

## How can the Philippines seize the opportunities in services trade under RCEP?

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The Regional Comprehensive Economic Partnership (RCEP) links the economies in the Asia-Pacific region into a unified comprehensive trading arrangement (Malvenda 2019). As it enters into force on January 1, 2022, it presents itself as one of the largest, if not the largest, regional trading arrangements in the world, with member-economies accounting for 28 percent of global output, 28 percent of global trade, and 29 percent of the global population (Flach et al. 2021).

### **RCEP: What it means for the Philippines**

#### ***RCEP as a marginal regional trade agreement***

Despite being a wide-ranging trading arrangement (Ho 2020; Pearson 2020; Rivas 2020; Drysdale and Armstrong 2021), RCEP is considered a marginal regional trade agreement. This is because RCEP merely compiles the previous commitments of the Association of Southeast Asian Nations (ASEAN) member-states with its free trade agreement (FTA) partner economies in the Asia-Pacific region—Australia, China, Japan, Korea, and New Zealand—collectively known as ASEAN's FTA Partners (AFPs).

However, even if it is a marginal regional trade arrangement, there are additional commitments made by AFPs beyond what they have committed in their respective FTA with ASEAN. These additional commitments reflect RCEP's augmented benefits.

#### **Salient Points:**

- *The Regional Comprehensive Economic Partnership (RCEP) is considered a marginal regional trade agreement because it merely compiles the commitments between the Association of Southeast Asian Nations (ASEAN) member-states and their free trade agreement (FTA) partners.*
- *However, ASEAN's FTA partners under RCEP made additional and improved commitments to enhance trade in services.*
- *The Philippines should manage the opportunities and threats in services brought about by RCEP by harnessing its internal strengths and mitigating its inherent weaknesses.*

#### ***Additional and improved commitments of AFPs under RCEP***

In the field of trade in services, AFPs made additional and improved commitments in Mode 3 (commercial presence) and Mode 4 (movement of natural persons) under RCEP. These commitments provide opportunities for the Philippines to expand trade in services with these non-ASEAN member economies.

Trade in services captures the value of services exchanged between economies by residents, nonresidents, and foreign affiliates established abroad. It drives the exchange of knowledge, ideas, practices, technical capabilities, and technology. However, it is often restricted by barriers, such as domestic regulations or those policies imposed by economies to protect their local markets. Examples of services are transportation, travel, recreational activities, communications, construction, finance, information technology, business, practice of profession, and government services (OECD n.d.).

As highlighted by Niman and Rostami (2018), international trade in services is governed by the General Agreement on Trade in Services (GATS), a multilaterally agreed framework that stipulates a system of obligations and commitments to facilitate trade in services enforced to all World Trade Organization member economies. Under the GATS, trade in services is defined as the supply of a service via any of the four modes of supply, namely, Mode 1: cross-border transactions; Mode 2: consumption abroad; Mode 3: commercial presence; and Mode 4: movement of natural persons.

Of all the AFPs, only China has made additional commitments in business services under Mode 3, specifically on legal, accounting, auditing, and

bookkeeping services. Moreover, all AFPs have improved commitments in business services under Mode 3 by allowing 100-percent foreign equity on selected subsectors, such as legal, accounting, taxation, medical, and transportation, among others (see Rivera and Tullao [2022] for the full list of subsectors). Meanwhile, all AFPs made additional commitments in professional services under Mode 4 by providing entry permits and extended stays. Specifically, they committed to the movement of business visitors, intra-corporate transferees, independent executives, contractual service suppliers, and accompanying spouses and dependents of entrants. China made special commitments by including contractual service suppliers, installers, and servicers in its commitments, while Japan included investors. However, unlike other economies, Korea did not include independent executives, and accompanying spouses and dependents of entrants in its commitment. These additional and improved commitments, as summarized in Table 1, by AFPs can be considered as opportunities that the Philippines can harness.

**National treatment and market access limitations**

However, given these specific additional and improved commitments under Modes 3 and 4, AFPs have set limitations on national treatment and market access. In general, using national treatment limitations, AFPs

**Table 1. Additional commitment of non-ASEAN signatory economies in RCEP relative to trade arrangement with ASEAN member-states**

| Economies   | Mode 3 (Business Services) | Mode 4 (Professional Services) |
|-------------|----------------------------|--------------------------------|
| Australia   | x ❖                        | ✓                              |
| China       | ✓ ❖                        | ✓                              |
| Japan       | x ❖                        | ✓                              |
| Korea       | x ❖                        | ✓                              |
| New Zealand | x ❖                        | ✓                              |

ASEAN = Association of Southeast Asian Nations; RCEP = Regional Comprehensive Economic Partnership

❖ indicates improved commitments as per the Department of Trade and Industry-Bureau of International Trade Relations (DTI-BITR); For the full details, see Rivera and Tullao (2022).

Source: Authors' tabulation using data from RCEP (n.d.)

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discriminate against foreign suppliers in favor of their citizens. Meanwhile, market access limitations are conditions set by AFPs on how foreign players are allowed entry into specific sectors. These include authorization of a representative office, successful passing of an examination conducted by authorities of AFPs, imposition of quantitative limits based on economic needs tests, domestic licensing and registration of businesses and professionals under their respective laws, and requirement to establish offices within their territory, among others. These limitations can be considered as threats that the Philippines may face in exploiting opportunities in trade in services.

#### ***Managing opportunities and threats under RCEP***

Managing these opportunities and threats is a route that the Philippines can take to harness the prospects in trade in services under RCEP. In doing so, the Philippines can use its strengths and mitigate its weaknesses.

On one hand, the Philippines has perceived strengths in business and professional services, particularly in terms of competitiveness, language proficiency, cultural adaptability, human capital, and government

participation (Karamouzis and Singh 2008; Mendoza 2012; Macha et al. 2018; Malolos and Tullao 2018; Montemayor 2018; Plaza 2018; Schumacher 2018; Rivera et al. 2019; Magsambol 2020). These identified strengths can be further enhanced through government and institutional support. Developmental policies to enhance education and language, for example, are deemed necessary in the face of a highly competitive ASEAN region.

On the other hand, the Philippines has inherent and perceived weaknesses in business and professional services, such as scalability, education and training, demography, country branding and marketing, language and culture, mobility cost, and legal aspects (Karamouzis and Singh 2008; Panganiban 2010; Fabe 2013; Hamanaka and Jusoh 2016; Rivera et al. 2019; Abad 2020; Fuller et al. 2020). These weaknesses can be addressed by developmental policies aimed at enhancing education and training on hard and soft skills, improving the country's image by focusing on value-adding contributions that can be offered to the world market, and harmonizing service standards by negotiating continuously with partner economies in the region.

## Framework of analysis

To derive the key implications of the country's participation in RCEP, documents (e.g., RCEP agreement and its accompanying annexes; other secondary pertinent documents) were reviewed and subjected the information gathered to a SWOT (strengths, weaknesses, opportunities, and threats) framework of analysis.

By identifying and reviewing the specific commitments in trade in services in RCEP, this paper notes that the additional commitments of AFPs—above those in their respective FTAs with ASEAN—are opportunities that the Philippines can exploit. However, these additional commitments come with certain limitations, particularly on national treatment and market access. These limitations are deemed as threats or constraints. To overcome these threats, the Philippines should rely on its comparative advantage in various areas of services. These comparative advantages are its strengths. Finally, weaknesses are the internal and inherent characteristics of the Philippine services sector that discourage foreign investors to enter the Philippines. The framework of analysis is illustrated in Figure 1. Through this analysis,

the areas where the Philippines can reap benefits from RCEP are identified—i.e., by maximizing strengths in services to pursue opportunities, mitigate threats, and temper weaknesses to counter threats.

## Policy recommendations

There are opportunities for the Philippines under RCEP in Modes 3 and 4 as evidenced by the additional and improved commitments of AFPs. To exploit these opportunities, a three-pronged strategy is recommended:

1. Manage market access limitations indicated by AFPs in specific sectors in Modes 3 and 4 that are beneficial to the Philippines;
2. Fortify the Philippines' strengths and address weaknesses in specific sectors in Mode 3 by using the implications of the rulings of the Philippine Supreme Court (SC) to relax some constitutional constraints and amend certain laws that limit liberalization to address inadequacies in hard and soft infrastructure; and
3. Reinforce the Philippines' strengths and address weaknesses in Mode 4 by using RCEP as an avenue for upgrading human capital.

Figure 1. SWOT analysis of Philippines' participation in RCEP



SWOT = strengths, weakness, opportunities, and threats; RCEP = Regional Comprehensive Economic Partnership; FTA = free trade agreement  
Source: Authors' illustration

### *Manage market access limitations under Modes 3 and 4*

While it is not possible for the Philippines to address national treatment limitations, it can manage market access limitations. For example, since the additional commitments of China in Mode 3 are on accounting and auditing services, the government, private sector, and professional organizations (e.g., Philippine Institute of Certified Public Accountants) should establish and strengthen linkages and partnerships with Chinese firms. In particular, Filipino professionals should have a working knowledge of written and oral Mandarin. Similarly, given that Australia, Japan, and New Zealand have improved commitments in Mode 3, the government, private sector (especially those in telecommunications, computer, and information services), and professional organizations should establish and strengthen linkages and partnerships with these firms. Expanding Filipinos' working knowledge of written and oral Nihongo and intensifying proficiency in the use of English can help operationalize this strategy.

Meanwhile, to gain more leverage to participate in Mode 4, where all AFPs made additional commitments for professional services, the Philippines should continuously reform domestic regulations and liberalize professions, particularly those that are highly restrictive (e.g., dental, nursing, medical services) and restrictive (e.g., accountancy, architecture, engineering). These professions are regulated for licenses, certifications, educational qualifications, safety and ethics, and constitutional limits. A multistakeholder approach involving both regulatory bodies and all other related agencies to collectively review, amend, and modify prevalent protocols could be a starting point for these liberalization measures. Liberalizing professions, where the Philippines has inadequate supply, may stimulate skill base growth as more professionals can take part in key sectors that promote faster local productivity growth, which in turn, could lead to higher development trajectories.

### *Address inadequacies in infrastructure by relaxing constitutional constraints*

Formalizing the implications of the SC rulings allowing the entry of foreign participants to critical sectors must also be done. These sectors include transmission and distribution of electricity, water pipeline distribution systems and sewerage pipeline systems, telecommunications, and transportation as identified by Senate Bill (SB) 2094, which will amend the Commonwealth Act 146 or the Public Service Act of 1936 (Pulta 2021).

These SC rulings highlighted two things:

- (1) delineation of ownership of facility versus ownership of operations, permitting the participation of foreign contractors and subcontractors in local projects, and
- (2) differentiation of public utility from the provision of public service. To elaborate, a public utility (i.e., constitutionally limited to Filipino citizens and firms), is different from the provision of public service (i.e., operation of a public utility without owning the facilities used to serve the public). Hence, it follows that ownership is different from operations.

In December 2021, the Senate approved on final reading SB 2094, which provides a clearer differentiation between public services and public utilities. If signed into law, it will eliminate foreign equity restrictions from public services not classified as natural monopolies. Specifically, SB 2094 limits the definition of public utilities to electricity distribution, electricity transmission, water pipeline distribution and sewerage, airports, seaports, public utility vehicles, and tollways and expressways. Meanwhile, SB 2094 removes the citizenship requirement for public services not considered as public utilities, such as telecommunications, airlines, shipping, and railways and subways (Ramos 2021).

By reducing market access limitations and implementing liberalization measures in the light of RCEP, the



Philippines can benefit from an infrastructure boom. For instance, the increased availability of efficient service suppliers will allow the Philippines to build modern infrastructures to facilitate mobility (e.g., transportation of essential supplies to all parts of the country) and connectivity (e.g., infrastructures needed for online education, digital work, and virtual work setups) toward greater productivity. However, this may impact local service suppliers negatively. Therefore, liberalization measures must be accompanied by necessary safeguard mechanisms (e.g., prohibiting foreign state-owned enterprises from owning capital in public service categorized as critical infrastructures, imposing reciprocity requirements, and raising penalties for violators). While public services that are not natural monopolies will be freed from foreign equity restrictions, they should not be free from their accountabilities as public service providers.

The RCEP can lay the necessary conditions for a liberalized environment. However, some conditions must be met first to reap the opportunities in trade in services presented by the RCEP. More specifically, the Philippines needs to position itself as an attractive destination for foreign investors in the services sector to establish linkages that could generate financial returns and productivity growth for all parties involved.

### **Advance human resource development**

The market access limitations and domestic regulations imposed by AFPs to ensure compliance with their nationally defined standards in accrediting and licensing professionals must be viewed as motivating factors for Filipino professionals to upgrade their skills and training to compete with professionals from other economies. Likewise, this can compel higher education institutions to benchmark their curriculum design, teaching pedagogies, and learning outcomes, among others, with partner economies. However, ensuring that the education standards in the country are comparable with those of other RCEP partner economies is contingent

on the collaboration among educators, regulators, and professional organizations to enhance the quality of education in the light of technological advancements.

Comparability may result in the harmonization of regulatory frameworks toward the mobility of services. Pursuing it may lead to the gradual adoption of internationally recognized qualifications, standards, scientific principles, common practices, and uniformity of regulatory mechanisms hinged on shared principles to achieve a common goal.

Hence, stakeholders should view Modes 3 and 4 facilitation as opportunities than threats.

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