a challenge to both national and supra-national regulatory institutions.

Second, a reduced lifecycle of technologies matters a lot. In the next decade, the 5G, the 6G and even the 6GE (the extended 6G) internet is likely to reorganize the global technological landscape. New technologies like joint communication and sensing, autonomous service provisioning, holographic telepresence, smart waste handling, etc. will radically redesign infrastructure facilities, commercial practices and public services.

Third, cybersecurity issues loom all the larger in the priorities of global and regional economic actors. ASEAN and its member states are no exception. As Southeast Asia is a hub of digitally enabled commercial activity, on-line crimes of all sorts are in overabundance. Examples include business e-mail compromise (BEC), phishing, ransomware, e-commerce data interception etc. Meanwhile, the readiness of Southeast Asian states to address those challenges remains low. According to Kaspersky Lab, 94% of Southeast Asian companies will turn to external assistance if ransomed[8].

Turning to the RCEP, a number of digitalization-related points are relevant. As stated above, the RCEP was ASEAN's response to EAFTA,

CEPEA and, most importantly, the TPP/CPTPP. As J.Kelsey observed, the TPP digitalization-related provisions were aimed at enabling the US technology companies to gain an advantage over their competitors[9]. Logically, in order to meet the high standards of cooperation set by the TPP, the RCEP adopted a similar approach. Apart from the TPP/CPTPP factor, ASEAN had to take into account the WTO Joint Statement on E-Commerce[10]. According to the WTO website, as of February 2023, eight out of ten ASEAN states (except Cambodia and Vietnam) participated in this initiative[11]. Finally, the Association sees the RCEP as an instrument to undertake its own initiatives, namely, the ASEAN Agreement on E-Commerce and the ASEAN Digital Masterplan 2025.

The RCEP e-commerce-related issues are specified mostly in Chapter 12 (Electronic Commerce). Additionally, selected issues are referred to in Chapter 8 (Trade in Services), Chapter 10 (Investment) and Chapter 19 (Dispute Settlement). For brevity reasons, the material that follows relates to Chapter 12[12].

Remarkably, Article 12.1 does not specifically define the term "electronic commerce". Instead, the terms "computing facilities", "covered persons", "electronic authentication" and "unsolicited commercial electronic message" are provided with detailed descriptions. It should be seen in synergy with Article 12.2 Point 1 that emphasizes "…the importance of frameworks that promote consumer confidence in electronic commerce, and the importance of facilitating the development and use of electronic commerce". The same Article (Point 2a) states that the objectives of the Chapter are to "…promote electronic commerce among the Parties and the wider use of electronic commerce globally". Further, Article 12.4 Point 1 (e) stipulates that the parties are to "…actively participate in regional and multilateral fora to promote the development of electronic commerce".

Notably, Article 12.10 specifies that the parties should "take into account" the UNCITRAL Model Law on Electronic Commerce 1996, the UN Convention on the Use of Electronic Communications in International Contracts (New York Convention 2005). For obvious reasons, those documents lack complete and comprehensive descriptions of e-commerce grasping the present realities.

Lastly, Article 12.14 Point 3 (b) states: "Nothing in this Article shall prevent a Party from adopting or maintaining … any measure that it considers necessary for the protection of its essential security interests. Such measures shall not be disputed by other Parties". The same is stated in Article 12.15 Point 3 (b) on cross-border transfer of information by electronic means.

These terms are beneficial to China, as Beijing aims to synergize the Digital Silk Road (DSR) with the RCEP institutional resources. As the RCEP e-commerce provisions lack clear definitions and simultaneously point to the need to promote e-commerce globally and at multilateral venues, China expands the spectrum of available instruments for advancing its interests.

For the PRC, this factor is of profound significance, as Beijing attaches supreme importance to the Digital Silk Road as part of the BRI. The DSR objectives include an increase in China's export of its ICT products, which allows the PRC to strengthen its positions in international industrial cooperation. Infrastructure objects, including transnational, that are constructed by Chinese companies in Southeast Asia, are provided with China's digital software. It leads to establishing and solidifying technological links between Chinese and Southeast Asian enterprises. Additionally, by exporting its ICT solutions, the PRC enables its companies to enter international markets and scale up their commercial activity. It takes place in different, including technologically-advanced, sectors like industrial cloud computing, smart manufacturing, fintech, insurtech, healthtech, edtech etc. Chinese integrated applications in Southeast Asian countries shape their e-government services and supply-production chains. In these circumstances, Chinese ICT companies, mainly e-commerce platforms, which possess and upgrade big data instruments, may well re-organize economic cooperation in the BRI area, part of which is Southeast Asia, to China's best advantage.

The AEC Connection

Undeniably, the RCEP entry into force was a milestone event that exerts a huge impact on the Asia-Pacific economic regionalism. In addition, the RCEP is of major significance for ASEAN Economic Community (AEC) 2025. Summing up all the RCEP-related positive and negative implications for the AEC 2025, the following assessments are relevant.

The positive implications are as follows. First, the reputational dimension really matters. The association can portray the RCEP as its outstanding achievement with a strong impact on regional economy, politics and security. While some time ago ASEAN was criticized for not providing its Asia-Pacific security dialogue venues with a solid economic foundation, now this argument is groundless.

Additionally, the RCEP is a powerful instrument to cope with the rise of China. From a substantial perspective, ASEAN is unable to achieve equality in its dialogue with the PRC. Instrumentally, however, as the RCEP driving force, the association can provide China with extra incen-

tives to carry out its policy in Southeast Asia taking into consideration ASEAN sensitivities and expectation. Whether or not this strategy will be a success remains to be seen. What is important is an effective institutional instrument in ASEAN's arsenal.

The RCEP and its digital provisions expand ASEAN's possibilities to shape its dialogue with extra-regional partners. The association can develop its initiatives of economic regionalism with expanding external assistance.

From a reputational perspective, another factor is important. The RCEP territorial domain may well become a vast global manufacturing and commercial area. This scenario cannot be excluded owing to the BRI factor. If it comes true, ASEAN as the RCEP coordinator will provide its Asia-Pacific projects, for instance, those in the ASEAN+3 format, with not only regional, but with a course of time with global economic assets. Logically, it will increase ASEAN's international status exponentially.

Second, the RCEP allows Southeast Asian micro-, small and medium-sized enterprises (MSME) to integrate in the GVC across the RCEP area. MSME play an important role in the economic development of ASEAN member states: they account for from 97.2 to 99.9% of all firms and provide 44.8% of employment. However, they underperform economically, as their contribution to GDP and to national exports are 44.8% and 18% respectively[13]. The RCEP developed and implemented under ASEAN supervision can make this problem less serous, which is especially important to the CLMV countries (Cambodia, Laos, Myanmar and Vietnam).

Third, the RCEP may have positive security, including cybersecurity, implications. As a chain effect, it will strongly influence on the ASEAN-led cooperative security system in the Asia-Pacific region and, by extension, on the positions of ASEAN as its "driving force".

Nevertheless, negative aftereffects are also in place. Among them, the key relates to China's policy. Synergizing the RCEP institutional, including digitalization-related, mechanisms with the Belt and Road Initiative, the PRC can shape the grass-root cooperation and its digital support in the RCEP area to China's best advantage. Coupled with the multiplier effect factor, as well as with Chinese diasporas, brands, infrastructure construction, e-commerce platforms etc., it will sooner than later make Southeast Asia an area of China's privileged economic and commercial interests. This scenario is all the more likely since the Digital Silk Road is synergized with other PRC mega-initiatives, namely, "Made in China 2025", "China Standards 2035", "Internet Plus" and "MCF" (military-civil fusion)[14].

ASEAN's vulnerability increases as the US-China frictions, part of which relates to the digital sphere, intensify. As demonstrated by the interim outcomes of the US-China digital decoupling, a formation of two competing digital eco-systems, led by China and the US respectively, is a likely scenario. In a longer-term perspective, new global bilateral system, this time geo-technological, may become a new reality. Arguably, the consequences will include a loss in neutrality and inclusivity in the agenda of ASEAN-led multilateral dialogue venues.

Most discouragingly, ASEAN's privileged status as the RCEP driving force may become a point of vulnerability. As digital technologies change quickly and a line between markets is increasingly blurred, for the association to perform the function of the RCEP coordinator requires much effort and extraordinary skills. If ASEAN fails to cope with this task, it will extremely negatively affect its international reputation and positions.

This is all the more important since the association has only partially succeeded in providing its AEC-related projects with digital support. In fact, the AEC 2025 Blueprint does not have specific clauses related to the digital single market in Southeast Asia. Additionally, the ASEAN-led initiatives implemented in Southeast Asia encounter difficulties. Moreover, Southeast Asian countries are recipients rather than producers of ICT-related, including e-commerce-related, critical technologies.

In sum, the RCEP e-commerce provisions present ASEAN with reasons for both optimism and concern. Although for the association it is "business-as-usual" reality rather than a serious challenge, to manage it will require special attention in addition to other urgent priorities.

Conclusion

The afore-presented analysis of the RCEP and its impact on ASEAN, including on the AEC 2025, reveals that the RCEP-related actual and potential benefits move beyond the economic dimension per se. Rather, the RCEP indicates that ASEAN is trying to re-energize cooperation based on neutrality and inclusivity.

Arguably, the RCEP e-commerce component resembles the ASEAN paradigm of economic, political and security cooperation, both intra-ASEAN and between ASEAN and its dialogue partners – maximum flexibility and a voluntary approach to the best collective advantage. In this paradigm, however, flexibility and a voluntary approach lead to a "winner-takes-all" result. Regarding e-commerce, China is likely to win over its competitors, including ASEAN, owing to the scale factor at its disposal. As

a result, ASEAN may fall into its "business-as-usual" trap in its relations with the PRC.

This time, however, the impact will be much more serious, as the problem is bigger than e-commerce per se. It includes the digital transformation of economic and business development paradigm of the RCEP participants with long-term global implications.

ИНФОРМАЦИЯ ОБ АВТОРЕ

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