

# RCEP

## Corporate Wishlist, Threat to People's Rights

APRN Briefer on the Regional Comprehensive Economic Partnership (RCEP)

With the lackluster performance of the WTO negotiations in the past years, monopoly capital has renewed its focus on bilateral and regional free trade agreements (FTAs). This reorientation aims to push contentious issues that would otherwise not be possible to advance within the context of a multilateral trade regime such as the WTO. This strategy is increasingly being felt across Asia Pacific with the recently concluded Trans-Pacific Partnership (TPP), and now the Regional Comprehensive Economic Partnership (RCEP) which is recently gaining steam. Both agreements if passed and ratified will threaten the basic rights and freedoms of peoples in the region. These two trade agreements also represent the heightening rivalry between the US-led TPP and the Beijing-led RCEP over who sets the standards of trade in the region. However, it must be made clear that in this tug of war, the real concern for the people is not about which side should win. Neither the TPP nor the RCEP, neither the US nor China and their corporations will ever address the long-standing people's aspiration for an international trading system that responds to their needs.

The recent conclusion of the TPP deal mounted enormous pressure on RCEP negotiators to speed up talks and reach an agreement by the end of 2016<sup>1</sup>. While recent delays in the conclusion of the negotiations indicate that the 2016 deadline would most likely be missed<sup>2</sup>, the urgency to resist this trade deal and its potential threat on people's rights nevertheless remains.

### RCEP COUNTRIES REPRESENT

Brunei  
Cambodia  
Indonesia  
Laos  
Malaysia  
Philippines  
Singapore  
Thailand  
Vietnam  
Australia  
China  
India  
Japan  
South Korea  
New Zealand



2013 - Official start of negotiations comprised of 10 ASEAN member states + 6 of its major trading partners

2016 - Target year of completion

Often referred to as a "trade" pact, the Regional Comprehensive Economic Partnership (RCEP) deals with more than just trade – a large portion of the agreement will give rich countries and their corporations power to delve into non-trade issues that have far-reaching implications across sectors and communities.

#### UNDER RCEP..

- Farmers access to seeds will be further restricted
- Race to the bottom for labor rights standards
- The poor will be deprived of access to cheap medicine
- Corporations will have the power to sue governments for social protection measures that "hurt" profit-making
- And many more...

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<sup>1</sup> AFTINET (2016). Experts warn of RCEP dangers in Perth (2016). Retrieved from <http://aftinet.org.au/cms/1604-experts-rcep-dangers-perth>

<sup>2</sup> Berkeley APEC Study Center (2015). Overselling the TPP: The Trade-Security Nexus. Retrieved from: [http://basc.berkeley.edu/wp-content/uploads/2016/04/BASC-Newsletter-Winter-15\\_16.pdf](http://basc.berkeley.edu/wp-content/uploads/2016/04/BASC-Newsletter-Winter-15_16.pdf)

## What is the RCEP?

RCEP is a mega-regional trade deal that covers half of the world's population, 38% of the world economy and nearly 30% of the world's trade volume. The 16-nation RCEP negotiations formally began in 2013 comprised of the 10 ASEAN Member states at its core along with 6 of its major trading partners (China, Japan, Australia, New Zealand, South Korea, India). With the rapid growth of China, India and Indonesia's economies however, the combined GDP of RCEP member countries can potentially amount to \$100 trillion – twice the size of TPP economies by 2050<sup>3</sup>.

Often referred to as a “trade” pact, the RCEP deals with more than just trade – a large portion of the agreement will give rich countries and their corporations power to delve into non-trade issues that have far-reaching implications across sectors and communities. Covering half of the world's population and containing provisions that are even worse than the TPP and the WTO, the impact of this mammoth trade deal on the environment, labor, agriculture, investment, intellectual property, etc. will be nothing like we've ever seen before.

## RCEP in context

Like the TPP and other 21st century FTAs, the RCEP is also being negotiated behind closed doors. The little that is publicly known about the RCEP comes from recent leaked texts on investment and intellectual property rights. Compared to the TPP, the RCEP focuses more on trade facilitation and has less stringent provisions on government procurement and state-owned enterprises which is a major point of disagreement between China and the US<sup>4</sup>. For these reasons, the RCEP is often portrayed as a more reasonable alternative to the TPP as it supposedly offers relatively greater consideration for low and middle income economies.

Indeed, while many consider it as a “subtler” version of the TPP by providing lower demands in terms of tariff reduction and harmonization<sup>5</sup>, the leaked texts however indicate provisions on intellectual property rights that are even worse than that of the TPP<sup>6</sup>. On the other hand, the investment chapter largely builds on TPP provisions that nonetheless provide excessive new powers and rights to foreign investors while severely crippling government capacity to regulate corporate actions in the name of public interest.

Despite the differences and similarities between the two – it must be pointed out that both the RCEP and the TPP find grounding in, and act as extensions of the WTO framework representing the neoliberal objective of concentrating wealth at the hands of global corporate elites. The two mega-regional trade deals represent the competing interest between the US and the China on who goes to define the rules of trade and control the economy in the region. Accessing and controlling Asia Pacific's huge market is a necessity for the US whose economy is in decline, as well as for China, which has expanded its sphere of influence beyond the region but is now experiencing a slow down in its economy. While the US is using TPP and the TTIP to tip the global economy in favor of its corporations, China through RCEP, is banking on its close economic relations with ASEAN, which is the third largest economy and third largest market in Asia. The Asia Pacific region remains the engine of global growth in the midst of a sluggish global recovery. The region is where most of the world's manufacturing occurs and produces almost half of the world's economic output at 40.7% or USD 44.1 trillion. This is projected to continue to rise as other regions' combined GDP fall.

While these two FTAs are in contention with each other, convergences between them can be foreseen towards the creation of the much larger FTAAP (Free Trade Area of Asia Pacific). In 2006, the APEC (Asia Pacific Economic Cooperation) began considering the idea of an ambitious mega-regional FTA that aims to implement WTO standards in the region. However, the deal failed to proceed after major disagreements between China and the US. As a response to the impasse, the APEC announced that the FTAAP would instead be pursued by building on existing FTA negotiations such as the TPP and the RCEP. It bears repeating that neither the TPP nor the RCEP can address the need for a just and equitable trading system – as either way points to the direction of expanding the WTO's neoliberal agenda and therefore a losing end for the people.

### RCEP and the ASEAN

Within RCEP negotiations, the 10-member ASEAN bloc is largely considered as a key player since the trade deal in itself can be seen as an extension of ASEAN FTAs with its major trading partners. However, especially in the context of regional integration, inclusion in the RCEP talks can cause serious problems for ASEAN member states' right to regulate while at the same time worsening the corporate-led economic integration efforts of the regional formation. Recent FTAs including the TPP have already set the bar in favor of investor rights at the expense of diminishing the right of states to regulate. In order for the RCEP to surpass the profit value of existing ASEAN+ FTAs, it would have to set investment protection rules at par with recent standards – otherwise, investors could easily pick and choose which trade agreements provide greater protection measures. In this context, once the RCEP comes into force, corporations can freely block national social and environmental protection policies by filing claims in ISDS courts leading to the corporate recolonization of ASEAN economies.

<sup>3</sup> <http://www.civilservicesstrategist.com/regional-grouping-in-asia.html?showall=1>

<sup>4</sup> IBON International (2015). IBON Primer on 21st Century Free Trade Agreements. Retrieved from <http://iboninternational.org/sites/ibon/files/resources/Primer%20on%2021st%20Century%20FTAs%20E-book.pdf>

<sup>5</sup> Harmonization refers to the process or efforts by countries and/or industries to replace existing product quality and regulatory policies in favor of uniform global standards.

<sup>6</sup> RCEP: The other closed-door agreement to compromise user's rights (2016). Retrieved from <https://www.eff.org/deeplinks/2016/04/rcep-other-closed-door-agreement-compromise-users-rights>

Table 1. TPPA and RCEP: Which one's worse?

		TPPA	RCEP
Intellectual Property Rights	Copyright terms	Author's life plus 50 years	Author's life plus 70 years
	Patent rules for medicines	Lower requirements for patentability allowing minor alterations of products (i.e. medicines) to be patented which can be used to provide additional protected monopoly status	Largely similar to the TPPA but with additional clauses that indicate mandatory extension of patent terms upon the request of Parties to compensate for unreasonable delays (more than 4 years) in granting the patent
	Damages for copyright infringement	Penalties are based on an amount sufficient enough to constitute a deterrent to future infringements and to fully compensate the patent holder	Penalties are calculated based on the assumption that infringed works were sold at full retail market value even if the infringer has not sought or made any profit from the infringed work/s
Investment	Definition of investment	Both the TPP and RCEP's definition of investment extends the concept beyond real property to include financial instruments thus allowing firms to challenge financial regulatory policies that violate profit expectations.	
	Dispute settlement	The RCEP text on the transparency of arbitral proceedings is virtually identical to TPPA provisions – both NOT meeting the standards of transparency or due process in accordance with common domestic laws. ISDS provisions in both RCEP and TPPA will grant enormous powers to corporations by allowing them to sue governments for legislating public interest laws and policies that can "harm" corporate profits	
	Right of states to regulate	TPP and RCEP provisions on the state's environmental and health regulatory actions consist of weak and self-cancelling language that render government regulatory policies vulnerable to ISDS challenges.	

India – the pharmacy of the developing world

India is often considered as the 'pharmacy of the developing world' for its large-scale production of generic medicines as well as life-saving supplies that are used to treat HIV, TB and malaria among other diseases in developing countries. Current provisions proposed by Japan and South Korea will extend patent terms and allow longer monopoly status protection thus blocking the entry of cheap generic medicines into the market. (Source: [www.msf.org](http://www.msf.org))

TCW Group vs. Dominican Republic

In 2007, TCW Group, a US corporation that partially owned an electricity distribution firm in Dominican Republic filed a case against the government for failing to raise electricity rates and for failing to prevent electricity theft by its poorest residents. TCW also claimed that the government violated CAFTA provisions for not subsidizing electricity rates. However, the Dominican Republic at that time was technically unable to subsidize essential services because it just spent a large chunk of its reserves in order to salvage itself from a banking crisis. Nevertheless, TCW demanded \$606 million from the government forcing Dominican Republic to pay \$26.5 million just to settle the cases with the foreign firm and stop bleeding dry from paying continued legal fees. (Source: <http://www.isdscorporateattacks.org>)

# What does the RCEP mean for the people?

The RCEP has all the benefits corporations would ever want and more – granting more rights to acquire land and natural resources, the power to sue entire governments for actions that they deem inimical to profit-making and greater investment protection measures to top it all. But what does this mean for the people who would have to live with its consequences?

**The RCEP is set to impose restrictions on farmer's seeds.**

Based on the leaked chapter on intellectual property rights, Japan and Korea are pushing for RCEP member countries to join the UPOV 1991 (International Convention for the Protection of new Varieties of Plants). UPOV 1991 is a set of common standards that impose rules on how countries should implement plant variety protection – a scheme that favors seed companies at the expense of farmer's rights to seed. Another proposal aims to criminalize seed saving by imposing criminal sanctions for carrying seeds across borders without due authorization from patent rights holders<sup>7</sup>.

**The RCEP will restrict public access to cheap, life-saving medicine.**

Proposed rules on intellectual property rights will extend medicine patent rights enabling big pharmaceutical companies to monopolize the drug market and keep charging high prices without generic competition. Once passed, the RCEP will extend monopoly protection beyond what is required by existing international agreements as well as domestic laws. This poses a grave threat for the poor majority who rely on cheap, life-saving medicines<sup>8</sup>.

**The RCEP would mean a race to the bottom for labor rights.**

This mega-regional FTA is designed precisely to facilitate greater corporate access to cheap labor and resources among member countries. This entails the further depression of wages and work environment standards as countries struggle to invite foreign investors by making the business environment more attractive to corporations – and therefore less friendly to workers. If passed, the RCEP will also further create export-oriented and import-dependent economies thwarting any prospect towards domestic industrial development.

**The RCEP will boost corporate power at the expense of people's rights.**

Included in the RCEP agenda are provisions on the notorious Investor-State Dispute Settlement (ISDS) – an investor-state arbitration system that allows foreign investors to sue governments over actions perceived as detrimental to expected future profits. The ISDS essentially allows corporations to override environmental, labor, and other social protection and regulatory measures implemented by the host government and go straight to “corporate courts” ruled by corporations themselves. Around the world, corporations are using the ISDS to claim compensation for government policies that aim to protect the environment, health and the public interest – all being contested and overruled for “undermining” corporate profits.

## What can you do?

The far-reaching neoliberal offensives that the RCEP threatens to launch on national sovereignty, healthcare, the environment, farmers and labor rights illustrate the fundamental injustices of the current neoliberal economic system. The conditions are ripe to spark a groundswell of people's resistance against the RCEP and other neoliberal trade deals in the offing. Crucial in these efforts are the organized actions of people's movements across Asia Pacific in charting an alternative trade agenda – a people's trade agenda that asserts national sovereignty and people's rights; an agenda that espouses the principles of democratic decision-making, mutual cooperation, environmental sustainability and accountability to the people.

Resisting the renewed onslaught of the RCEP and advancing a pro-people trading system requires the concerted efforts of people's movements across Asia Pacific and beyond. Join the global movement to resist RCEP and other “free trade” agreements! Here's what you can do:



### SPREAD THE WORD

conduct awareness-raising activities and media outreach at the country level and in communities by organizing workshops and forums on the potential impacts of RCEP to various sectors of society.



### JOIN THE CAMPAIGN

be part of the growing movement to stop RCEP and other trade deals in the offing.



### LAUNCH PROTEST ACTIONS

organize protest actions in creative means and reach out to existing campaigns and platforms against FTAs in your country.



For more information and to keep us updated on your work against RCEP, please contact [secretariat@aprn.net.org](mailto:secretariat@aprn.net.org)

<sup>7</sup> New mega trade treaty in the pipeline: What does RCEP mean for farmers' seeds in Asia? (2016). Retrieved from <https://www.grain.org/article/entries/5405-new-mega-treaty-in-the-pipeline-what-does-rcep-mean-for-farmers-seeds-in-asia>

<sup>8</sup> RCEP: The trade agreement you've never heard of but should be concerned about (2015). Retrieved from <http://theconversation.com/rcep-the-trade-agreement-youve-never-heard-of-but-should-be-concerned-about-42885>