



FOCUS ON THE GLOBAL SOUTH

NEWSLETTER - SPECIAL EDITION ON RCEP • MAY 2017

Call to ASEAN Leaders: Reject RCEP & Oppose Unjust Trade Deals

Statement of Trade Justice-Pilipinas on the 18th Round of RCEP talks in Manila

Trade Justice Pilipinas, a broad platform campaigning for just trade and investment policies, expresses its opposition to the Regional Comprehensive Economic Partnership agreement or RCEP.

We urge the leaders of the ASEAN Member States to defend the primacy of human rights, environmental integrity, and peoples' welfare against international economic agreements like RCEP that advance commercial interests and the corporate agenda, and impinge on the ability of the government to advance the greater public interest.

[Continue on Page 2](#) ↪

Civil Society Interventions in RCEP Negotiations

In the recent "RCEP 18th Round of Talks," members of civil society organizations and social movements presented their positions vis-à-vis the RCEP during the official Stakeholders' Engagement, focusing on its impacts on trade, labor, and resources. They argued against the RCEP as it will give more power to already powerful corporations while making worse the state of employment and labor conditions for

[Continue on Page 4](#) ↪

Why RCEP is the problem, not the solution

By Eduardo Tadem

On May 2-12, the 16 member-countries of the Regional Comprehensive Economic Partnership (RCEP) met in Manila for their 18th round of negotiations to craft a multilateral trade deal that would affect half of the world's population. With the demise of the US-led Trans Pacific Partnership, the RCEP, comprising the 10 Asean members and

[Continue on Page 10](#) ↪



EDITORIAL

The Regional Comprehensive Economic Partnership Agreement (RCEP), a mega-regional free trade agreement being negotiated by the 10-member ASEAN regional bloc and its FTA partners China, India, Japan, South Korea, Australia, and New Zealand held its 18th round of talks May 2-12 in Manila, Philippines. The RCEP talks gained more prominence recently in the wake of the US' withdrawal from the Trans Pacific Partnership Agreement or TPPA and the strong push from countries like Japan, Korea, Australia, and New Zealand to bring TPP standards to the RCEP negotiating table.

Previously seen as a China-led FTA, the just concluded round of RCEP talks showed that the negotiating positions of the 16 parties gravitated towards key alliances. Japan, South Korea, Australia, and New Zealand, the so-called TPP 4, comprised the group pushing for TPP+ provisions in RCEP on many issues, ranging from intellectual property rights to investments and e-commerce. ASEAN on the other hand forged regional unity around key issues guided by common principles and objectives, and the members asserted the centrality of the regional body in the RCEP talks. India, on the other hand, was the lone voice that raised particular concerns on further opening up trade in goods, particularly from the agricultural sector. While raising some concerns as well on certain aspects of the talks such as goods and

e-commerce, China was seen as pushing for more ambitious investment chapter seeking to protect its growing investments across Asia and the Pacific.

The Philippines as Chair of ASEAN for 2017 will continue to play a key role in the forthcoming RCEP talks. After the 18th round of negotiations, the talks will move to Hyderabad, India for the 19th round in July, before moving back to the Philippines in September for the 20th round, where parties are hoping to finally conclude the negotiations.

Focus on the Global South is part of the regional campaign on RCEP. Our offices in Manila, Thailand, and India continue to work within broad national platforms to spearhead national campaigns against RCEP and other new generation FTAs.

The recently held 18th round of RCEP talks in Manila saw the convergence of various social movements and civil society organizations in coordinated inside and outside actions on RCEP. This special issue of Focus Newsletter features statements and analyses from allies in the Trade Justice-Pilipinas campaign platform and the ASEAN Civil Society Conference/ASEAN Peoples' Forum (ACSC/APF 2017), and all other actions and pronouncements issued throughout the NO RCEP week of action. – **Joseph Purugganan**

➔ CALL TO ASEAN LEADERS... Continued from Page 1

Furthermore, we call on the Philippine government, as Chair of ASEAN for 2017, to demonstrate leadership in raising the peoples' concerns against RCEP during the 18th round of talks here in Manila.

In the Chairman's Statement from the 30th ASEAN Summit in Manila, Member States led by the Philippines, reiterated the common vision to build a truly inclusive, people-centered, and people-oriented ASEAN community and stressed the centrality of ASEAN in the RCEP talks. We assert that RCEP and other new generation free trade and investment agreements ran counter to the vision of a people-centered ASEAN. Contrary to the view expressed by ASEAN leaders that the RCEP talks have progressed considerably, the direction of the talks have in fact moved backwards with the agenda becoming more ambitious, albeit in favor of transnational corporations, therefore demanding deeper commitments from parties. RCEP has become in many respects worse than the Trans Pacific Partnership Agreement or TPP.

Our opposition to RCEP is anchored on the following concerns:

RCEP is a threat to public health and peoples' access to medicines. The proposed agreement with TPP+ and TRIPS+ provisions on intellectual property rights will make it harder for poor people in the region to access affordable medicines particularly life-saving drugs, and for governments to advance public health policies for the benefit of the poor. The IPR chapter and many other provisions in the proposed agreement could undermine State policies on public health enshrined in Constitutions and national health laws like the Cheaper Medicines law in the Philippines.

RCEP will give corporations—many of which have annual revenues bigger than the GDPs of most countries in ASEAN, the right to sue governments over public policies and regulations in secret, ad-hoc corporate courts.

The investor state dispute settlement provision or ISDS, which has been highly criticized in the context of TPP negotiations, should be strongly rejected as well by ASEAN governments as an instrument that will weaken the right of State to regulate investments in the name of the greater public interest.

RCEP will straight-jacket governments, curtailing their power to use public policies to advance development agenda by putting in place prohibitions on performance requirement such as policies on domestic content and export restrictions, policies that favor employment of locals over foreign workers or even those that push for technology transfer.

Just like in all other trade negotiations, the Legislative Branches of the different governments are almost entirely shut out of the process, even as the proposals on the table would in fact amend if not repeal existing laws. In the same breathe, while these Legislatures have the power of taxation, they have practically no say in trade and investment negotiations that would eventually lead to losses in tariffs and other taxes.

Amidst the continuing backlash against globalization policies that have disenfranchised and marginalized the working class, the imperative is really to push back on RCEP and new generation trade and investment agreements that advance the corporate agenda over peoples' interests.

Civil Society Interventions in RCEP Negotiations

(Continued from page 1)

workers. Its bias in favor of income and market growth will also endanger the country's resources, such as aquatic resources. The articles below are based on the presentations made in the said event, with few changes to fit the newsletter style.

Impact of RCEP's Investor State Dispute Settlement Mechanism (ISDS)



Joseph Purugganan
Head of Philippines Office
Focus on the Global South

The Investor State Dispute Settlement Mechanism or ISDS remains one of the most toxic elements of RCEP and other new generation free trade and investment agreements. RCEP through ISDS will make corporations, many of them with annual revenues bigger than the GDPs of most countries in ASEAN, more economically powerful than the governments in these countries. These corporations are being given the 'right' to sue governments over public policies and regulations in secret ad-hoc tribunals. These tribunals, or more accurately, corporate courts have handed down million-dollar rulings that have penalized governments over regulatory actions to defend public health, pursue more inclusive development, protect the environment, and uphold public interest in general.

Over the last decade, we've seen a dramatic increase in the number of ISDS cases. In 2016, investors initiated 62 known ISDS cases, a figure

higher than the 10-year average of 49 cases (2006-2015). UNCTAD estimates that the total number of publicly known arbitration cases against host countries has now reached 767. The signing of more investment treaties, including FTAs with more expansive investment chapters like RCEP, are partly to be blamed for the rise in ISDS cases. Clearly, these agreements have emboldened corporations to use this mechanism to challenge the States' right to regulate. More than 60 percent of awards handed down by these tribunals in favor of corporations are between US\$10 million and over a billion. Add to this the enormous cost of litigation, then it wouldn't be hard to surmise the tremendous strain these cases exact on public budgets and therefore on the ability of governments to support development goals and the public welfare.

ISDS is a tool only for corporations. There is no recourse available for communities that face the negative impacts of these investments. They cannot challenge these corporations in the face of human rights violations, destruction of the environment, loss of livelihoods resulting from these investments.

We commend the efforts of certain countries, notably India Indonesia and the Philippines, in pushing for processes that aim to rebalance the need for investments and for policy space anchored on the governments' right to regulate. These efforts show that governments are now taking a more balanced and cautious approach towards trade and investment treaties; and that public policies are paramount to corporate interests. RCEP therefore with its expansive investment chapter and ISDS will constitute a step back from these progressive efforts.

Focus on the Global South together with Trade Justice-Pilipinas, a broad platform campaigning for just trade and investment policies, strongly urge the governments negotiating RCEP on behalf of their people to reject ISDS, resist the corporate agenda underpinning these talks, and instead work together to pursue and scale up efforts to rebalance and overhaul investment policies towards a more just, equitable, and inclusive development

Impact on Public Health and Access to Medicines



Ana Maria Nemenzo
Coordinator
Woman Health Philippines

Access to medicines is a vital component of quality health care. The heavy cost of health care is borne by Filipino households; about 56 to 57 percent of total health expenditures are drawn from private out-of-pocket. Of this out-of-pocket expenditures, about 60 percent are for medicines alone, obviously the largest single item of health care.

About a third (31 percent) of all reimbursements from Philhealth, the National Health Insurance Program, are for medicines, making medicines the second largest item in payments by Philhealth.

A past drug price survey (year 2005) revealed that prices for originator brand medicines were on average 15 times greater than international reference prices, while lowest-price generic

equivalents were still more than six times the reference price.

A study conducted by the European Commission in 2010 revealed that the level of availability of essential drugs in public health facilities at all levels was only 25.3 percent.

This is why we campaigned for the passage of the Cheaper Medicines Law (Republic Act 9502), which was approved in 2008. The Universally Accessible Cheaper and Quality Medicines Act of 2008 is considered a landmark legislation that upholds the people's right to health and access to affordable and quality medicines. Through this law, government affirms its constitutional mandate "to protect public health and when the public interest or circumstances of extreme urgency so require... adopt appropriate measures to promote and ensure access to affordable quality drugs and medicines for all."

We oppose any and all TRIPS plus provisions in any free trade agreement that has provisions that violate people's right to health and quality healthcare enshrined in our Philippine Constitution (Article 2 Section 15, and Article 13 Section 11).

We ask all involved in RCEP negotiations to reject any and all potential TRIPS-plus provisions in the RCEP now under negotiations that undermine our national laws and the Philippine Constitution that protect the right to health and the State's commitment and obligation to public health as an overriding developmental concern and a guaranteed national policy.

Impact on Jobs and Workers' Rights

ASEAN projects itself as a sharing and caring community. But the things being secretly negotiated in RCEP do not reflect this.

Negotiating an agreement that would lead to job losses for the working people is not reflective of a "caring and sharing community." Consider the following:

First, my country, the Philippines, is participating in the RCEP negotiations without having a clear agro-industrial policy. Not knowing which industries are capable of withstanding intensified



Josua Mata
Secretary General
SENTRO

competition could lead to another round of de-industrialization similar to what the country experienced right after it had joined the WTO.

Second, the inclusion of provisions prohibiting investment performance requirements such as the hiring of local workers and ensuring use of local content would severely restrict our country's ability to promote full employment.

And third, the severe loss of revenues from foregone tariffs and the pronounced shift to digital platforms as well as the privatization of government services that RCEP will promote would lead to hemorrhaging of employment in the government sector.

All these should be considered as red lines that should not be breached.

Negotiating an agreement that would harmonize standards—labor, health, and safety standards—as the least common denominator is not reflective of a caring and sharing community.

From the leaked documents that we have seen, we believe that RCEP would lead to the decrease in or stagnation of wage rates to make us “competitive”.

It would further expand contractualization in almost all sectors and would open migrant workers to more vulnerability.

We must have standards and we must have it at the highest level possible. Anything that would

undermine this should be considered as red lines that should not be breached.

Having an ISDS that would allow corporations to challenge domestic regulations and more expansive IPR rules that would lead to higher cost of medicines is not reflective of a caring and sharing community. This is another line that should not be breached.

Finally, turning people into mere spectators while their lives are being bargained away is definitely not reflective of a caring and sharing community. Even efforts to engage only with “experts” would reduce us to mere spectators.

SENTRO believes that all these point to the fact that there is no place for RCEP in a caring and sharing community that ASEAN believes it is.

But should negotiations persist, then RCEP should be discussed with the full participation not just of the respective parliaments of participating countries but more importantly of the people who would be affected by this treaty.

Impact on Farmers and Small Food Producers

Myrna Dominguez
Policy and Advocacy Officer
Asia Pacific Network for Food Sovereignty

Members of civil society hope that our governments will listen to what we say. Yet, at the back of our minds we know that they already have their neoliberal frame of thought. Nevertheless, we hope that they will listen to us.

Our network rejects RCEP not because we are against international trade but because what we want is a trade agreement that respects the rights of the people, that brings about real development—a development that uplifts the lives of the marginalized, especially the small farmers and fishers; not a development that gives corporate business control over our lands, forests, and water at the expense of our small food producers.

Anywhere you go in Asia you can see how resources are grabbed from small food producers by corporate businesses, yet this is call

development? So we ask again, development for whom?

We are also not against regional integration, but what we want is a regional integration that will truly benefit the people. A regional integration that respects cultures of peoples, respects communities, and respects peoples' rights and sovereign will.

Unless this premise of development changes, then we risk losing our planet earth.

Impact on Philippine Fisheries



Rizalito Lopez
Program Coordinator
Tambuyog Development Center

Further opening up fisheries, coastal, and marine resources to foreign investment will largely depend on the strength of the management regime of a country. The management regime in fisheries and coastal resources in the Philippines, considered still to be de facto open-access, encourages further depletion of fish stocks and degradation of marine and coastal habitats.

Presently, intrusions into municipal waters by commercial and destructive fishing vessels is prevalent, in spite of higher penalties under the newly amended fisheries law or Republic Act 10654. Many fishing vessels have illegal, unreported, and unregulated status.

Moreover, developed countries may have better market access, technology, or management procedures. Foreign companies that process and market fish would find it attractive to invest in fishing vessels in countries like the Philippines

to diversify and secure more control over their sources of supply. In such situation, they will be able to operate fishing vessels more profitably while exercising control over the entire value chain.

Local small-scale fishing industry players will find themselves in a most difficult situation here since they would eventually lose out to foreign competitors in both export markets and the local processing industries in the Philippines. Since most of the investments are geared toward the export market, the impacts of resource extraction should be given due consideration.

Indeed, foreign investments in fisheries and aquaculture could contribute to employment and foreign exchange earnings to a certain extent. But investors are profit optimizers. Firms would cease to operate once profits are no longer attractive because the fishery and natural resources are already degraded due to unsustainable practices. Oftentimes the firms would leave without incurring accountability in restoring natural resources. We are all aware of the cases of abandoned mines, or those fishing companies leaving and transferring their capital investment to another country, because their target marine species like the blue-swimming crab and shrimps have been depleted. Policies for internalizing the social and environmental costs in doing business and investments that utilize natural resources must therefore be developed and enforced.

Another point is that fish is a cheap source of protein in the rural areas in the Philippines. An export-driven investment environment in the fishery and aquaculture sector may also have serious implications for domestic food security and fisheries' sustainability.

In the midst of these impending threats, we call upon the governments involved in RCEP to craft investment policies that are geared more towards strengthening the sustainable management of fishery and aquaculture resources, promoting inclusive growth for industry players compliant to socially responsible and environment-friendly standards, and a balance between the objectives of domestic food security and those of export earnings.



Prof. Jane Kelsey from New Zealand discusses the changing nature of the global economy in the age of digital platforms and e-commerce. May 5, 2017 in Quezon City. Photo by J. Purugganan



Susana Barria of PSI discusses with workers the basic elements of RCEP. May 5, 2017. Photo by J. Purugganan



Burcu Kilik of Public Citizen (third from left) explaining the critical distinction between data exclusivity and market exclusivity in the IPR text of RCEP to Dr. Mylene Beltran, Director of International Health Cooperation of DOH.



SENTRO and FDC lead a protest action in front of the Department of Foreign Affairs in Manila against RCEP. May 10, 2017. Photo by Raphael Baladad.



Campaigners in Action

Coverage report put together by Joseph Purugganan

04

Wilson Fortaleza of Partido ng Manggagawa, Ana Maria Nemenzo of Woman Health Philippines, and Joseph Purugganan of Focus on the Global South shared their insights on the impact of RCEP on jobs and workers' rights, public health and access to medicines, and the agenda of investor protection and ISDS, as well as on connectivity.

05

Major labor centers like SENTRO and the Trade Union Congress of the Philippines (TUCP), affiliates of global union federations such as PSI, IndustriALL and BWI, solidarity support organization like SASK (what does this mean), and the Trade Justice Campaign – Pilipinas were the key actors in said caucus. Susana Barria of PSI, Prof. Jane Kelsey, and Joseph Purugganan were the speakers in the morning session. They discussed the changing political and economic context underpinning the RCEP talks, overview of the negotiations, and RCEP and Duterteonomics (the economic program of the Duterte administration). The afternoon was devoted to a strategy session where the various trade unions under the broad banner of NAGKAISA (labor unity) agreed to constitute an RCEP working group to spearhead coordinated initiatives around RCEP. The groups proposed an intensified effort to educate the ranks of affiliated labor unions and to put together a consolidated labor position on RCEP anchored on clear red lines for workers. The groups issued a statement raising serious concerns over RCEP. Wilson Fortaleza of the Partido ng Manggagawa called the RCEP "a global corporate agenda of regional oligarchs." Josua Mata, Secretary General of SENTRO, declared that "clearly, the RCEP is as bad as the Trans Pacific Partnership Agreement (TPPA) and should be rejected."

09

Woman Health and Trade Justice Pilipinas co-organized, with the support of TWN (spell out here), a briefing with DOH and FDA officials on the possible impacts of RCEP on public health. Sanya Reid-Smith of TWN and Burcu Kilik of Public Citizen discussed with the health officials the specific provisions of RCEP, highlighting the most contentious and dangerous elements in the negotiating text. Dr. Mylene Beltran, Director of the International Health Cooperation division of the DOH, said in response "We are on the same side, we believe in the primacy of health over trade matters" and committed to continuing the discussions on trade and health with civil society.

10

Representatives of SENTRO, Partido ng Manggagawa, and the Freedom from Debt Coalition (FDC) under the banner of Trade Justice-Pilipinas held a protest action in front of the office of the Department of Foreign Affairs (DFA) in Manila and called on the Philippine government, as Chair of ASEAN this year, to demonstrate leadership within the 10-country regional bloc by rejecting RCEP.

Members of Trade Justice-Pilipinas joined sectoral groups and CSOs in the 18th Round Stakeholder Engagements held on 10 May and joined the chorus of opposition to RCEP by highlighting its impacts on labor, farmers and fishers, public health, food sovereignty, human rights, and national sovereignty and policy space. Trade Justice Pilipinas issued a statement calling on ASEAN leaders to reject RCEP and oppose unjust trade deals: <https://focusweb.org/content/call-asean-leaders-reject-rcep-oppose-unjust-trade-deals>

Why RCEP is the problem, not the solution

(Continued from Page 1; Originally published in the Philippine Daily Inquirer)

China, Japan, South Korea, India, Australia and New Zealand, now looms as the most significant regional trade bloc to emerge in recent years.

What is unique with the RCEP is the exclusion of the United States, resulting in the de facto leadership exercised by China as the group's most dominant economic power. It is also a highly conspiratorial and undemocratic gathering, with all 18 rounds of trade discussions held in secret and no reports shared with the public.

But leaked documents reveal the inclusion and strengthening of an Investor State Dispute Settlement (ISDS) mechanism that grants corporations the right to sue governments over perceived threats to their profit-taking goals. ISDS-related hearings are held in clandestine tribunals hidden from the public and outside the authority of national legal structures. It is also a one-way process as only corporations may sue governments, but not the other way around. Decisions are not published and there is no appeal mechanism.

If left unchecked, the ISDS will severely curtail the right of governments to enact and enforce laws that protect consumers, safeguard the environment, mandate greater social protection for marginalized sectors, and increase wages and other benefits of workers and other employees. More crucial, the ISDS, through the RCEP, prevents governments in developing countries from adopting a development agenda that prioritizes national interests over that of foreign corporate greed.

Being an attractive and lucrative option for corporations, the ISDS has now mutated into a "speculative financial asset." Malaysian economist Jomo Kwame Sundaram, a former United Nations assistant secretary general, reports that ISDS provisions in investment treaties and free trade agreements "have increasingly provided an investment opportunity to make money by speculating on lawsuits, winning huge awards and forcing foreign governments, and taxpayers, to pay."

Médecins Sans Frontières (MSF)/Doctors Without Borders argue that the RCEP "is set to become one of the gravest threats to affordable treatment for patients worldwide" and will cause a "reverse impact on public health and access to medicines." Leaked documents point to proposals for the "extension of drug corporations' patent terms and new monopolies entrenched in the national drug regulatory systems."

The MSF says this would "lead to a delay in generic competition" and translate into "unsustainable high medicine prices." If adopted, these antipoor proposals would adversely affect the peoples of most Asean countries and India. On top of increased health costs, the ISDS mechanism would "raise the risks of Asean and India being sued by pharmaceutical corporations for millions of dollars."

Trade Justice Pilipinas, a coalition of civil society groups, people's organizations and labor unions, has raised the alarm and called on Asean leaders "to defend the primacy of human rights, environmental integrity and peoples' welfare against international economic agreements like RCEP that advance ... the corporate agenda, and impinge on the ability of the government to advance the greater public interest." In effect, the RCEP runs counter to the stated vision of a people-centered and people-oriented Asean.

The Asia Pacific Research Network is calling for a new model of regional integration "based on cooperation and solidarity, not on competition and profits; that puts the development needs of the region and its peoples above that of corporations; one that recognizes that economic policy can work only if it is inclusive, ... [and] integrates the social and environmental concerns of the world."

This piece was originally published in the newspaper The Daily Inquirer. Eduardo C. Tadem, PhD, is president of the Freedom from Debt Coalition, professorial lecturer in Asian studies at the University of the Philippines Diliman, and a member of Trade Justice-Pilipinas.



Focus on the Global South

**4th Floor Wisit Prachuabmoh Building, Chulalongkorn University Phayathai Road, Bangkok,
10330 THAILAND**

website: www.focusweb.org email: info@focusweb.org