

TPP, RCEP and Prospects for Eventual Convergence

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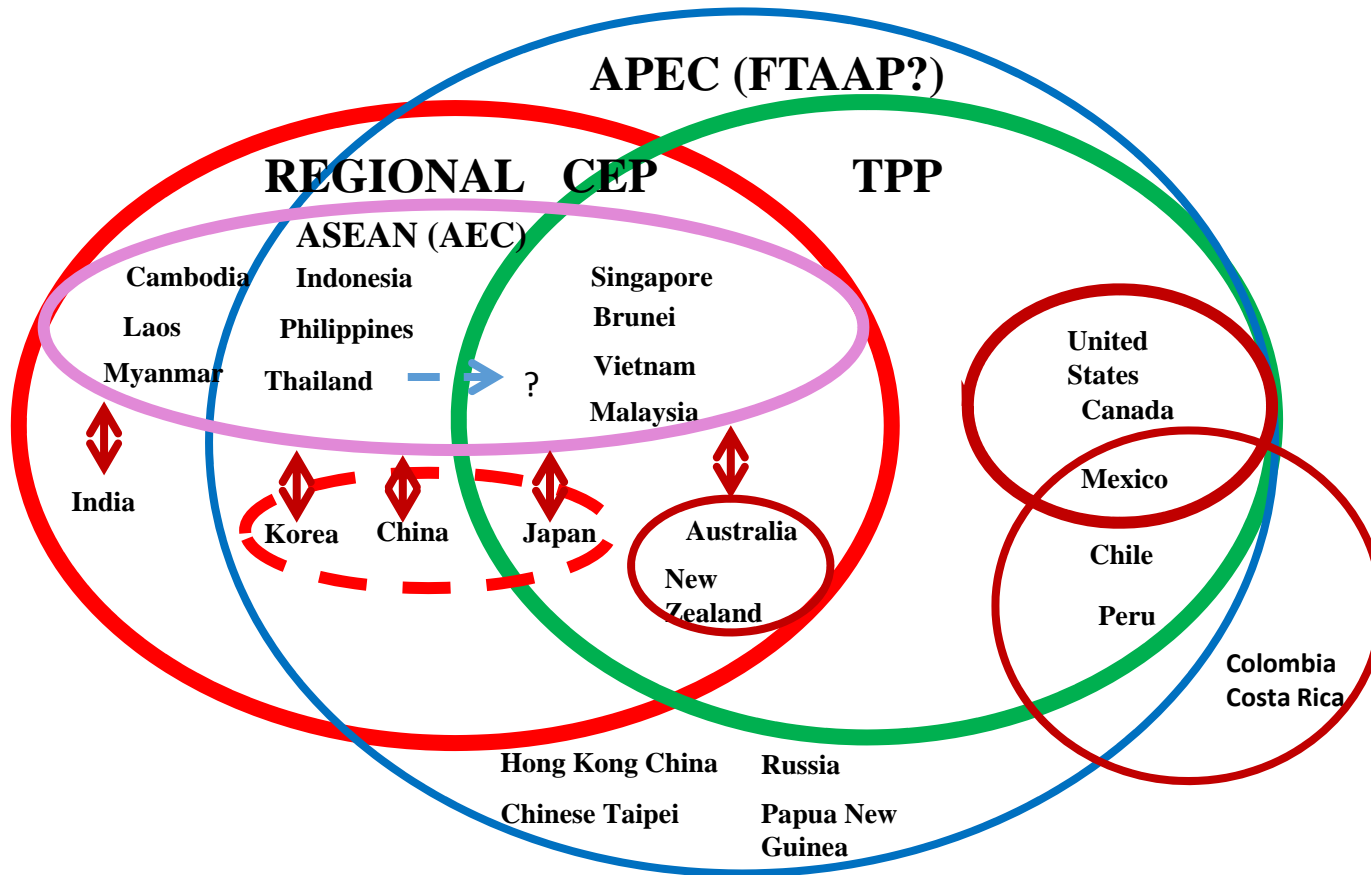
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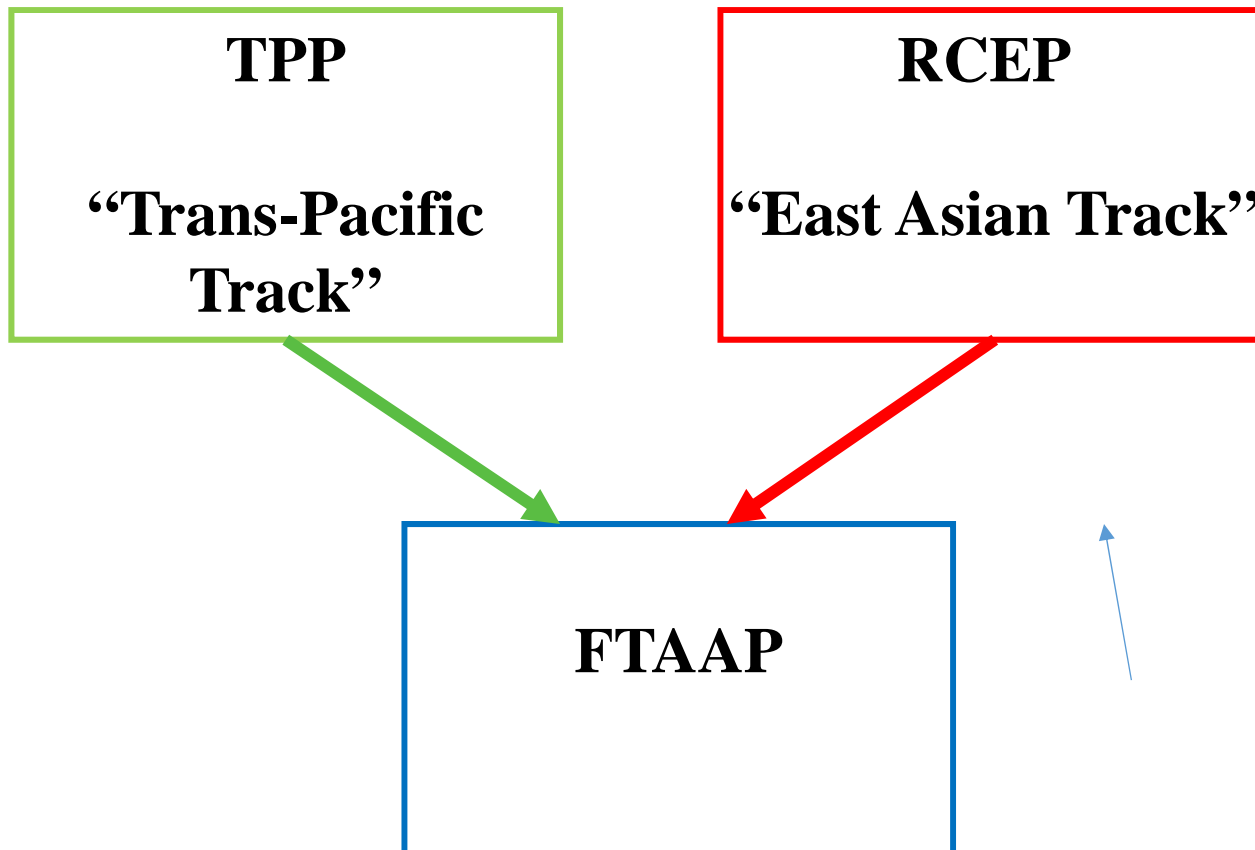
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Current Configurations of Regional Integration Initiatives



Rationale for Convergence – APEC Leaders (Yokohama 2010) Routes to FTAAP

(RCEP as Successor to ASEAN +3, ASEAN + 6)



Varying Views of FTAAP as End Goal

TPP

- explicitly intended as step toward FTAAP
 - linked to APEC agenda

RCEP

- logical role as East Asian “track” toward FTAAP
- varying views within ASEAN → no consensus on FTAAP as end goal of RCEP
 - RCEP as step toward FTAAP
 - RCEP as ASEAN-centred alternative to TPP and FTAAP
 - ASEAN as extension of AEC
- link to APEC agenda has so far not been made
 - not all RCEP participants are APEC members
- only India is not a member of either APEC or ASEAN

Different Philosophies, Modalities

TPP

•single undertaking

- all members expected to reach the same point
 - timetables may vary
 - provision for negative lists in some areas
 - some members have demand right to opt out of certain provisions

•conflicts over bilateral over plurilateral approaches to negotiations

- especially over market access issues

RCEP

•“sequential manner or single undertaking or any other agreed modality” (ASEAN leaders)

•“negotiations on trade in goods, trade in services, investment and other areas will be conducted in parallel to ensure a comprehensive and balanced outcome” (RCEP Guiding Principles and Objectives)

•emphasis on

- “appropriate forms of flexibility”
- “provision for special and differential treatment”
- “additional flexibility to the least-developed ASEAN Member States”

•Process needed to combine consolidation of “ASEAN-Plus” FTAs with arrangements between “Plus 6” partners

Different Stages of Development, Prospects of Conclusion

TPP

- fully defined agenda
- negotiating since March 2010
(19 rounds)
- many chapters close to completion
- “end game” said to be well under way
- several issues remain intensely controversial
- serious hurdles remain
 - e.g. approval by US Congress – depends on securing TPA?
- failure, or completion on “12-x” basis remains possible

RCEP

- negotiations began May 2013
(2 rounds to date)
- agenda far from fully defined
 - working groups only for goods and investment so far
- target completion date of 2013 may be unrealistic
- prospects for conclusion related to agenda
 - modest agenda may facilitate conclusion but impeded convergence with TPP

Convergence and Accession

- seven economies (including 4 ASEAN members) participating in both TPP and RCEP
- **TPP** open to accession by APEC members
 - four RCEP members are not APEC members (India, Cambodia, Laos, Myanmar)
- **RCEP** open to accession by ASEAN “external economic partners”
 - what is definition of “external economic partner”?
 - not all APEC members may be covered
- eventual openness of TPP/RCEP to wider participation?
 - Pacific Alliance? Pacific Island states?.....

Common and Differentiated Agendas

Common Elements

- **Market access for goods**
- **Rules of origin**
- **Trade facilitation?**
 - Customs
 - SPS
 - TBT
- **Services**
- **Investment**
- **Competition**
- **Intellectual Property**
- **Development**
 - Horizontal issue in TPP
- **Dispute Settlement**
- **“Other Issues” (RCEP)**

TPP Only

- **Government Procurement**
- **SOEs**
 - unless included in RCEP under Competition
- **E-Commerce**
- **Environment**
- **Labour**
- **Trade Remedies**
- **Textiles and Apparel**
- **Temporary Entry**
- **Horizontal Issues**
 - SMEs
 - Supply Chain Facilitation
 - Regulatory Coherence
- **Separate Chapters in TPP**
 - Telecommunications
 - Financial Services

Issues in Comparing Agendas

RCEP

- agenda not yet fully developed
- ERIA mapping project provides assessment of prospects for consolidating “ASEAN Plus” FTAs for
 - Market access for goods
 - Rules of origin
 - Trade facilitation
 - Services
 - Investment

TPP

- fully developed agenda
- but negotiations are “secret”
- public knowledge of issues varies by issue and participating country
 - controversial issues more widely debated
 - some countries more open about their objectives and “red lines”

Market Access for Goods

TPP

- stated objective implies 100% coverage
- common v. bilateral schedules a seriously problematic issue
- sensitive products for many participants
 - “undefined basket”
(includes major offensive interests for some participants)
- 100% target not yet abandoned, but 98%-99% may be more realistic

RCEP

- 95% coverage target proposed by ERIA
 - realistic “launching pad for convergence to TPP?”
- 95% target not seriously problematic for China, Malaysia, Philippines, Thailand, Brunei, Singapore, Australia, NZ
- 95% target not problematic for Japan and Korea with some movement on agriculture
- 95% target challenging for Indonesia and CLMV
- 95% target seriously challenging for India

Rules of Origin

Area of Comparative Advantage for RCEP?

RCEP

- **increasing use of “co-equal” rules (RVC or CTC) in most “ASEAN Plus” and some other FTAs**
 - **but AIFTA requires compliance with both RVC *and* CTC!**
- **importance of facilitative cumulation provisions widely accepted**
- **but achieving common rules across “ASEAN Plus” will be challenging**

TPP

- **no indication that co-equal rules will be possible**
- **cumulation provisions apparently problematic**
- **controversy over inclusion of notorious provisions from US FTAs e.g. “yarn forward”**

Services

TPP

- negative list approach being followed
- little detailed information on progress in negotiations
 - negative list approach said to be “challenging” for newcomers to this approach
- opportunity for “breakthrough” approach likely to be missed

RCEP

- GATS modality used in “ASEAN Plus” FTAs and AFAS
 - uneven but generally unimpressive progress on liberalisation
- no indication on whether switch to negative list can be considered

Investment

TPP

- **Investor-state dispute settlement (ISDS)** one of the most controversial issues in TPP
 - at least one country demanding exemption
 - attitude of many others and implications for convergence depend on “version”
 - crucial issues:
 - extent of limitations on governments’ scope to legislate in public interest
 - design of arbitration process
- little detail available on other aspects of negotiations
- OECD investment restrictiveness index indicates above average restrictiveness for many TPP participants

RCEP

- ERIA study indicates ASEAN members relatively restrictive in both policy and implementation
- OECD investment restrictiveness index indicates above average restrictiveness for “Plus 6” partners

Trade Facilitation

TPP

- **Some innovative or contentious proposals but not expected to be seriously problematic**
- **SPS**
 - **Rapid response mechanism**
 - **Enforceability**
- **Customs**
 - **Express delivery**

RCEP

- **Conclusions of ERIA study**
 - **provisions of “ASEAN Plus” FTAs are very weak**
 - **AEC agenda is more ambitious**
 - **but ASEAN trade facilitation performance falls well short of other RCEP partners, and has been deteriorating in some countries**

Intellectual Property

RCEP

- **approach not yet defined**

TPP

- **IP the most controversial issue with large potential implications for convergence possibilities**
- **Potential costs and benefits are very large but analytical support is weak**
- **Background of failure of ACTA and domestic contestation in US suggests (e.g. SOPA) some key issues are not mature for crystallisation in trade agreements**
- **International consensus lacking on many “new” (digital economy) issues**
- **Key issues include**
 - **internet related issues e.g. internet retransmissions, liability of ISPs, criminalisation of breaches**
 - **important for development of national and global society – civil society a major stakeholder**
 - **public health-related issues**
 - **‘access to medicines’: patent extensions, patent linkages. data exclusivity**
 - **related issues on pharmaceutical pricing and reimbursement programmes**
 - **many other patent, copyright and trademark**

State-Owned Enterprises

- **important role of SOEs in economies of many TPP and RCEP participants**
- **to reach consensus in TPP and workable basis for future convergence, SOE provisions**
 - **must acknowledge legitimacy of SOEs as a form of economic organisation**
 - **must recognise diversity in economic systems**
 - **should support reform ambitions of member countries**
- **promising approaches for future convergence include:**
 - **competition-based approach (proposed by Australia)**
 - **“filling the gaps” in WTO rules**
 - **extend national treatment to all services**
 - **extend application of subsidy rules to services**
 - **GPA or “GPA-like” provisions on government procurement**

Environment, Labour

Environment

- many proposals in TPP, few if any agreed
- issues include
 - compliance with MEAs
 - trade and climate change
 - trade barriers on environmental goods and services
 - fisheries subsidies

Labour

- issues include basic labour rights (UN Declaration, not ILO “core principles”), minimum wages, OSH, products of forced labour and child labour

Proposals for enforcement (if any) likely to be

- most contentious
- most problematic for convergence

Economic Rationale for Convergence (Petri et al.)

Petri et al identify strong economic incentives for each “track” initially, and eventually for convergence

- **economic gains from FTAs on both tracks are very large (larger from the “East Asian track” – more barriers to liberalise)**
- **the two “tracks” have a competitive and complementary dynamic**
 - **progress on each track creates incentives for further progress on both tracks**
- **gains from an FTAAP evolving from these “tracks” will be much larger than gains from successful WTO Doha Round (especially if TPP used as template)**
- **trade diversion is relatively modest (Asia-Pacific is a “natural trading bloc”)**
- **adjustment burdens are low relative to the benefits**
- **China and US are largest potential economic beneficiaries of convergence on FTAAP**

Perspectives on Convergence for Individual Participants

- **“TPP only” participants**
 - US – willingness to modify controversial thresholds could facilitate convergence
 - others likely to follow/support
- **“Dual track” participants**
 - Should not anticipate problems from convergence
- **“RCEP only” participants**
 - several showing interest in TPP (China, Korea, Philippines, Thailand)
 - may not view convergence as problematic in principle
 - timing and accession process may be the issue
 - others uninterested in TPP, unwilling to acknowledge FTAAP as end goal
 - likely to view convergence as deeply problematic (Indonesia, CLM, India)

Alternatives to Convergence

- **TPP and RCEP co-exist as alternative vehicles for regional integration**
 - relative importance of each depends on ability to attract additional members
 - decisions by China likely to be crucial
- **TPP fails**
 - RCEP becomes sole vehicle for region-wide integration in the Asia-Pacific
 - Trans-Pacific dimension will be missing unless US joins RCEP or alternative trans-Pacific vehicle for region-wide integration is developed
 - significant consequences likely for trans-Pacific relation

Thank you!