

The Regional Comprehensive Economic Partnership (RCEP) – opportunities and challenges for Viet Nam¹

1. The Regional Comprehensive Economic Partnership (RCEP) as the world's biggest free trade agreement

1.1 Introduction

The Regional Comprehensive Economic Partnership (RCEP) is a regional free trade agreement that will complement and build upon Viet Nam's existing free trade agreements (FTAs) together with other 14 Indo-Pacific countries. As the name suggests, the RCEP is comprehensive in its coverage, attempting to regulate trade and investment liberalization. It exceeds the minimum standards prescribed by the World Trade Organization (WTO)². RCEP negotiations were launched in 2012 between the Association of Southeast Asian Nations (ASEAN)³ and ASEAN's free trade agreement partners (Australia, China, India, Japan, New Zealand and Republic of Korea)⁴. On 15 November 2020, ministers from 15 countries, at the 4thRCEP Leaders Summit excluding India signed the Agreement⁵.

The RCEP Agreement is an unprecedented mega regional trading arrangement that comprises a diverse mix of developed, developing and least developed economies of the region. As an agreement that would cover a market of 2.2 billion people, or almost 30% of the world's population, with a combined GDP of US\$ 26.2 trillion or about 30% of global GDP, and accounts for nearly 28% of global trade, the RCEP as the world's largest free trade arrangement, represents an important step forward towards an ideal framework of global trade and investment rules⁶.

The RCEP is the most ambitious free trade agreement initiated by ASEAN, which contributes to enhancing ASEAN centrality in regional frameworks and strengthening ASEAN cooperation with regional partners. ASEAN is at the centre of the RCEP, and the 15-member FTA is as much about further integrating ASEAN as a group, as it is about deepening and broadening economic integration amongst ASEAN and those five non-ASEAN countries. The objective of launching

¹ *Paper prepared for Rosa Luxemburg Stiftung (RLS) by Mr. Vu Ngoc Binh, Vietnamese Independent Expert on Gender and Human Rights. The views expressed in this paper are those of the author and do not necessarily represent the views of RLS.*

² <https://www.wto.org/> (accessed 26 May 2021).

³ <https://asean.org/> (accessed 26 May 2021). ASEAN is composed of Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam.

⁴ <https://rcepsec.org/about/> (accessed 26 May 2021).

⁵ Because of the COVID-19 pandemic, the signing of the agreement was unusual, with separate ceremonies held in each of the 15 member countries all linked by video. Each country's trade minister took turns signing a separate copy of the pact while his or her head of state or head of government stood nearby and watched on 15 November 2020. <https://rcepsec.org/#> (accessed 2 February 2021).

⁶ <https://rcepsec.org/> (accessed 26 May 2021).

RCEP negotiations was to achieve a modern, comprehensive, high-quality, and mutually beneficial economic partnership agreement among the ASEAN Member States and ASEAN's FTA partners.

The RCEP covers traditional trade issues including trade in goods, services and agriculture, customs, investment, economic and technical cooperation, competition, dispute-settlement mechanisms, tariffs, and trade subsidies – but this represents only a small portion of the agreement. The agreement even goes far beyond trade and seeks to impose an entire regulatory framework on member states that could dictate the extent to which governments can regulate every part of the economy in which the private sector operates. It may also give wealthy countries and large corporations the authority to reach across borders to impose constraints on a vast array of domestic non-trade policies. These would impact among other things: environment, agriculture, telecommunications, labour, and intellectual property⁷.

Before negotiations began, all countries had agreed on the goal of achieving a comprehensive, high-quality free trade agreement that benefits all parties⁸. In comparison with the WTO rules⁹, the RCEP incorporates a balanced mix of WTO-plus commitments to further lower at-the-border trade barriers and WTO-extra provisions aimed at addressing behind-the-border regulatory issues. Going forward more significantly, the RCEP has the potential to serve as regional trade standard setter as the rules it settles on will probably become benchmarks and legal precedents for future trade deals in Asia and beyond. This is especially the case when the RCEP opens up for new member applications from across the globe.

Overall, the RCEP will create the most populous trade area in the world, and it joins together several of the largest economies in the world, like China, Japan, and South Korea. It provides a major signal to investors that the region is still committed to multilateral trade integration.

Among partners, there are those that have signed FTAs with each other, meaning that they have committed to opening their market for goods and services to a certain extent. All 15 countries achieving a common level of market opening is quite difficult. In addition to the large scale of the agreement, levels of economic development among member countries are also different, even among ASEAN countries¹⁰ while competition policy, investment, and intellectual property rights also differ. Therefore, during the negotiations, all parties sought to find solutions and at the same time harmonized the interests of all.

⁷ <https://rcepsec.org/2020/11/26/rcep-asia-pacific-countries-form-worlds-largest-trading-bloc/> (accessed 26 May 2021).

⁸ <https://www.vir.com.vn/rcep-serves-up-golden-opportunities-for-asean-75343.html> (accessed 26 May 2021).

⁹ https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm (accessed 27 May 2021).

¹⁰ Three of which are least developed countries (LDCs): Cambodia, Lao and Myanmar:

<https://www.un.org/development/desa/dpad/least-developed-country-category.html> (accessed 27 May 2021).

ASEAN with 650 million people, mostly young people, is currently the world's sixth largest economy. ASEAN's integrating economy is plugged into the globalized world where workers constantly search for decent and better paying job opportunities beyond their own national borders. ASEAN Member States statistic indicate that about 60 per cent of their working population are in low paying jobs and vulnerable to unemployment (accessed 27 May 2021).

The 20 chapters under negotiation¹¹ extended to intellectual property, standards and labelling, telecommunications, competition policies, financial services, e-commerce governance and more recently, government procurement. Included in the agreement are also issues which have not been included in WTO which is the only global international organization dealing with the rules of trade between nations, largely because developing countries have argued that the proposals for the inclusion of these areas are detrimental to their interests. Thus, the RCEP has been the most expensive and complicated regional trade agreement that developing countries have ever negotiated, more than any previously proposed trade agreement.

1.2 India's withdrawal and re-engaging India?

In November 2019, India indicated it had several issues preventing it from joining the RCEP and has since indicated it is not able to sign the Agreement. India had withdrawn from negotiations because of its concerns about its growing trade deficit with China, largely due to domestic political pressure and organized rallies against the deal, which critics claim would open India to an influx of Chinese cheap consumer products and agricultural goods from Australia and New Zealand¹². At the same time, India has been hit hard by the pandemic, with more than twenty seven million confirmed COVID-19 cases¹³ and rising unemployment. In addition, diplomatic and economic ties with China have been strained by a brawl between their troops along a disputed border high in the Himalayas, with the skirmish was the first deadly clash between the two nuclear-armed nations in 45 years¹⁴.

India's withdrawal left the remaining RCEP participants divided. Japan and Australia were working to persuade India to re-join the talks as they were concerned that the absence of India would allow China to dominate the grouping. But ASEAN members were willing to sign an agreement without India¹⁵. Chances are growing that the 15 remaining countries, which include South Korea, Australia, and New Zealand settled for an agreement without India, a fast-expanding economy with 1.3 billion consumers. But the prospects for an early agreement remained murky, with participating countries had been divided on how to respond to India's unwillingness to stay on. An RCEP without India would be less of a driving force for growth in regional trade than the

¹¹Those chapters are on: 1) Initial Provisions and General Definitions; 2) Trade in Goods; 3) Rules of Origin, including Annex on Product Specific Rules; 4) Customs Procedures and Trade Facilitation; 5) Sanitary and Phytosanitary Measures; 6) Standards, Technical Regulations and Conformity Assessment Procedures; 7) Trade Remedies; 8) Trade in Services, including Annexes on Financial Services, Telecommunication Services, and Professional Services; 9) Movement of Natural Persons; 10) Investment; 11) Intellectual Property; 12) Electronic Commerce; 13) Competition; 14) Small and Medium Enterprises; 15) Economic and Technical Cooperation; 16) Government Procurement; 17) General Provisions and Exceptions; 18) Institutional Provisions; 19) Dispute Settlement; and 20) Final Provisions. (accessed 27 May 2021).

¹²<https://www.thenewsminute.com/article/rcep-explained-16-country-free-trade-agreement-india-may-sign-110751> (accessed 27 May 2021).

¹³<https://www.worldometers.info/coronavirus/> (accessed 27 May 2021).

¹⁴<https://atalayar.com/en/content/first-border-incident-between-china-and-india-45-years-results-death-20-indian-soldiers> (accessed 27 May 2021).

¹⁵<https://www.straitstimes.com/asia/se-asia/india-rejects-rcep-as-15-other-countries-look-to-sign-trade-pact-in-2020> (accessed 27 May 2021).

pact originally envisioned. In a bid to avoid this prospect, a special measure to coax India back to the trade talks had been proposed¹⁶.

Even without India, the RCEP has been the world's largest FTA, though India's absence would reduce the economic benefits of the RCEP because India is the fifth largest economy in the world, the third largest member of the 16-nation RCEP (RCEP-16), and a growing country of over 1.3 billion people. All 15 countries would see real GDP gains and RCEP-15 would generate a real GDP increase of approximately \$137 billion in the longer run. This is about 80 percent of what would have occurred under the RCEP-16 (\$171 billion)¹⁷.

Nevertheless, there are signs that India may reunite with RCEP partners should they accommodate India's "core interests" in relation to market access, rules of origin, and automatic safeguard mechanisms, among others. For the participating countries, India would be welcomed to rejoin if and when it is ready. ASEAN countries involved in the RCEP have opened the option for India's involvement in the future, considering its important role in economy, politics, as well as Asian solidarity.

1.3 The RCEP and other key related regional FTAs like TPP and CPTPP

The Trans-Pacific Partnership (TPP), also called the Trans-Pacific Partnership Agreement¹⁸ as a proposed FTA was signed on 4 February 2016 between big corporations and the twelve nations, namely Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Viet Nam, and the United States (US), with the prospect of adding countries like South Korea, China, Indonesia, and the Philippines. Among other things, the TPP seeks to lower trade barriers such as tariffs, establish a common framework for intellectual property, enforce standards for labour law and environmental law, and establish an investor-state dispute settlement mechanism (ISDS). Trade negotiators however, from those 12 Pacific nations failed to reach final agreement, with difficult talks on the largest regional trade agreement ever deadlocking over protections for drug companies and access to agriculture markets on both sides of the Pacific. The failure of the recent talks pointed to the extreme difficulty of reaching agreement with so many countries, each with its own political dynamics. Failure to comply would subject a signatory to the same government-to-government compliance procedures as any other issue covered by the trade agreement, potentially culminating in trade sanctions.

Because US former President Donald Trump withdrew the US signature from the TPP in January 2017, this agreement could not enter into force. The remaining countries negotiated a new trade agreement called Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)¹⁹, which incorporates most of the provisions of the TPP and this pact entered into force

¹⁶<https://en.vietnamplus.vn/rcep-signing-postponed-to-2020/163163.amp> (accessed 27 May 2021).

¹⁷<https://www.aseantoday.com/2020/03/asean-presses-on-with-rcep-without-india-how-they-covered-it/> (accessed 27 May 2021).

¹⁸<https://www.cfr.org> (accessed 27 May 2021).

¹⁹<https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptpgp/text-texte/cptpp-ptpgp.aspx?lang=eng> (accessed 27 May 2021).

on 30 December 2018. Before ex-President Donald Trump's withdrawal, the TPP was set to become the world's largest free trade deal, covering 40 percent of the global economy²⁰.

The CPTPP, also known as the TPP-11 as the amended version of the TPP which is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Singapore, and Viet Nam since the United States announced its plans to stay out of the deal. It evolved from the TPP, which never entered into force due to the withdrawal of the United States in 2017²¹. This agreement creates a huge free economic region with a market scope of 500 million people and covers 13.5% of the global GDP²².

With RCEP conclusion and the implementation of the 11-nation CPTPP in ratified countries, Asia now can harness two mega-FTAs to drive forward deep integration in the region. The relationship between the China and ASEAN-led RCEP and the "dead" US-led TPP²³, the predecessor of the CPTPP, had been characterized by acrimonious Sino-U.S. geopolitical competition. The US has long maintained a political and economic hegemony in the Asia-Pacific region and this hegemony is now being challenged with the rise of China. But since President Donald Trump terminated America's TPP membership in 2017, Asian countries have come to view the two mega-FTAs as complementary in nature. However, Joseph R. Biden Jr., the new President, has been noncommittal on whether he would join the TPP's successor. But even with a Biden administration that might be more committed to bringing the United States back into regional trade integration, it will be difficult for the new administration to actually do so. As the Biden administration will be focused primarily on the novel coronavirus, it is still hard to imagine the Biden White House pushing hard to have the United States re-join agreements like the TPP.

Considering that seven countries (Japan, Australia, New Zealand, Brunei, Malaysia, Singapore, and Viet Nam) are party to both the CPTPP and the RCEP, there is strong basis for an orderly convergence between the CPTPP and the RCEP insofar as political will is present. A merger of both will strengthen "ASEAN Centrality"²⁴ while also laying the groundwork for the establishment of a truly inclusive Free Trade Area of the Asia-Pacific, a long-held and aspirational goal of Asian economic regionalism.

Unlike the TPP, however, the RCEP does not include issues like labour rights or environmental protections. The first and only priority for trade negotiators at this time should be to remove all obstacles, including intellectual property rules, in existing agreements that hinder timely and affordable access to medical supplies, such as lifesaving medicines, devices, diagnostics and vaccines, and the ability of governments to take whatever steps are necessary to address this crisis. Unilateral sanctions that prevent countries from obtaining essential medical supplies should end. The RCEP has been described as China's counter-agreement to the CPTPP,

²⁰<https://www.cfr.org/background/what-trans-pacific-partnership-tpp> (accessed 27 May 2021).

²¹ <https://www.vir.com.vn/key-differences-between-cptpp-and-tpp-56904.html> (accessed 27 May 2021).

²²<https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cptpp-ptppg/index.aspx?lang=eng> (accessed 27 May 2021).

²³<https://www.cfr.org/background/what-trans-pacific-partnership-tpp> (accessed 27 May 2021).

²⁴ Recognition of the diversity and mutual respect among Member States.

involving 16 Asia-Pacific nations – China, India, Japan, South Korea, the ASEAN bloc, Australia, and New Zealand. Like the CPTPP, it contains the ISDS²⁵ provisions. Unlike the CPTPP, it does not have a chapter on state-owned enterprises, an omission intended to accommodate one of the most significant sources of Chinese comparative advantage – its large state-owned construction companies. It also differs from the CPTPP in that it has no chapters on labour or the environment, and therefore presents a challenge to labour’s new approach on trade. The RCEP also give wealthy countries and large corporations the authority to reach across borders to impose constraints on a vast array of domestic non-trade policies. These would impact among other things: environment, agriculture, investment, telecommunications, visas, labour, and intellectual property. The extent of RCEP’s coverage both in terms of the issues faced and the number of people whose lives and livelihoods would be impacted is unprecedented²⁶.

Normally, FTAs are aimed at expanding the flow of goods and services between nations, increases in foreign investment, technology transfers and faster economic growth. Yet such deals can also lead to job losses, the closure of small businesses, diluted labour rights, and increased degradation of natural resources including forests and land. The RCEP deal has the potential to exacerbate the capture of land and water for large-scale investment, deforestation and ecosystem degradation.

1.4 RCEP and human rights

For many countries, trade agreements expose a large majority of the population to violations of their human rights. Gender inequality should no longer be seen as a purely social issue, but as an economic one that presents a key challenge to attaining inclusive and sustainable growth. In this case, the RCEP would also have certain impact on women’s rights. Women are more concerned over the increasing privatization of public services and limited access for women to land and natural resources. The RCEP would tend to push a policy environment that favours more privatization of services, contractual and precarious work, and corporate control over land and resources, which would further burden women and reinforce the traditional patriarchal system in many parts of Asia.

In 2015, ten UN Human Rights Council (HRC)²⁷ mandate-holders voiced their concerns over the impact of trade and investment agreements on human rights, jointly as well as in separate reports. The collective statement warned that trade agreements “are likely to have a number of retrogressive effects on the protection and promotion of human rights, including by lowering the threshold of health protection, food safety, and labour standards, by catering to the business interests of pharmaceutical monopolies and extending intellectual property protection²⁸.

²⁵ <https://cvdvn.net/2018/09/28/what-is-investor-state-dispute-settlement-isds/> (accessed 27 May 2021).

²⁶ <https://www.scmp.com/week-asia/geopolitics/article/3017487/explained-difference-between-rcep-and-cptpp> (accessed 27 May 2021).

²⁷ <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx> (accessed 27 May 2021).

²⁸ <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E> (accessed 15 November 2020).

The HRC has passed a resolution to elaborate a binding treaty that regulates transnational corporations and other business enterprises. Accession to that treaty, when finalized, should be a precondition for entering into any trade and investment agreements in the future. And while a global system to protect investor rights has been established through the ISDS procedures, no global system exists to hold investors to account for their violations of women’s human rights, including rights for corporations to sue governments and extended monopoly rights for pharmaceutical companies to charge higher prices for medicines. National governments would be vulnerable to claims and lawsuits from corporations for compensation when labour, environmental, health, land use laws reduce expected profits.

Introduced in the late 1950s, ISDS appeared in many treaties between former colonial governments and newly independent governments as a means to prevent the nationalization of their multinational corporations’ physical property following independence. ISDS is now written into many trade and investment agreements. It allows foreign investors to sue governments in secretive tribunals outside of the national legal system for amounts far higher than are likely to be available to them in domestic courts. Recent lists of known ISDS cases show that corporations have used ISDS to avoid paying taxes, challenge public interest laws and policies and prevent the re-municipalization of public services. Consumer laws, environmental protection laws and climate policies, labour laws, public health laws, and food labeling laws can all potentially be regarded as infringing on investors’ rights. UN experts have noted that governments are less likely to pass laws essential for women’s rights because of the fear of being sued. States would be penalized for adopting regulations, for example to protect the environment, food security, access to generic and essential medicines ... or raising the minimum wage²⁹.

The costs of an ISDS case can have an enormous impact on public expenditure in developing countries. To date, many cases heard by ISDS tribunals have been against developing countries and lodged by multinational corporations from developed countries. The awards have amounted to hundreds of millions, and even billions, of dollars. While not all cases are made public, given the secretive nature of ISDS, in at least 50 ISDS cases, claims of at least \$31 billion have been lodged against states negotiating the RCEP, which would expose them to even more cases. Many countries have also been denied access to tax revenue, with at least 24 countries being sued by corporations using the ISDS mechanism to challenge tax laws or attempts to collect tax³⁰.

2. Some key opportunities and challenges for Viet Nam

2.1 Development context

Resulting from rapid economic growth, Viet Nam attained several Millennium Development Goals (MDGs)³¹ ahead of the 2015 deadline, significantly reduced poverty in the last 15 years, and

²⁹<http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E#sthash.Szp8QhJP.dpuf> (accessed 28 May 2021).

³⁰<https://10isdstories.org/cases/case8/> (accessed 29 November 2020).

³¹In September 2015, the Sustainable Development Goals (SDGs) were officially adopted by the United Nations Member States. The SDGs succeed the Millennium Development Goals (MDGs) as reference goals for the

made considerable progress on social welfare and social development, especially across three areas of education, health, and living standards³². The country's commitment to fostering inclusive growth and prosperity has underpinned strong economic growth rates over the past two decades, drastically reducing poverty rates from nearly 60 percent of the population in the 1990s to under six percent in 2019³³. These impressive achievements will provide a solid foundation for Viet Nam's efforts toward the Agenda 2030 goals³⁴.

Nevertheless, key challenges to sustainable growth remain and certain groups, including migrants, ethnic minorities and persons with disabilities are lagging behind. Challenges and limitations in social service delivery, accountability, oversight, and efficient public investment have undermined equitable access to services for all Vietnamese people, exacerbating existing inequalities and disparities. The United Nations Development Programme (UNDP) ranks Viet Nam 118 out of 189 countries on its HDI in 2019³⁵. This low ranking is explained in part by some sectors of the population, and the vast majority of them remaining poor – 86 percent – are ethnic minorities, not equally benefiting from economic growth. Further, both the International Monetary Fund (IMF) and the World Bank have identified Viet Nam as highly vulnerable to the effects of the global downturn due primarily to trade, investment, and remittance shocks. In addition, the country elevated to lower middle-income status in 2010³⁶, resulting in a notable decline in grant official development assistance (ODA) and less concessional loans³⁷. Viet Nam is challenged to take urgent actions for improving domestic private investment and FDI efficiency, enhancing government revenue, as well as towards integrated national financing framework for achieving the SDGs.

The world of work is changing fast today, particularly due to technological advancement, greening of our economies, climate change, demographic shifts and globalization. The transformation is rapid and has great impacts on various aspects of labour market, such as, form of employment, employment relationships, skill needed, social security, production technology, work organization, governance of work and tripartism. These transformative changes present new opportunities to improve the quality of working lives and create economic security, but decisive actions are needed to seize these opportunities.

Inclusion is at the core of the United Nations and global community's 2030 Agenda for Sustainable Development³⁸ and is well reflected in all the Sustainable Development Goals and their associated targets. One of the seventeen goals (goal 8) calls for the promotion of sustained, inclusive, and sustainable economic growth, full and productive employment and decent work for

international development community for the 2015-2030 period. The new framework puts forward 17 goals and 169 targets to guide governments, the donor community, civil society, and private sector in an ambitious joint effort to end the indignity of poverty and achieve sustainable development within a decade and a half. Just 15 years after the Millennium Declaration of September 2000, the world has a new agenda “of unprecedented scope and significance”, accepted by all countries and applicable to all’, for humanity and the planet (<https://www.un.org/millenniumgoals/>).

³²<https://www.vn.undp.org/content/vietnam/en/home/post-2015/mdgoverview.html> (accessed 28 May 2021).

³³<https://www.worldbank.org/en/country/vietnam/overview> (accessed 28 May 2021).

³⁴<https://www.un.org/sustainabledevelopment/development-agenda> (accessed 28 May 2021).

³⁵<http://hdr.undp.org/en/content/2019-human-development-index-ranking> (accessed 28 May 2021).

³⁶A country with per capita gross national income of USD 1,036 to USD 4,085 according to the World Bank's Income.

³⁷ <https://vietnam.opendevelopmentmekong.net/topics/aid-and-development> (accessed 28 May 2021).

³⁸<https://sustainabledevelopment.un.org/post2015/transformingourworld> (accessed 28 May 2021).

all by 2030. It is also mirrored in the key Agenda 2030 principles of "leaving no one behind", and in its vision of a "just, equitable, tolerant, open and socially inclusive world in which the needs of the most vulnerable are met" in - "a world in which every country enjoys sustained, inclusive and sustainable growth and decent work for all"³⁹.

Viet Nam assumed the role of ASEAN Chair 2020⁴⁰ in the context of favourable global and regional economies. In addition to peace and cooperation, trade liberalization is still a major trend in the world, and new-generation free trade agreements such as the CPTPP and the RCEP⁴¹ have been implemented or preparing for signing. However, the global and regional economic context also has many challenges and potential risks, not only due to trade tensions but also political instability as well as unstable growth. Regionally as an ASEAN member, Viet Nam has worked closely with other ASEAN countries to maintain the bloc's leading role, both promoting negotiations and maximizing the protection of the interests of ASEAN countries in negotiating the RCEP. With the aim of achieving a high-quality agreement with balanced benefits, Viet Nam has actively participated in discussions and proposed flexible solutions in many regards to resolve problems between parties while ensuring national interests.

In line with these guidelines, as ASEAN Chair in 2020, Viet Nam shouldered the very important task of promoting the conclusion of negotiations for the remaining contents of the RCEP. The country affirmed that it would continue to work closely with other ASEAN countries in maintaining the leading role of the bloc and work closely with the six partner countries to accelerate the early conclusion of the RCEP negotiations and quickly complete all legal reviews of the agreed content to prepare for the signing of the agreement.

2.2 Coping with the COVID-19 pandemic

Given its deep integration with the global economy, the Vietnamese economy has been hit by the ongoing COVID-19 pandemic but has shown remarkable resilience. GDP grew by 2.9 percent in 2020, and Viet Nam was one of the few countries in the world to do so, but the crisis also left a lasting impact on households, with 45 percent of households reporting lower household income in January 2021 than in January 2020. Viet Nam's economy is set to grow 6.6 percent in 2021 on the back of successful control of COVID-19 infections, strong performance by export-oriented manufacturing and robust recovery in domestic demand⁴².

Currently, the COVID-19 pandemic is not just a health crisis in Viet Nam but would trigger a severe economic and labour market crisis⁴³. The impact of the crisis on the economy and businesses has been significant, as the crisis has affected quantity of jobs, quality of employment and has put already vulnerable groups at further risk – depriving them of their livelihoods. The economic disruptions caused by the COVID-19 are having a huge impact on the national economy

³⁹The ASEAN Socio-Cultural Community (ASCC) plans to achieve the 2030 SDGs and targets on decent work (SDG 8), eradication of forced labour and slavery (target 8.7), the protection of safe and secure environments for all workers (target 8.8), and the reduction of transaction costs for migrant remittances (target 10.C) (accessed 28 May 2021).

⁴⁰<https://asean.org/asean/asean-chair> (accessed 5 December 2020).

⁴¹<https://customsnews.vn/rcep-expected-to-be-signed-in-vietnam-this-year-13236.html> (accessed 10 October 2020).

⁴² <https://www.worldbank.org/en/country/vietnam/overview> (accessed 28 May 2021).

⁴³<https://e.vnexpress.net/news/perspectives/during-the-covid-19-pandemic-do-as-the-vietnamese-do-4072619.html>

as tourist figures and merchandise exports have been severely affected by the pandemic, in addition to the slowdown of trading partner economies, and supply chain disruptions in Viet Nam and many other related countries. According to ILO and the General Statistics Office (GSO) on 6 January 2021, a total of 32.1 million people aged 15 and over nationwide as a whole in 2020 were negatively affected by the COVID-19 in the forms of unemployment, staggered working hours, income decrease and working hour decrease among others. The worst-hit sectors were services, with more than 70 per cent of workers affected, followed by industry and construction where the pandemic took its toll on about two thirds of workers⁴⁴.

After instituting strict and prolonged lockdowns at great economic cost to try and contain community spread, Viet Nam has recently had to deal with new waves of infection with the emergence of new variants. The race is on between a rapidly mutating virus and vaccine rollouts, with the latter sometimes delayed by bureaucracy and nationalism.

At the beginning, country responses to COVID-19 were focused towards ensuring access to health services and safety measures for populations. Now policy responses have been shifted towards socio-economic recovery from the impact of the pandemic and associated lockdowns. In early April 2020, the Government announced, among other measures, a support package of US\$2.6 billion for those affected by COVID-19. By the end of July 2020, VNĐ11.9 trillion has been disbursed, equivalent to 12 per cent of the total value of the bailout package, reaching nearly 12 million people and nearly 13,000 household businesses. This disbursement rate is considered to be low and ineffective. The main reason is that most workers still have not received the money. Only 402,466 workers received the money with a total amount of VNĐ403,425 billion, accounting for about 5 per cent of the total disbursed amount. Among those, only 355,227 informal workers received the support with a total amount of VNĐ348,520 million, accounting for about 0.02 per cent of the number of informal workers nationwide⁴⁵.

2.3 Efforts to move towards regional and international integration while ensuring national interests

Since the establishment of diplomatic relations in October 1990, Viet Nam-European Union (EU) relations have developed very rapidly, moving from an initial focus on trade and aid to a broader, more diversified, and more political partnership. Viet Nam has become one of the EU's main partners in Southeast Asia, and the EU has become one of Viet Nam's leading partners in many areas, especially development cooperation, trade and investment, making worthy contribution to the cause of national development and international integration of Viet Nam.

The Viet Nam–EU Partnership and Cooperation Agreement (PCA)⁴⁶ signed in 2012 is a milestone and a vivid manifestation of the comprehensive and far reaching development of the

⁴⁴https://ilo.org/hanoi/Informationresources/Publicinformation/newsitems/WCMS_765767/lang--en/index.htm (accessed 28 May 2021).

⁴⁵ <https://vietnamnews.vn/opinion/op-ed/772540/who-should-benefit-from-government-covid-relief-packages.html> (accessed 28 May 2021).

⁴⁶<https://vovworld.vn/en-US/current-affairs/new-level-of-development-in-vietnameu-relationship-92497.vov> (accessed 28 May 2021).

Viet Nam–EU relations over the past 20 years, elevating the bilateral relations to a new high of equal partnership and comprehensive cooperation in commensurate with the deepened unification and enhanced role of the EU in the 21st century as well as the growing stature of Viet Nam after 25 years of successful reforms and international integration. The PCA which had entered into force in 2016 broadened EU-VN cooperation scope in the areas of trade, environment, energy, science and technology, good governance, human rights, as well as tourism, culture, migration and the fight against corruption and organized crime. The PCA also allows Viet Nam and the EU, which share the same interest in a strong multilateral rule-based system and strong institutions of global governance, to further enhance cooperation on global and regional challenges, including climate change, terrorism, and non-proliferation of weapons of mass destruction, all issues on which Viet Nam is willing to play an increasingly important role. This creates favourable conditions for Viet Nam to promote mutually beneficial cooperation with the EU in the implementation of the national strategy on economic and social development for the period of 2011–2020.

The PCA also creates important premises for Viet Nam and the EU to engage in negotiations of an FTA and work closely towards early recognition of Viet Nam’s market economy status. Besides bilateral relations, the PCA also governs the cooperation between Viet Nam and the EU at regional and international fora and in addressing global challenges. In this connection, furthering relations with Viet Nam opens windows of opportunity for the EU to promote relations with countries in Southeast Asia given the rapid changes and evolving architecture in the region with ASEAN at the centre. For Viet Nam, this is a good opportunity to continue to promote partnership with all EU’s Member States both in depth and in breadth, thus effectively implementing the foreign policy of independence, self-reliance, peace, cooperation, and development; multilateralization and diversification of external relations; a reliable friend, partner and responsible member of the international community.

Viet Nam became a member of ASEAN and the associated ASEAN Free Trade Area (AFTA)⁴⁷ in 1995, before joining the Asia Pacific Economic Cooperation (APEC)⁴⁸ forum in 1998. In 2000, Viet Nam and the United States signed a Bilateral Trade Agreement (VN-US BTA)⁴⁹, a comprehensive trade agreement exposing Viet Nam to higher volumes of trade and investment liberalization. The country joined WTO in 2007, and as a member of ASEAN, Viet Nam has entered into FTAs with ASEAN partners (ASEAN-China FTA, ASEAN-Korea FTA, ASEAN-Australia-New Zealand FTA, ASEAN-Japan Comprehensive Economic Partnership, and ASEAN-India FTA. Efforts were also made by all ASEAN countries in establishing the ASEAN Economic Community (AEC)⁵⁰ in 2015.

⁴⁷<https://asean.org/asean-economic-community/asean-free-trade-area-afta-council> (accessed 28 May 2021).

⁴⁸Asia-Pacific Economic Cooperation (APEC) is a forum for 21 Pacific Rim member economies that promotes sustainable economic growth and prosperity in the Asia-Pacific region by championing free and open trade and investment, promoting and accelerating regional economic integration, encouraging economic and technical cooperation, and facilitating a favorable and sustainable business environment. APEC initiatives turn policy goals into concrete results and agreements into tangible benefits (accessed 28 May 2021).

⁴⁹<https://ipright.vn/vietnam-u-s-bilateral-trade-agreement-bta> (accessed 28 May 2021).

⁵⁰<http://investasean.asean.org/index.php/page/view/asean-economic-community/view/670/newsid/755/about-aec.html> (accessed 28 May 2021).

Viet Nam and the UK signed the UK–Viet Nam free trade agreement (UKVFTA) on 20 December 2020, as the UK transitions out of the EU. The agreement will see the elimination of virtually all customs duties between the two countries when it is fully implemented. The British embassy in Vietnam has forecast that Viet Nam will save US\$151 million in tariffs from the deal while the UK stands to save around US\$36 million. The bilateral FTA will strengthen the Viet Nam-UK relationship across trade liberalization, legal regulation, and alignment in global standards. Following the ratification of the EU–Vietnam Free Trade Agreement (EVFTA), the two countries were keen to further strengthen ties and expand on their bilateral relationship⁵¹.

With the conclusion of the negotiation on the TPP, Viet Nam formally committed to join 11 countries – Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and the United States – in a next-generation FTA to foster trade and promote economic integration across the region. Unlike any previous FTAs that Vietnam has signed, the TPP is the first trade agreement to subject Viet Nam to enforceable labour commitments as stated in the International Labour Organization (ILO) Declaration in 1998 on Fundamental Rights of Workers⁵² like freedom of association, collective bargaining, and minimum standards for working conditions.

The CPTPP officially came into force on 14 January 2019 for Viet Nam and Viet Nam is the 7th country approving CPTPP, which took effect for the first six other countries (Mexico, Japan, Singapore, New Zealand, Canada, and Australia). After the enactment of CPTPP, the Vietnamese economy has experienced multi-dimensional impacts, both positive and negative. The outstanding negative impacts involve the legal and institutional environment, competition, commodity trade, banking and finance, and the opening of the public procurement market. At the same time, the RCEP would help to further promote the economic development of ASEAN countries, particularly in the context of regional and international economies. Facing certain obstacles from trade protection, the successful negotiation of the agreement would contribute to the creation of a new trade structure in the region, helping push globalization towards liberalization and trade facilitation in a sustainable manner. The conclusion of negotiations marks a very important milestone in the process of international economic integration of Viet Nam in particular and of all countries participating in the RCEP in general, in the context of emerging trade protectionism that hinders globalization.

The wave of protectionism around the world has not shown any signs of abating and affects multilateral and regional economic cooperation. Strategic competition between major countries, such as between the United States and China, makes it difficult for ASEAN’s development process. In this context, in order to successfully assume the role of ASEAN Chair in 2020 in terms of economics, Viet Nam needs have appropriate priority directions to make the most of favourable international conditions and at the same time overcome difficulties and challenges. On that basis, the Ministry of Industry and Trade has set four priority orientations in the ASEAN Economic Community for 2020⁵³. The first is to promote strengthening economic integration through

⁵¹ www.vietnam-briefing.com/news/vietnam-uk-sign-free-trade-deal-look-to-strengthen-ties.html (accessed 28 May 2021).

⁵² <https://www.ilo.org/declaration/lang--en/index.htm> (accessed 28 May 2021).

⁵³ <http://www.vneconomictimes.vn/article/op-eds/business-opportunities-to-come-from-rcep> (accessed 28 May 2021).

supporting the implementation of the Master Plan building the ASEAN Economic Community to 2025 and free trade agreements like the RCEP. The second is to promote regional economic connectivity, improving adaptability, and taking advantage of the opportunities from Industry 4.0⁵⁴. The third is to promote effective development towards an ASEAN economy that is not only dynamic and innovative but also effective and adaptive. And finally, trade facilitation must be promoted throughout ASEAN.

For Viet Nam, after implementing CPTPP since January 2018, and ratifying the EU-Viet Nam Free Trade Agreement (EVFTA)⁵⁵ and the Europe-Viet Nam Investment Protection Agreement (EVIPA) in June 2020⁵⁶, the conclusion of the RCEP negotiations would open up more opportunities for local enterprises in Viet Nam to boost exports, participate in new value chains in the region, and increase foreign investment⁵⁷. Viet Nam can access to a huge market of 3.4 billion people when it joins the RCEP as countries in RCEP will have a combined GDP of 21 trillion USD, accounting for 29 percent of the world's GDP⁵⁸.

The depth and scope of those FTAs, including RCEP have been continuously expanded, from trade in goods and services to trade and investment facilitation as well as intellectual property rights and competition policy, and the implementation of requisite readiness measures. Viet Nam's Ministry of Planning and Investment forecast that the CPTPP could increase Viet Nam's GDP by 1.3 percentage points by 2035, while the EVFTA could boost GDP by 15 percent. These trade deals along with already signed and upcoming FTAs are likely to ensure that Viet Nam remains competitive in the short-to-medium term⁵⁹. As a key regional agreement, the RCEP will complement Viet Nam's existing network of FTAs, expand the economic space, and boost trade and investment flows. It will further broaden and deepen the country's economic linkages and connectivity with the region, open up opportunities and provide businesses with preferential access into growing markets.

Viet Nam's participation in the global economy comes with added requirements to align labour policies and practices with international standards. In line with Prime Ministerial Decision 2528/QĐ-TTg of 31 December 2015 on the Approval of Plans of Action and Proposal on Ratification or Accession to relevant United Nations Conventions and ILO Conventions in the Areas of Labour and Social Affairs in the Period of 2016-2020⁶⁰, it is necessary for the country to reform its legislative and institutional framework on industrial relations in full respect of the 1998

⁵⁴<https://www.i-scoop.eu/industry-4-0> (accessed 28 May 2021).

⁵⁵<https://trade.ec.europa.eu/doclib/press/index.cfm?id=1437> (accessed 28 May 2021).

⁵⁶<https://trade.ec.europa.eu/doclib/press/index.cfm?id=1437> (accessed 28 May 2021).

⁵⁷Chapter 13 of EVFTA on Trade and Sustainable Development requires Viet Nam and the EU “reaffirms its commitments, in accordance with its obligations under the ILO and the ILO Declaration on Fundamental Principles and Rights at Work [...] to respect, promote and effectively implement the principles concerning the fundamental rights at work”. They include the freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation (accessed 28 May 2021).

⁵⁸<https://en.vietnamplus.vn/vietnam-to-benefit-from-rcep-market-region/77167.amp> (accessed 29 May 2021).

⁵⁹<https://www.vietnam-briefing.com/news/vietnam-free-trade-agreements-opportunities-for-your-business.html> (accessed 29 May 2021).

⁶⁰<https://luatvietnam.vn/lao-dong/quyet-dinh-2528-qd-ttg-thu-tuong-chinh-phu-102026-d1.html> (accessed 29 May 2021).

ILO Declaration on Fundamental Principles and Rights at Work⁶¹. In the context of new progress of free trade agreements, particularly the EU-Viet Nam Free Trade Agreement, the Government of Viet Nam has affirmed its commitment to this 1998 ILO Declaration, with serious consideration given to ratification of ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise⁶², Convention No. 98 on the Right to Organise and Collective Bargaining⁶³ and Convention No. 105 on the Abolition of Forced Labour⁶⁴. The country adopted the revised Labour Code⁶⁵ on 20 November 2019 and the revision represents a major progress towards alignment with the 1998 ILO Declaration on Fundamental Principles and Rights at Work. The Labour Code revision is in the context of Viet Nam's participation in CPTPP and EVFTA⁶⁶ which will expand Viet Nam's access to EU and CPTPP countries markets.

The human rights agenda in Viet Nam continues to evolve towards a greater openness, on behalf of the State, to engage on specific rights issues and instruments. Human rights are of central importance to the achievement of sustainable development efforts. The 2011-2012 Convention on the Rights of the Child (CRC) reporting process⁶⁷, the 2015 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) reporting process⁶⁸ and the 2015-2018 Universal Periodic Review (UPR) reporting and action planning processes⁶⁹ saw more participation by non-state actors, which bodes well for the subsequent implementation of rights commitments by the State in a more open and inclusive setting. Since Viet Nam's entry into membership in the HRC for the 2014-2016 term⁷⁰, the National Assembly has been increasingly engaged in following up on human rights-related recommendations with the Government, with support from the United Nations. The 2013 Constitution⁷¹ also indicates enhanced commitment to respect, protect and fulfil civil, political, economic, social, and cultural rights. International treaties to which Viet Nam is a party prevail over domestic law in cases where they conflict⁷². Recognizing

⁶¹<https://coccoc.com/search?query=1998%20ILO%20Declaration%20on%20Fundamental%20Principles%20and%20Rights%20at%20Work> (accessed 29 May 2021).

⁶²https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C087:NO (accessed 29 May 2021).

⁶³https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098 (accessed 29 May 2021).

⁶⁴https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105 (accessed 29 May 2021).

⁶⁵The Labour Code No. 45/2019/QH14 has been effective from 1 January 2021 (accessed 29 May 2021).

⁶⁶Each of the parties to the EVFTA reaffirmed their commitment "to respect, promote and effectively implement the principles concerning the fundamental rights at work, namely: a) the freedom of association and the effective recognition of the right to collective bargaining; b) the elimination of all forms of forced or compulsory labour; c) the effective abolition of child labour; and d) the elimination of discrimination in respect of employment and occupation." The Parties to the EVFTA agreed to "make continued and sustained efforts towards ratifying, to the extent it has not yet done so, the fundamental ILO conventions, and the Parties will regularly exchange information in this regard." The Parties, "will also consider the ratification of other conventions that are classified as up to date by the ILO, taking into account its domestic circumstances" and agreed to exchange information in this regard." Finally, "each Party reaffirm[ed] its commitment to effectively implement in its laws and practices the ILO Conventions ratified by Viet Nam and the Member States of the European Union respectively." (accessed 29 May 2021).

⁶⁷<https://coccoc.com/search?query=Convention%20on%20the%20Rights%20of%20the%20Child%20%28CRC%29>

⁶⁸<https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> (accessed 29 May 2021).

⁶⁹<https://www.google.com/search?q=Universal+Periodic+Review&aq=chrome..69i57j0l6j69i61.1855j0j4&sourceid=chrome&ie=UTF-8> (accessed 29 May 2021).

⁷⁰<https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx> (accessed 29 May 2021).

⁷¹<http://extwprlegs1.fao.org/docs/pdf/vie127527.pdf> (accessed 29 May 2021).

⁷²<https://thuvienphapluat.vn/van-ban/Linh-vuc-khac/Luat-dieu-uoc-quoc-te-2016-303284.aspx> (accessed 30 May 2021).

that the legislative reforms underway in this area represent a lengthy and ongoing process, human rights treaty bodies have expressed concern over unaddressed gaps in recent law amendments. As such, national legislations need to be harmonized with international human rights treaties and their provisions and Viet Nam is encouraged to consider the establishment of a national human rights institution as recommended by other countries in UPR processes organized by the HRC in 2009, 2014 and 2019⁷³.

Like other state parties of CEDAW⁷⁴, Viet Nam has its obligations for implementing this women's human rights convention. However, the RCEP may limit the capacity of governments to meet their obligation to use temporary special measures and to eliminate discrimination. Article 4 of CEDAW obliges governments to use "temporary special measures" or affirmative action to eliminate discrimination against women. The UN Committee on the Elimination of Discrimination Against Women (the CEDAW Committee) has elaborated on Article 4 through the Committee's General Recommendation No. 25⁷⁵, making it clear that temporary measures may be required until equality of outcomes are achieved in relation to all substantive articles⁷⁶. The CEDAW Committee provided a nonexclusive list of possible measures that may be taken to comply with the provision: "The term 'measures' encompasses a wide variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as outreach or support programs; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time frames; and quota systems".

3. Conclusions

Viet Nam's integration into regional and global economies, with increased international trade agreements and foreign direct investments (FDIs) combined with improved IT and communication infrastructure, has strongly contributed to support the country's economic development. A further issue is the importance of building competitiveness and productive capacity alongside trade opening and ensuring that liberalization also allows for this. However, increased integration combined with growing regional and international trade may also pose equally opportunities and challenges to Viet Nam's economy though both regional and global integration have been pivotal elements of Viet Nam's economic reform process⁷⁷. Early assessments on the effect of FTAs on Viet Nam's economy are promising, while others point out that there will be winners as well as losers of the economic integration, and there is a need to ensure Viet Nam's economy is able to secure the maximum benefits⁷⁸. The impact of trade liberalisation and economic integration on poor and

⁷³<https://www.upr-info.org/en/review/Viet-Nam> (accessed 30 May 2021).

⁷⁴CEDAW was adopted by the UN General Assembly in 1979, describing what is meant by gender equality and how it can be achieved. It establishes an international bill of rights for women as well as an agenda for action to guarantee the implementation of those rights. This significant document provides a comprehensive framework for guiding all rights-based action for gender equality that states must take to eliminate discrimination against women (accessed 30 May 2021).

⁷⁵<https://www.refworld.org/docid/453882a7e0.html> (accessed 30 May 2021).

⁷⁶<https://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx> (accessed 30 May 2021).

⁷⁷<https://english.vietnamnet.vn/fms/special-reports/171142/apec-2017--opportunities-and-challenges-for-vietnam.html> (accessed 30 May 2021).

⁷⁸<https://vdocuments.mx/vietnam-major-trade-pacts-the-tpp-evfta-and-aec-what-is-in-for-58f9cc3e26f99.html> (accessed 30 May 2021).

vulnerable groups, remains to be further examined in light of the specific agreements and the trade-offs that each of the instruments would promulgate.

With the conclusion of various FTAs, Viet Nam's economy is expected to add 6.5 million additional jobs by 2030, most of them linked to export manufacturing industries. However, concerns remain about the competitiveness of the agricultural sector and small and medium-sized enterprises, and an integrated policy package would be required to promote structural transformation⁷⁹. Trade agreements may provide benefits to people who have the capacity to capitalise on new market opportunities, and workers classified as "highly skilled". However, as women are less likely to hold large amounts of capital, are most commonly engaged in the informal sector, are less likely to have secure land rights and are more likely to benefit from public expenditure in health, education, water and energy, trade agreements have a discriminatory effect. Trade can also either reduce or magnify existing gender inequalities. With the expansion of some sectors and contraction of others, trade brings about gendered impacts depending on which sectors employ a larger share of women. In Viet Nam, the export-oriented sectors are largely female intensive. Women are especially clustered in the apparel production and an increasing number of female workers is employed in the electronics and motor vehicles sectors, which accounted for 79 and 58 percent, respectively of female workers in 2013⁸⁰. Even when trade openness leads to the creation of employment opportunities for women, concerns arise over the quality of the newly created jobs, which often fall in the low-skilled and low-paid segments. If the specific impacts on women are not adequately assessed and considered into trade policy formulation and implementation, the country's greater trade openness may result in undesired outcomes in terms of gender equality.

As Viet Nam develops, a wide range of new governance challenges have emerged, such as the growing need for environmental protection and leveraging technology for e-governance. However, while new challenges require new solutions, other long-standing issues persist. Anti-corruption work, public service delivery, administrative procedures simplification, and efforts towards greater transparency and government responsiveness remain as important as ever.

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⁷⁹http://ilo.ch/hanoi/Whatwedo/Publications/WCMS_630293/lang--en/index.htm (accessed 30 May 2021).

⁸⁰https://www.ilo.org/hanoi/Whatwedo/Publications/WCMS_630293/lang--en/index.htm (accessed 30 May 2021).

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