# The RCEP - Great Power Competition and Cooperation over Trade

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On 15 November 2020, the Regional Comprehensive Economic Partnership (RCEP) Agreement was finally concluded and signed after eight years of negotiation. Covering around 30% of global GDP as well as around 30% of the world's population, the RCEP is the largest free trade agreement (FTA) the world has ever seen. By eliminating tariffs and dismantling trade barriers among its members, the RCEP helps to further expand market opportunities within the bloc. At the same time, with a membership spanning some of the biggest economies in the world, the effects of the RCEP will be felt far beyond the region. In this essay, we discuss the implications of the RCEP on the great power rivalry between China, its biggest member, and the United States, the biggest economy in the world that is outside the trade bloc.

## 1. China's Emergence as a Rule-maker for Trade

In the west, the RCEP has been branded as a "China-led" FTA. On the one hand, this is not true, as a key principle of the RCEP has been "ASEAN Centrality," which was explicitly recognized by the RCEP member's Joint Declaration on the Launch of Negotiations, and was critical for the ASEAN group's participation. On the other hand, it would be naive to dismiss the significant influence and ambitions of China with the RCEP. China's influence, in particular, is reflected in the RCEP's heavy emphasis on market access and its lack of attention on internal regulatory matters, particularly as regards labour and environmental protection.

Most importantly, as China's first mega-regional trade Agreement, the RCEP represents an important milestone in China's rise as a force in the transnational and global legal ordering of trade. China only joined the WTO in December 2001, six years after the WTO's creation and fifteen years after China formally sought to rejoin the WTO's predecessor organization, the General Agreement on Tariffs and Trade (GATT). Moreover, China was a latecomer to the FTA race and only concluded its first FTA in 2002, which also was with the ASEAN. While China has signed about two dozen FTAs since then, they all involved bilateral agreements until the RCEP's conclusion.

Negotiating a regional trade agreement is quite different from negotiating a bilateral one. Before the RCEP, the United States and the European Union drove regional negotiations that reflected and enhanced their economic clout and their role as global rulemakers. The rules that they developed respectively in NAFTA and the European Union became templates for what they could export to the WTO. With the successful conclusion of the RCEP negotiations, China now has demonstrated its ability to conclude a major agreement with a large group of trading partners, indeed constituting the world's largest trade agreement outside of the WTO. Moreover, it has done so with countries that have radically diverse political systems, trade profiles, and levels of development—ranging from Australia and Japan to Vietnam and Myanmar. Equipped with such negotiating skills and success, complementing trade-related legal capacity it built through engaging with the WTO system, China will negotiate more FTAs using its templates for trade and broader economic governance. In doing so, it will offer an alternative to US and European agreements. Such experience will both enhance China's ability to shape rules at the multilateral level, and, more broadly, enhance its role in the changing ecology of global and transnational trade and economic governance.

## 2. Great Power Competition: Shifts in global supply chains

The impetus for concluding the RCEP ironically came from the US-led negotiation of the Trans-Pacific Partnership, launched in 2008 as part of President Obama's "pivot to Asia." In President Obama's words, the United States wished to ensure that it would "write the rules" of international trade, and "not China." It aimed to reduce Asian countries' economic reliance on China and build US-driven global supply chains in the region. Through TPP "cumulation" rules, companies could source inputs from other TPP partners and their final products would benefit from TPP preferences when exported to TPP members. Although US critics of the TPP maintained that the agreement's rules of origin should be stricter in order to block use of Chinese inputs, a number of the rules did aim to incentivize the use of non-Chinese inputs. For example, the Agreement included provisions such as a "yarn-forwarding rule," which aimed to ensure that the yarn used in the production of fabrics is sourced from only TPP members, and not China. While the US withdrew from the TPP in 2016, its rules of origin largely remain in place under the TPP's successor Agreement, the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). This Agreement supports diversification of supply chains away from China, a move that accelerated with the US launch of a trade war against China in 2018.

In response, the RCEP promises to bolster Chinese-driven supply chains as part of global trade, especially given the RCEP's rules of origin, which are more liberal than those under the TPP. First, the RCEP includes a cumulation rule that allows product inputs originating in any RCEP member to be considered as originating in any other member producing the finished goods so that the final goods benefit from RCEP's zero percent tariffs and other preferential rules. Second, the RCEP created harmonized rules of origin that are arguably the most liberal ever concluded, requiring that only 40 percent of inputs must be produced in RCEP members, complemented by other options. These RCEP's rules should attract investment in China, as well as Asia more broadly, bolstering Chinese-led supply chains. China's conclusion of a Comprehensive Agreement on Investment with the European Union on December 30, 2020 exemplifies China's ongoing centrality for global supply chains, as well as the difficulty of “decoupling” from China given its economic importance.

The competition between Chinese and US-led supply chains nonetheless will continue, particularly in the world of technology and the Internet-of-Things. The Trump administration blacklisted Chinese companies and, in some cases, banned the sale of US inputs and equipment to third countries if used to build final products for Chinese companies, such as silicon chips for Huawei. The ongoing rivalry between China and the United States for economic dominance will not end with the Biden administration.

### 3. Potential Great Power Cooperation: The curious case of e-commerce

Perhaps the best evidence that the RCEP is not simply led and dominated by China is the fact that China itself had to make some compromises in the Agreement. One example is e-commerce. As we have noted in other articles regarding e-commerce and the digital economy, the US and China have taken very different approaches to digital trade. The US approach tends to focus on the “digital” side, involving behind-the-border regulatory issues such as cross-border restrictions on data flow, requirements for data localization, and the forced transfer of source code. In contrast, China’s approach prefers to address traditional “trade” issues, such as customs and border issues affecting trade in goods facilitated by the internet. The two countries’ submissions regarding digital trade in various fora reflect these differences. For example, in the ongoing WTO Joint Statement Initiative on E-commerce, the US has focused on digital barriers while China focused on e-commerce-related trade facilitation.

One should not rush to the conclusion, however, that the differences between the US and China are irreconcilable, such as to “disqualify” China from the WTO Joint Statement Initiative. Countries supportive of e-commerce will wish to keep China - the largest e-commerce market in the world - at the negotiating table rather than turn it away. Moreover, it is possible to find a compromise with China, even on thorny issues such as free flow of information and data localization requirements, such as through exception clauses that include “national security” matters. The increasing invocation of national security defences by the United States, including on digital matters targeting China, ironically signals that an agreement is possible. China, in fact, agreed in the RCEP that it would not require businesses to “locate computing facilities” in its territory (Art. 12.14) or restrict “cross-border transfer of information by electronic means” for business purposes (Art. 12.15), but subject to national security and public policy exceptions that are not judicially reviewed under RCEP’s dispute settlement mechanism. With this precedent set in the RCEP, it is conceivable that the US and China could cooperate in furtherance of negotiations under the Joint Statement Initiative regarding digital trade.

## 4. Competition and Cooperation? Questions for the new US administration

A key issue for the incoming Biden administration will be how to manage the interface of the US and Chinese economic systems. One of us has developed a template for how to do so, building from the principles of the US-China Trade Policy Working Group, and applying it to economic, national security, and social policy issues. Ironically, just as the US-led TPP negotiations helped to invigorate the negotiations of the RCEP, the conclusion of the RCEP could dynamically pressure the Biden administration to consider joining the CPTPP. Given political polarization in the United States and the Biden administration’s wish to focus initially on domestic challenges, it may take time for the US to reengage in major trade negotiations. However, bipartisan support for the revision of NAFTA under the US-Mexico-Canada Agreement suggests that the RCEP could trigger renewed US engagement in trade negotiations with Asian countries. That engagement would involve strategic rivalry with China, but also the prospect of greater cooperation than under the Trump administration, including to address global governance issues that implicate trade and the global economy, such as climate change and pandemics. Otherwise, a further unravelling of the multilateral trade legal order could have dire consequences for all countries, especially when a future economic crisis strikes, potentially as a fallout of the COVID-19 pandemic.

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