

RCEP: India must uphold peoples' rights and welfare

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Introduction

The RCEP (Regional Comprehensive Economic Partnership) is a proposed free trade agreement (FTA) between 10 countries of the ASEAN (Association of South East Asian Nations) and their trade partners China, Japan, India, South Korea, Australia and New Zealand.¹ The mega FTA will cover 45% of the global population, 30% of the global GDP, 27.4% and 23% of the world's trade and goods and services respectively.² The initiative was launched at the 19th ASEAN Summit in 2011 in Bali, Indonesia, and negotiations began at the 12th ASEAN Summit in Cebu, Philippines. To date, 22 negotiation rounds have been held. The 23rd RCEP round will be held in Bangkok, Thailand in July, 2018.

The RCEP was considered to compete with the TPP (The Trans-Pacific Partnership), previously led by the US under former president Barack Obama involving 11 of the Pacific Rim countries. However, the withdrawal of the US from the negotiations under current President Donald Trump has shifted the region's economic attention to RCEP given that the proposed free trade agreement will involve the world's two most populous nations and three of the biggest economies, namely China, India, and Japan.

RCEP will be comprehensive and will cover trade in goods and services, investment, intellectual property, economic and technical cooperation, competition, dispute settlement and other issues related to government regulation.³ Special and differential treatment (S&DT) is available for least developed countries in the group (known as CLMV) Cambodia, Lao, Myanmar and Vietnam. RCEP claims to make "significant improvements over the existing ASEAN + 1 FTAs" while recognizing the "individual and diverse circumstances of the participating countries".⁴

¹ ASEAN Countries include Brunei, Cambodia, Indonesia, Lao, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

² Why RCEP is Vital for India, Bipul Chatterjee and Surender Singh, 3rd March 2015, The Diplomat

³ Ministry of Commerce, Govt of India, 2015

⁴ *ibid.*

India and the RCEP

In April 2015, India announced a new foreign trade policy that aimed to increase India's share of the global trade from current 2.1% to 3.5% and double its exports to \$900 billion by 2020.⁵ The United States is by far India's largest single country trading partner, with whom its bilateral trade in goods and services stood at \$ 66.9 billion in 2013-14. In 2014, the two countries agreed to a target of \$ 500 billion per year without setting a deadline.

Over the past decade, India has signed FTAs with ASEAN, Korea, Japan and Malaysia. However, some insiders admit that India's trade partners have gained more from these agreements than India. India's experience with the regional trade agreements (RTAs) have been less than satisfactory because of the lack of competitiveness of its manufacturing sector and the lack of innovation and investment in sectors such as textiles, garments and pharmaceuticals.⁶ In the case of ASEAN-India FTA, India's import from ASEAN rose by 79%, while its exports grew only by 39%.⁷

RCEP is a crucial consideration in India's trade policy. It is hoped that while RCEP will complement India's existing trade agreement with ASEAN countries' trade partners like Japan and South Korea, it will also act as a stepping stone for India's Act East Policy, given its absence in two other regional blocs, namely APEC and TPP. Furthermore, RCEP will facilitate India's integration in sophisticated regional production networks. India with its comparative advantage in ICT, IT enabled services, professional services, healthcare and education services will have greater access to new markets. The RCEP agenda brings with it the demands for market opening and the focus is India (and also Indonesia).⁸ India had initially adopted a three tiered approach, where tariff reduction was based on whether it has an FTA with member country of RCEP or not.⁹ Under Tier 1, India offered 80% reduction in tariff lines to ASEAN countries, out of which 65% would come into force once the RCEP was enforced and the rest 15% would take place over the next 10 years. In Tier 2, India offered 65% tariff elimination to South Korea and Japan. In Tier 3, India offered 42.5% reduction in tariff lines to China, Australia and NZ, with which it had no FTAs.

Current status of the negotiations

RCEP negotiations have missed several deadlines. It was expected to be finalized by 2015 and then 2017. Negotiations are still ongoing, with

⁵ India's Trade Policy Dilemma and the role of domestic reforms, Hardeep S Puri, 6th February, 2017, carnegieindia.org

⁶ *ibid*

⁷ India changes track at RCEP negotiations, Kavaljit Singh, 13th August 2016, www.madhyam.org

⁸ India's RCEP Challenge, 3rd December 2014, www.financialexpress.com

⁹ India has already signed FTAs with ASEAN, Japan and South Korea.

only two chapters (on small and medium enterprises and technical cooperation) concluded as of 2018 as member countries have yet to agree on tariff reduction for goods while discussions on the services have come to a standstill.

India has significantly changed its initial 3-Tier tariff reduction offer. Now India is willing to offer a reduction on 80% of all tariff lines with a 6% deviation. Under this scenario, India may offer a reduction on 74 – 86% of goods depending on trade relations with member countries.¹⁰

Other nations want to restrict deviation to 1 to 2 % but richer nations like Australia and New Zealand want a reduction of up to 92% on all goods items.¹¹ On services trade, where India is primarily interested in securing greater market access and easing restrictions in the sector, it is especially looking at opening up issues under Mode 4 which deals with cross-border migration of service professionals. However, discussions on services trade have been affected by global protectionism in the sector.¹² The coverage given to services and digital economy was very modest and would have no protection for labour and the environment.¹³

Major Concerns Regarding RCEP

RCEP is being negotiated in the shrouds of secrecy. There is no text available to the public and it raises suspicion. Public opinion in the past decade has increasingly shifted against such trade agreements for a number of reasons. There have been very few consultations with stakeholders except business community in the member countries. There have been no public consultations in India either with CSOs and other stakeholders. Civil society and the farmers groups have already raised this issue and have opposed stricter medicine monopolies at RCEP negotiations.¹⁴ They have also raised concerns such as lack of disclosure policy, restricted access to medicine and increased protection of investors' rights etc.¹⁵ A number of trade unions and farmers groups have also opposed RCEP on the grounds of dilution of labour laws, unequal competition for Indian farmers, and possible damage to Indian manufacturing, dairy and agriculture sectors.¹⁶ Activists have also called for ex ante human rights assessments of the FTAs, and called on the ASEAN intergovernmental Commission on HR (AICHR) and national human rights institutions of member countries to help governments assess the social impacts of mega regional trade agreements.¹⁷

¹⁰ Subhayan Chakaborty, Business standard, New Delhi, 24th May2017, www.businessstandard.com

¹¹ ibid

¹² ibid

¹³ India pressured to give up on tariffs at RCEP, Hanoi, www.thedollarbusiness.com

¹⁴ Civil society opposes stricter medicine monopolies at RCEP negotiations, Belinda Townsend, Shailly Gupta, Patricia Ranald and Leena Menghaney, The third World Network

¹⁵ Civil society raises concern on RCEP negotiations, 20th April, 2016, Down to Earth

¹⁶ Activist say the RCEP free trade pact will damage Indian manufacturing, dairy and agriculture sectors, 2nd December 2014, the Business World

¹⁷ A new generation of FTAs that privilege business interest over human rights, Shalini Bhutani, 30th

Impacts to India's economy, sovereignty and peoples

The RCEP will have a number of adverse impacts on the Indian economy, workers and migrants, agriculture and land and peoples' access to life saving medicines.

Impacts on the economy: There are growing concerns of cheap Chinese manufacturing goods glutting Indian markets. Right now Chinese products have to pay duty in India. China has to have a joint venture in Thailand or Malaysia from where products can be exported to India at zero duty under ASEAN-India FTA.¹⁸ If RCEP comes into force, Chinese goods will enter India duty free. India's trade deficit with China has been rising. In 2017, India's trade deficit with China stood at \$37 billion¹⁹. With a bilateral trade of \$11.2 billion, India's exports to China were \$9.6 billion while imports were \$61.5 billion.²⁰ China's exports have been growing at a much faster pace than India's. India frequently uses anti-dumping duties.²¹ As a result India's micro, small, and medium enterprises that face stiff competition from imported manufactured products from China are demanding cutbacks in imports. India also runs a trade deficit with other RCEP nations such as Australia, South-Korea, Japan, Malaysia and Indonesia.²²

RCEP will have serious implications to India's national sovereignty as well. Future governments will be bound to trade commitments that may hinder them from exercising full control over their policy space and regulatory powers.

RCEP could result in significant revenue loss as the country imposes higher Most Favored Nation²³ applied tariff rates (both in manufactured goods and agriculture products) in comparison to other RCEP countries. According to India's commerce ministry officials, the estimated the potential tax revenue loss from joining RCEP could be around 1.6% of country's GDP.²⁴

Employment and Workers: One million people enter workforce every month in India. However, jobs creation has not been able to keep pace. From 1991-2013, India created only 140 million jobs – a fraction of more than 300 million required; the presence of 7.7 million unemployed people is a time bomb that any government cannot afford to overlook.²⁵ The unemployment has been rising despite the fact that India achieved near two-digit growth rate for most of the

August 2016

18 The RCEP effect on India, Ajay Srivastava, the Hindu businessline, 11th July 2016

19 India's trade deficit with China stands at \$37 billion in April-October, The Economic Times, 18th Dec 2017

20 India changes track at RCEP negotiations, Kavaljit Singh, 13th August 2016, www. madhyam.org

21 During 1994 – 2014, there were 134 cases where India imposed anti-dumping duties on goods from China.

22 India changes track at RCEP negotiations, Kavaljit Singh, 13th August 2016, www. madhyam.org

23 The Most Favored Nation principle of the WTO compels countries to extend special favours (such as lower customs duty rate for one of their products) given to trading partners to all WTO members.

24 ibid

25 Why RCEP is vital for India, the diplomat.com

same period. In 2015, India attracted an estimated \$63 billion in FDI, surpassing China and the US.²⁶ However, this has failed to translate into jobs. In 2017, India's skill development ministry announced abandoning its goal of training 500 million people by 2022²⁷.

India's participation in RCEP is further expected to compound these problems as RCEP may endanger jobs of people working in SMEs that can be negatively affected by the flooding of cheap imports. RCEP can lead to a race to the bottom in terms of labor and environmental standards in India as the government attempts to create enabling environment for foreign business, but to the detriment of people and the environment.

Agriculture and Land: The Indian agriculture sector, which is already burdened by unfair competition and reduced protection, will be hit doubly hard. For one, Indian agricultural products will face unfair competition. Second, RCEP will impose higher levels of IP protection to seeds and force countries to comply with UPOV 1991: a set of plant variety protection standards that favors seed companies at the expense of farmer's rights to seed²⁸. This will conflict with the country's Protection of Plants Varieties and Farmers Rights Act of 2001 which provides farmers the freedom to save their seeds. The right to save seeds and seed sovereignty are one of the most likely casualties of India's joining RCEP.²⁹

Another issue of potential conflict will be land. Landlessness is already recognized as by far the most serious impediment to the revival of the manufacturing sector³⁰. Huge tracts of agriculture land have been already diverted to nonagricultural uses (SEZ infrastructure and real estate) and further alienation of agriculture land is the most obvious probability. This is despite the fact that the Ministry of Agriculture recognizes that alienation of land is one of the pressing challenges in agriculture³¹.

Public services and access to life saving medicines: If leaks of the draft negotiation text are to be believed, Japan and South Korea are pressing for TRIPS Plus IP protection regimes in the RCEP. They have proposed several provisions that would award additional privileges to the pharmaceutical industries. These include patent term extensions, seizure of suspected IP-infringing medicines in trans-shipment and equally worrying damages for patent infringement determined

26 India's Trade Policy Dilemma and the role of domestic reforms, Hardeep S Puri, 6th February, 2017, carnegieindia.org

27 Govt abandons goal of training 500 million people in new skills by 2022, Prashant K Nanda, 8th Jun 2017

28 Civil society groups reject RCEP: Excessive corporate powers at the expense of people's rights, 24 Aug 2016

29 Civil society raises concern on RCEP negotiations, 20th April, 2016, Down to Earth

30 India's Trade Policy Dilemma and the role of domestic reforms, Hardeep S Puri, 6th February, 2017, carnegieindia.org

31 Ministry of Agriculture and Farmers' Welfare, GOI, Annual report, 2016

according to the value assessed by the patent owner.³² If these proposals are agreed, they can delay the market entry of generic drugs in the region. The impact may be felt globally.

India and China are major suppliers of generic medicine for the world's poor. The role of Indian generic firms in substantially lowering the prices of HIV medicines is well known and appreciated. This has been possible because India's IP laws balance private rights with public investments.³³ India does not grant IP protection beyond 20 years and does not grant patents for new forms or new uses of a known substance. This protection may be lost if Japan's proposal is agreed. The current WTO TRIPS framework already provides extensive IP rights protection for corporations and RCEP's use of TRIPS-plus provisions will further hinder developing and underdeveloped countries from taking measures to ensure prompt availability of affordable medical products and technologies.

Patients groups including Delhi Network of Positive People (DNP+) along with International Treatment Preparedness Coalition South Asia held a protest in front of the Japanese Embassy in New Delhi in June 2015. According to the group, "leaked RCEP text appears to be a carbon copy of the worst IP provisions of the TPP that seek to stamp out generic competition and restrict access to affordable medicine."³⁴ The UN Secretary General's high level panel on access to medicines, in a report released in September 2016, recommended countries to undertake rigorous public health impact assessment of the proposed trade agreement as an imperative to inform the negotiations.³⁵ This proposal is urgent and necessary.

Conclusion

Export led growth has been the dominant paradigm for East Asian Economies. However, the global financial crisis of 2008 and the subsequent recession in developed countries have revealed the vulnerabilities of export led growth models. China, South Korea, and Japan are the main protagonists of this paradigm.

The bulk of India's growth emanates from domestic consumption which constitutes nearly 70% of the GDP.³⁶ Joining the RCEP would definitely have economic, social and environmental costs. Threats to the livelihoods of millions of farmers and workers due to cheaper imports are real and present danger.

³² RCEP, the trade agreement you have never heard of but should be concerned about, www.theconversation.com

³³ *ibid*

³⁴ Press statement: civil society raises major concerns on India's engagement with the massive RCEP trade deal, donttradeourlivesaway, 11th June 2015

³⁵ Civil society opposes stricter medicine monopolies at RCEP negotiations, Belinda Townsend, Shailly Gupta, Patricia Randal and Leena Menghaney, The Third World Network

³⁶ India changes track at RCEP negotiations, Kavaljit Singh, 13th August 2016, www.madhyam.org

Given the experiences of India in FTAs, it would be more prudent to focus on domestic reforms, invest in trade infrastructure, and to address deficiencies in the existing bilateral FTAs.

RCEP may take a year or two to conclude. India should be firm in its stand to protect its domestic industries and sectors, and more importantly, the rights and welfare of its peoples.

This paper was written by Ajay K Jha, director, Centre for Community Economics and Development Consultants Society (CECOEDECON), India for the People over Profit Network of the Asia Pacific Research Network (APRN). The views of the author are his own and do not necessarily reflect those of APRN and POP.

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