

# Asian social movements reject RCEP trade deal

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## 1. RCEP: People's movements resist free trade agreement

Organizations across the Asia Pacific region have come together to oppose the secrecy surrounding the negotiations for the Regional Comprehensive Economic Partnership, a free trade agreement. Here's how the deal will affect billions in 16 countries.

## 2. Oral Statement: Indonesia for Global Justice (IGJ) for the 23<sup>rd</sup> round RCEP negotiation, Bangkok, Thailand, July 23<sup>rd</sup>, 2018

"Redlines For Investment Provision in RCEP Negotiation"

Thank you Mr. Chair person, and all Trade Negotiating Committee for your time. My name is Rachmi Hertanti, I'm from Indonesia and working with Indonesia for Global Justice, an organization who have concerns on the impacts of free trade agreements and investment treaty to the rights of people. On this occasion, we would like to convey some of the "red lines" that cannot be crossed in the negotiations related to the investment provision in RCEP.

First, on the provision of Investment protections and ISDS. The RCEP must strictly curtail the substantial and procedural rights of foreign investors commonly granted in investment chapters of trade agreements. "No ISDS" in any form is the only sure way to avoid multimillion dollar claims and ensure the protections of People's Rights.

We are thus fully convinced that the inclusion of investment protection with ISDS mechanism in the RCEP would undermine Constitution and national regulations. Investment Protections provision under RCEP will raise the risk of regulatory function of the State to protect the national interest and the setback to the promotion and protection of human rights. Even the investment protection agreement also proven not being able to guarantee of increasing on the investment value. A recent study by the OECD found that there is no evidence for a positive correlation between FDI and investment treaties (<http://dx.doi.org/10.1787/e5f85c3d-en>). In fact now, many countries are criticizing the ISDS mechanism. We heard that some countries gave a strong critical voices on ISDS in UNCITRAL Meeting in New York on last February. There were: Indonesia, India, Thailand, and even China. And, now, the New Zealand government has also announced its opposition to ISDS mechanisms.

The provision of investor protections and ISDS in RCEP will be a setback for the progressive process undertaken by the Government of Indonesia since 2012. Under the review process, Indonesia is demanding to address the problems not only on procedural rules on ISDS but also on substantive rules under the investment treaty, such as the narrowing down of Investment definition, exception in the scoping, limitation on Fair and Equitable Treatment, exception in MFN and National Treatment, Expropriation, including to put investor obligations. Therefore, we urge the negotiators of Indonesia to keep its commitment on ISDS Review which put people's rights over investor rights.

Second, on the provision of performance requirements. We urge the negotiating parties to not include any provisions under RCEP that will limit the state's capacity to regulate and take measures in their industrial policy and protecting the People's interest. In relation to that, Indonesia must remain at liberty to set performance requirements, including to set limitations on foreign (majority) ownership, limitations on foreign workers in key positions, implement local content requirements (such as use of local resources and workers), and set export limitation on raw materials in mineral commodities. Such regulations are vital instruments to ensure that incoming investments effectively contribute to national development trajectories aimed at enhancing competitiveness, added value of local industries, and boosting local employment. The RCEP must respect developing countries and especially Indonesia to remain full policy space to prioritize local production to reduce rural poverty and improve the welfare of local farmers and fisher folk, and, if necessary, impose import tariff and quota for sensitive agricultural and fisheries products.

Third, No restrictions on Indonesian Export Tariffs on Raw Unprocessed Materials. The RCEP should refrain from targeting Indonesian export measures aimed at promoting domestic processing of raw materials. Such measures aim to enhance domestic value added that will support the development of local downstream industry and help reduce unemployment and poverty.

And Final, we ask the RCEP negotiators to ensure that the RCEP text does not cross these red lines.\*

### **3. Activists gather in Bangkok to discuss countering RCEP**

As Thailand prepares to host the 23<sup>rd</sup> round of negotiations of the mega free trade agreement (FTA), the Regional Comprehensive Economic Partnership (RCEP), people's movements across Asia held a two-day RCEP regional strategy meeting.

Trade unions, peasants' movements, women's networks and civil society organizations from Cambodia, Thailand, India, Japan, South Korea, Bangladesh, Myanmar and Laos met in Bangkok to discuss the implication of RCEP on various sectors. Activists argued that the Asia's largest free trade agreement involving 16 countries would adversely impact the rights of workers and farmers, and hamper access to essential services and medicines, especially in poorer countries. Yesterday, a [report](#) was released by a number of organizations critiquing the deal and the way it has been negotiated.

Sanya Reid Smith a legal advisor and senior researcher at the Third World Network, noted that though it is generally understood that the agreement is China's answer to United States (US)-led FTAs, "it contains texts pushed by rich countries like Japan and Singapore which will adversely affect poor and least developed countries in the region."

The RCEP process was officially initiated in 2012 at the ASEAN meeting in Cambodia, and the 10 ASEAN member countries, along with six Asia Pacific countries, are expected to sign it during the ASEAN summit in Singapore in November 2018. RCEP is expected to replace the now defunct Trans Pacific Partnership.

One of the major issues raised by the organizations was the utmost secrecy surrounding the RCEP negotiations. Smith said that none of the texts of the negotiation had been made public and there were few details about the chapters of various provisions.

Activists also raised concerns about the provision of the Investor state dispute Settlement (ISDS) that would enable foreign corporations to sue the host country's government in an international arbitration tribunal. The clause would be devastating for poor and the least developed countries in

the region as the arbitration cost, as per the estimate by the Asia Pacific Forum on Women, Law and Development, can vary from US\$ 8 million to US\$ 50 million per dispute.

Apart from accelerating the process of privatization of essential public services by diluting the local and national governments' decision-making powers and increasing corporate access to public services, the agreement will lead to an increasing exploitation of the labor workforce. Organizations noted that agreement would deal a blow to agricultural subsidies and small and medium scale producers, who would face unfair competition from highly subsidized producers in Japan, New Zealand and Australia.

Speaking about the global trade war started by United States President Donald Trump, Joseph P from the Focus on The Global South said that civil society and people's organizations were "caught off guard by this."

"The left and progressive have to articulate their position better; otherwise right-wing populists like Donald Trump will tap into the frustrations of the disenfranchised," Joseph noted.

#### **4.Press release: Peoples movements reject the Regional Comprehensive Economic Partnership (RCEP)**

Bangkok, Thailand

More than 80 participants representing trade union, farmers, indigenous peoples, health and patients networks, women's organisations, academia and civil society organisations from the region have gathered in Thailand on the sidelines of the 23<sup>rd</sup> round of negotiation of the Regional Comprehensive Economic Partnership (RCEP), the mega Free Trade Agreement (FTA) currently being negotiated by 16 countries including the 10 ASEAN countries along with India, China, Japan, South Korea, New Zealand and Australia.

Peoples' movement have been long expressing concerns that the provisions in RCEP that are currently being negotiated in secret could undermine access to price-lowering generic medicines, negatively impact farmers and indigenous peoples rights to seed and food sovereignty, lock-in privatisation of public services, push workers' wages down, and restrict the ability of governments to regulate public policies leaving them vulnerable to international lawsuits in secret tribunals.

"We have grave concerns over TRIPs plus provisions in the RCEP negotiation currently being pushed by South Korea and Japan. Like other countries in the region, Thailand heavily relies on generic medicines, especially for high-cost diseases like HIV & AIDS, cancers, hypertension and heart-diseases. Thailand's health insurance systems, which are fully and partially subsidised by the government, will be under threat if the lifesaving medicines' costs become more expensive due to the abuse of patent system," said Chalerm Sak Kittitrakul, Access to Medicines Campaign Officer, AIDS Access Foundation.

"Thailand and other countries in Asia are one of the richest in biodiversity. Our bio resources have been passed from generation to generation. By requiring all RCEP countries to join UPOV 1991 or creating national laws that are consistent with UPOV 1991 will allow large, multinational corporations to claim ownership over these, causing tremendous damages to all small scale farmers," said Mongkol Duangkhiew of Alternative Agricultural network. "We the farmers will not let anyone rob us of our rich biodiversity."

Joms Salvador, Gabriela National Alliance of Women, Philippines added, "This trade agreement directly impacts women's human rights, giving multi-national corporations the right to govern at the

expense of women's livelihoods, pushing wages down further with a race to the bottom where women are at the bottom. It is deeply concerning that while this trade agreement directly impacts so many lives, it is not being discussed with those most vulnerable and potentially impacted such as women, farmers, patients, workers, indigenous peoples and other marginalised group."

"By prioritising the interests of corporations over the well-being of peoples, RCEP poses grave threats to the public interest," said Shalmali Guttal, Focus on the Global South. "The Investor State Dispute Settlement (ISDS) mechanism will prevent governments from protecting the needs of their populations. The entire raft of new generation trade-investment agreements are building an architecture of impunity for corporations and elites, at the expense of people, the environment and societal well-being."

A recent civil society [assessment](#) of RCEP against criteria for transparency, public participation and parliamentary scrutiny found that the mega trade deal miserably fails on all accounts. "Everyone, from elected parliamentarians concerned about potential job losses in their regions, to journalists investigating impacts on the affordability of life-saving medicines, to peasant organisations concerned about falling agricultural prices due to cheap imports have all been kept in the dark for the past five years," said Benny Kuruvilla from the Transnational Institute (TNI), India.

Civil societies from the region strongly remind the governments negotiating the RCEP that economic cooperation and multilateralism should be based on equitable, fair and sustainable development. The 16 governments must consider the adverse impact of the mega FTAs and put an end to trade agreements such as RCEP as they only increase protection and power of multinational corporations.

## **5. Secret RCEP trade deal fails international standards of transparency, experts warn**

The Regional Comprehensive Economic Partnership (RCEP) is being negotiated in Bangkok, Thailand this week. The mega regional trade deal involving 16 nations from Asia-Pacific will impact the lives of over three billion people, yet a [new study](#) (pdf) reveals how the deal fails international standards of transparency and public engagement.

Experts measured the RCEP negotiations against criteria for Transparency and Public Participation in policy making. The outcome was a resounding FAIL. The report finds the RCEP negotiations to be:

- Non-transparent: negligible public availability of official information on the state of negotiations, a failure to release draft texts and adequate details of key government positions;
- Lacking in independent social, economic and environmental impact assessments, making it particularly difficult for journalists to accurately report on the trade deal;
- Plagued by numerous examples of vested interests influencing the process, such as corporations holding privileged semi-official roles in negotiations;
- Deprived of Asian parliaments and elected officials representation and input. They are frequently shut out, have no meaningful role in negotiations and often cannot access the text;
- Devoid of public participation, which amounted to, at best, token or ad hoc stakeholder engagements.

"RCEP is a secret trade deal that fails to live up to internationally recognized standards. Secrecy breeds corruption and bad decisions. People have a right to know what is being negotiated in their name."

Sam Cossar, Friends of the Earth International

"In India, the process of negotiating RCEP has been characterised by not just lack of parliamentary scrutiny but also the complete non involvement of regional governments who will bear the brunt of

cheaper agricultural and manufacturing imports. Elected representatives such as the Chief Minister of the southern Indian state of Kerala are arguing that this is a violation of the principle of federalism that is enshrined in the Indian constitution.”

Benny Kuruvilla, Transnational Institute

“Trade unions across Asia Pacific are opposed to the RCEP because it is anti-democratic, anti-worker and anti-people. It is a threat to quality public services essential to advancing rights for all people. Governments have made commitments to tri-partism; to involve workers and employers in setting policies that impact on labour rights. Instead, governments appear to be taking instructions from the largest foreign multinational companies and protecting their interests.”

Kate Lappin from Public Services International (PSI)

“The resounding call of peoples’ movements is for governments to reject RCEP. Yet governments continue to ignore this call by undermining people’s efforts to secure access to the negotiating texts and restricting spaces for people’s participation in the negotiating process. The democratic deficit in RCEP is made worse by the privileged access given to corporations.”

Joseph Purugganan of Focus on the Global South

“The space for democratic process in the RCEP negotiation should be opened. If this democratic space doesn’t exist then the RCEP must be rejected as violating human rights.”

Rachmi Hertanti, Director, Indonesia for Global Justice

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Sources:

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