The Need for Sectoral Annexes in RCEP

Negotiations in STRACAP

As the negotiations in the Regional Comprehensive Economic Partnership (RCEP) grind on, officials are busy working on the final texts for the chapter on Standards, Technical Regulations and Conformity Assessment Procedures (STRACAP).

This is a critically important chapter of the final agreement for companies across the 16 party RCEP agreement.

Increasingly, firms have encountered challenges across Asian economies as they try to navigate multiple country rules and regulations in standards and conformity assessments.

Incompatible standards, including different procedures for labeling, and complicated and expensive testing procedures can make it difficult or impossible for companies to do business across RCEP economies. This creates a particular burden for smaller firms that do not have the resources of larger firms.

Such barriers to trade also conflict with a key objective of RCEP, as outlined in the original 2012 Guiding Principles, endorsed by all 16 parties: “The RCEP will include provisions to facilitate trade and investment and to enhance transparency in trade and investment relations between the participating countries, as well as to facilitate the participating countries’ engagement in global and regional supply chains.”

Building on the Successful ASEAN Cosmetics Directive (ACD)

In 2003, ASEAN signed an agreement on the ASEAN Harmonized Cosmetic Regulatory Scheme. The common technical requirements under the ASEAN Harmonized Cosmetic Regulatory Scheme provided a common definition for cosmetics, and detailed the ingredients that cannot be used in cosmetics as well as listings of permitted preservatives, UV absorbers and colourants.

Over time, the ACD has expanded to better harmonize regulations across the region and reduce technical barriers to trade.

Now in Southeast Asia, industry leaders from ASEAN, as represented by the ASEAN Cosmetics Association, meet regularly with the ACSB to adjust the following set of annexes to the ASEAN agreements:

- Annex II Part 1:
  - List of substances which must not form part of the composition of cosmetic products
- Annex II – Part 2
  - List of substances provisionally allowed
- Annex IV – Part 1
  - List of colouring agents allowed for use in cosmetic products
- Annex VI
  - List of preservatives allowed
- Annex VII
  - List of permitted UV filters which cosmetic products may contain

As a result of the ACD process over 15 years of operation, manufacturers of cosmetics in ASEAN can create products that more easily move across all 10 countries without facing additional hurdles.
The Need for Sectoral Annexes in RCEP

While overall rules for standards and conformity assessment procedures in RCEP are necessary to reducing non-tariff barriers in Asia and facilitating trade, the example of cosmetics shows why sectoral approaches are also important.

Individual industries face particular challenges that cannot always be handled through generalized rules. Cosmetics firms need to know which substances can, and which substances cannot, be included in products prior to manufacture.

Government officials are not always well positioned—on their own—to know the answers to such questions as which coloring agents might usefully be included in cosmetic products in the first place. Hence it is also important to include industry representatives in the creation of rules and regulations. Government should have the final say, but there is clearly a role for industry in crafting sensible policies that apply to a particular sector.

The ASEAN Cosmetics Scientific Body (ACSB) meets regularly to set new standards and provides greater transparency around new rules. The ACSB also provides comment periods for additional input. These comment periods are sufficient in length to allow other firms that are not directly involved in the process to provide feedback on new regulations prior to implementation.

Specific Industries

In addition to potentially replicating the work of the ACD at the RCEP level, the Asian Trade Centre recommends including several other sectoral annexes into the RCEP STRACAP chapter.

Past trade agreements, including the World Trade Organization, have included sectoral rules covering the wine and spirits industry. RCEP should continue this tradition by crafting an Asia-specific sectoral annex for wine and spirits.

The annex might usefully clarify key terms that are left vague in existing treaty language. It could focus particularly on issues related to differences in labeling rules that make it challenging for firms to operate across the region and ensure that companies provide accurate information of relevance to consumers.

Consistency in labeling and certification is an important component of increasing transparency and providing greater clarity for businesses.

To achieve these goals, RCEP should set up a committee with government and industry representatives to consider changes in regulatory frameworks for the sector in the future.

A similar committee might usefully consider standards and testing certification for a different industry. Past Policy Briefs by the Asian Trade Centre have highlighted the inconsistencies across RCEP economies in children’s toy safety standards. Since RCEP officials surely agree that keeping children safe is a worthwhile objective, unified work to achieve this goal makes sense in the region.

Hence RCEP should consider how to create a groundbreaking sectoral annex regulating children’s toys. The annex itself would not outline specific commitments, but would instead set up an industry-government committee to think through the issues related to standards and conformity assessment procedures. RCEP could create best practices for the sector that could be replicated in other settings globally.

Using RCEP as a Model

With 16 member states in RCEP, representing more than half of global trade flows, member governments have an important opportunity to showcase best-practice regulatory procedures. If RCEP economies can model effective government-industry collaboration to create effective frameworks for specific sectors, these rules and procedures could become the default global standards in the future.