Unlocking Services and Investment Benefits in RCEP

Dr. Deborah Elms
23rd Round of RCEP Negotiations
Bangkok
July 23, 2018
elms@asiantradecentre.org
The Importance of Services

• Consumers and producers are increasingly demanding:
  – more services,
  – more sophisticated services,
  – a wider range of services, and
  – more specialized services than ever before

• This is true even for manufactured products which contain a larger and larger share of services inputs
  – Forward and backwards linkages as well

• Technology is allowing more services to be traded internationally than ever before
FTAs Do Not Match Demand

- Existing FTAs may not cover services at all, or cover services weakly
- Exports often stuck in “traditional services”
- New services not covered at all given positive list structures that are never updated
- Services trade therefore way below potential for much of the region
- Need for both greater policy certainty and
- Greater services liberalization
- RCEP needs to accomplish both objectives to deliver real benefits for consumers and companies
Biggest Problem

• Discretionary licenses
  – Entry restricted by formal and informal limits on new licenses
  – Licensing processes are opaque and discretionary
  – Foreign equity limits and licensing in place often decided on case-by-case basis
  – Regulations often missing or unclear

• Regional integration must be accompanied by supportive domestic level regulatory reforms
  – Services trade mostly about domestic regulations
RCEP Should

• Include substantial sectoral coverage
  – All sectors included and as close to 160 subsectors as possible with commercially meaningful commitments
  – All Mode 1 digital services should be included
    • Biggest benefits for smaller firms
  – Depth of commitments also important
    • Limit performance requirements and other limitations of various sorts on services commitments like local presence
    • Limit other discriminatory measures such as training requirements for foreign nationals or language requirements for sectors that do not obviously need it

• RCEP commitments to: transparency, consultation, due process and efficiency in regulations

• Heavily regulated sectors may need specific provisions
Digital Economy

• Services increasingly rely on digital delivery
• Critically important to open up information flows and maintain cloud-based services
  – Especially key for smaller firms with limited resources
• Future innovation will use more data than ever before
  – Artificial intelligence, Internet of Things (IoT), blockchain, etc
  – Promise of future cannot happen if data flows blocked
• E-commerce and services intertwined
• Payments also important element of economy
RCEP Monitoring Mechanism

- To ensure improved compliance, RCEP should introduce monitoring mechanism
- Should report to leaders regularly on progress in implementation of domestic measures to support RCEP commitments
- Allow firms, trade associations and law firms opportunity to submit input to process
- Develop regulatory process for enhancing the creation of services regulations in RCEP economies in future to improve policymaking within region by following best practices and sharing experiences
Investment Provisions

• RCEP members want inbound investment
• Investors want policy commitment that comes from investor-state dispute settlement
  – Promise from governments that they will not unfairly expropriate assets without adequate compensation: like an insurance policy for catastrophic risk
  – RCEP can draft provisions in way that provides both greater certainty to investors and adequate policy space to governments
The Asian Trade Centre is the premier regional thought leader, advocate and educator for trade

- Strategic, creative thinking for policy and regulatory challenges
- Solutions for vexing trade problems
- Practical advice and suggestions for improving bottom line performance
- Sensible input to craft modern trade agendas

Deborah Elms
Executive Director
Asian Trade Centre
Singapore
www.asiantradecentre.org

The information, data and graphics provided by the Asian Trade Centre is for advocacy purposes. While we endeavor to provide the best quality information, we make no warranties with respect to the use of the information which is voluntary. The information provided in this document does not constitute investment or legal advice. It should not be used, relied upon, or treated as a substitute for specific professional investment or legal advice.