The Regional Comprehensive Economic Partnership: The TPP by another name?

The Regional Comprehensive Economic Partnership (RCEP) is a dangerous trade agreement that the Australian government is currently negotiating with 15 countries in the Asia-Pacific region.

The RCEP is one of a new set of trade agreements that aim to expand the power of global corporations and lock-in neoliberal economic policies. It includes many of the same provisions as the the controversial Trans-Pacific Partnership (TPP-11) and negotiations are even more secretive. If agreed the deal would cover half the world's population and 30 per cent of global GDP and would pose a serious threat to democracy, restrict government's regulatory power and undermine human rights, labour rights and the environment in Australia and across the region.

Threatening democracy

The RCEP negotiations are shrouded in secrecy, with transparency and democratic accountability even worse than in the notoriously secretive TPP-11. The RCEP text will not be released until after the agreement has been signed and the Australian government has not released its negotiation mandate, meaning that Parliament and the public are locked-out of the negotiation process.

Parliament votes on trade agreement implementing legislation but does not have the right to debate and vote on the full trade agreement. The government has not committed to any independent economic, human rights or environmental assessment. The TPP negotiations included limited civil society consultations, but the RCEP negotiations did not provide any such consultations until 2015, more than 3 years after the negotiations started.

According to leaked documents, the RCEP includes provisions could impact on the way our services are managed, our labour laws and our response to climate change. These provisions should be subject to the same scrutiny and approval processes as any domestic legislation.

Entrenching corporate power

The RCEP could contain an investor-state dispute settlement (ISDS) mechanism which would give foreign corporations the right to bypass national courts and sue governments for policy decisions that impact on their profit. ISDS undermines governments' regulatory power as ISDS cases, or the threat of these cases, and can prevent governments from making domestic policy decisions that are in the public interest.

Corporations have already used ISDS provisions to sue governments for health, environment and other public interest legislation. Corporations have claimed billions of dollars in compensation. Legal and arbitration costs amount to tens of millions, and there is no guarantee that governments will recoup their costs if they win. The Australian government won a case by Phillip Morris against its plain packaging cigarette laws, but Phillip Morris was only required to cover half of Australia's costs leaving tax payers with a $12 million legal bill.

ISDS Cases impacting social and environmental policy

Public health: The Swiss pharmaceutical company Novartis threatened to sue the Colombian government over plans to reduce the price of a patented medicine to treat leukaemia.

Workers' wages: The French Veolia company sued the Egyptian government over a contract dispute in which they are claiming compensation for a rise in the minimum wage.

Indigenous land rights: An ISDS tribunal ordered the Peruvian government to pay $24 million to the Canadian Bear Creek mining company because it cancelled a mining license after the company failed to obtain informed consent from Indigenous land owners about the mine, leading to mass protests. ISDS rewarded the company for ignoring Indigenous land rights.

Climate change: The US Westmoreland company is using ISDS in the north America Free Trade agreement to sue Canada for $441 million because the Alberta provincial government is phasing out coal -powered energy.

Restricting access to medicines

The inclusion of intellectual property (IP) provisions in trade agreements has been widely criticised by public health experts for increasing the market power of large pharmaceutical companies and reducing public access to affordable medicines. Existing trade rules under the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement grant patent monopolies on medicines for a period of 20 years which enable companies to push up medicine prices. However, the TRIPS agreement did include some flexibilities for developing countries to enable them to access affordable generic medicines.

The RCEP agreement poses a new threat to the right to health across the region. IP provisions that are being proposed in the RCEP would extend patent monopolies on medicines beyond 20 years, further delaying access to cheaper generic medicines. Data exclusivity provisions would prevent governments from approving generic medicines based on original trial results, forcing generic producers to carry out new trials for the same products. This would, in practice, result in a further extension of medicine monopolies.

In Australia the RCEP would entrench existing medicine monopolies and could prevent governments from making medicines more affordable in future. However, the stakes are even higher for developing countries. The RCEP also includes provision that could undermine the flexibilities afforded to developing countries under the TRIPS agreements and would force them to adopt IP obligations that would significantly undermine access to low-cost medicines. This would have a devastating impact in low income and least developed countries, such as Thailand, the Philippines, Cambodia, Laos and Myanmar.

Restricting the regulation of essential services

The RECP trade-in-services chapter aims to expand the market access of global corporation by opening up an more services to privatisation and foreign investment. Proposed RCEP provisions would increase the number of services that are impacted by trade rules, opening almost all service provision up to foreign investment including education, healthcare, transport, water, telecommunications, postal services, aged care, child care, energy, and financial services.

Trade in services provisions also significantly weaken governments' regulatory power by establishing international rules that prevent future governments from implementing more restrictive regulation. The inclusion of standstill clauses that lock-in current levels of privatisation and ratchet clauses that lock-in any future liberalisation would make it almost impossible for new governments to reverse a decision to privatise or to develop new regulation for service provision. This could prevent improvements in staffing levels in aged care or childcare. It could also stop governments from regulating to address privatisation failures, as have occurred in Australia's vocational education services and privatised hospitals.

Damaging workers' rights

If the RCEP follows the corporate agenda of other recent mega-trade agreements like the TPP-11, it's likely to worsen conditions for workers both in Australia and across the region.

The proposed inclusions of provisions about the temporary movement of people could increase the number of workers that are vulnerable to exploitation because they are tied to one employer and can be deported if they lose their jobs. This enables corporations to undermine labour standards and workers' bargaining power. Workers are not commodities and trade agreements should not include commitments about the temporary movement of people.

Trade rules that increase the power and mobility of global corporations and support the deregulation of global production chains undermine workers' bargaining power and result in job losses in industrialised countries and a race to the bottom on conditions and wages in developing countries. In a globalised economy, where developing countries are forced to compete for investment, workers' rights, and health and safety regulation are marginalised.

The RCEP has no provisions at all on workers' rights. Without the inclusion of enforceable workers' rights based on International Labour Organisation standards, the RCEP could further contribute to a global race to the bottom on workers' rights.

Undermining environmental standards and preventing climate action

The RCEP is unlikely to impose binding commitments on corporations to protect the environment, uphold international environmental law or support action on climate change. A new report by the International Panel on Climate Change has given industrialised countries 12 years to eliminate greenhouse gas emissions. To do this, we must take urgent action to transform our energy systems and economy. The RCEP's corporate agenda creates obstacles to climate change action.

The focus on increasing the production and transfer of goods without considering the environmental impacts could result in an increase rather than a decrease in carbon emissions. The trade-in-services chapter could prevent governments from regulating energy services in response to climate change. ISDS provisions could also restrict climate action by enabling big energy companies to sue governments for environmental policy that impacts on their profits. The US Westmoreland company is using ISDS in the north America Free Trade agreement to sue Canada for $441 million because the Alberta provincial government is phasing out coal -powered energy.

Increasing the corporate control of agriculture

TPP-like proposals in the RCEP would make it more difficult for small-scale farmers in developing countries to save and exchange seeds with each other as they have done for centuries. The proposed rules would facilitate patenting of plants and seeds for corporations and are based on the 1991 UPOV Convention. Australia has already signed the UPOV convention but other RCEP countries have not.

Small scale farmers in developing countries do not have the same capacity as larger corporations to use the legal system to either receive intellectual property rights or defend themselves if they are accused of an infringement. The livelihoods of farmers in developing countries could also be undermined by IP and trade in services provisions that could open up agricultural land to foreign investment, increasing the risk of landgrabs, and that allow duty free imports in dairy and meat sectors that would result in cheap imports undercutting domestic markets.

Locking-in the power of global digital companies

The RCEP proposes E-Commerce rules that suit the needs of global digital companies at the expense of consumers and that restrict governments from regulating them. In the wake of Facebook and other data abuse scandals, we need stronger, not weaker, privacy and other protections for consumers.

Proposed e-commerce rules also reinforce the global dominance of existing digital companies at the expense of developing countries being able to develop industries.

Undermining development and women's rights

The RCEP poses serious risks to human rights and environmental sustainability in Australia. However, it is developing country partners that will bear the brunt of RCEP provisions that contradict their development agendas. Developing countries will be most impacted by the extension of medicine monopolies, the privatisation of essential services and the expansion of corporate agriculture. Workers in developing countries are also hardest hit by the race to the bottom in working conditions, with recent studies finding that female workers in the Cambodian manufacturing sector experience widespread exploitation. Gender inequality could be worsened as women are most impacted by the lack of access to medicines, public services and poor workers rights.

The RCEP could also restrict the ability of developing countries to address poverty and inequality by implementing local industry policies and comprehensive public services. Provisions that prevent governments from using tariffs and subsidies to shield domestic industries and support the transition to value-added and high skilled production would significantly undermine developing countries regulatory sovereignty and limit their development capacity.

What AFTINET is calling for:

AFTINET is calling on the Australian government to ensure that the RCEP:

- **Is transparent and democratic:** the government must commit to publishing negotiating texts throughout RCEP negotiations and Parliament and the public must be given the opportunity to review and provide feedback on these texts. The final text of the agreement must be released for independent assessment, including assessment of human rights and environmental impacts and the full RCEP agreement should be put to a vote in Parliament, not just the implementing legislation.
- **Excludes investor-state dispute settlement provisions:** trade and investment agreements should not give special privileges to global corporations that enable them to sue governments for policy decisions that undermine their profits. The government must commit to excluding ISDS from the RCEP agreement.
- **Does not restrict access to medicines:** the government must oppose provisions that extend monopoly rights for pharmaceutical companies, which result in higher prices for medicines and would delay the availability of cheaper versions of those medicines.
- **Protects essential services:** the government must oppose provisions that could open up essential services to privatisation and that prevent future governments from implementing new regulation.
- **Protects workers' rights:** the government must support the inclusion of fully enforceable labour rights in line with its obligations under the International Labour Organisation standards. The government should oppose the inclusion of provisions on the temporary movement of people that could increase the number of migrant workers at risk of exploitation.
- **Is environmentally sustainable and enables climate action:** the government should ensure the RCEP includes enforceable environmental standards and that provisions that restrict action to address climate change and other environmental issues are removed from the agreement.
- **Preserves the power to regulate:** the RCEP should not prevent future governments from implementing strong industry policies, regulating in the public interest and implementing more equitable economic policies.

Join the campaign against the RCEP:

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AFTINET
Australian Fair Trade & Investment Network

7/321 Pitt St, Sydney NSW 2000
campaign@aftinet.org.au (02)96993686