The Status Quo of RCEP: A Squandered Opportunity for Regional, Social and Environmental Cooperation

By:

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The Regional Comprehensive Economic Partnership (RCEP) is probably the largest free trade agreement in history, reducing trade barriers between China and 14 Asia-Pacific countries. It covers 2.1 billion people, with RCEP's State members generating 30 percent of global gross GDP, RCEP covers familiar trade topics including trade in goods and services, investment, intellectual property, and competition policy. While much has been made of the treaty as an opportunity to enhance regional cooperation, less has been said about the absent of what the treaty does not cover.

Absent in the treaty is any discussion of the need to regionally advance trade practices to improve environmental or labour protection for vulnerable ecosystems and communities. While one group of researchers estimates that

RCEP has the potential to add $209 billion to world incomes and $500 billion to world trade by 2030, no one has calculated the potential externalities associated with a trade treaty of this scale on fragile environments. Although more trade has development potential, it also has the potential to further impoverish already marginalized communities unless additional safeguards are negotiated.

Until the Trump administration took US global trade priorities in uncertain directions in 2017 by withdrawing from the Trans-Pacific Partnership (TPP), the United States was actively involved in the advancement of the TPP which was a "next-generation" trade treaty advancing the long overdue conversation about the need for trade to take into consideration environmental and social sustainability. If the TPP had been concluded, it would have included members who generated 40% of global gross GDP. The other parties to the TPP carried forward concluding the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

The RCEP does not include even the low ambitions that the United States hoped would be reflected in the adoption of the TPP as a tool for improving basic labour and environmental safeguards, which were incorporated into the CPTPP. If the US had stayed in the TPP, all State parties would have been expected to adopt the basic labour standards including rights for workers to form unions, unending forced labour, and implementing basic worker health and safety standards. Likewise, all States would have needed to demonstrate some progress on implementing a series of basic multilateral environmental agreements in support of ending illegal wildlife trade, improving fisheries management systems, and implementing a low carbon economy. Unfortunately, these TPP provisions intended to prevent labour and environmental violations associated with trade were generally unenforceable or difficult to enforce as drafted. The CPTPP unfortunately, did not strengthen these measures.

RCEP offers little to incentivize measurable environmental progress for the trading bloc. Little is said within the RCEP text - about environmental or public welfare objectives except to note that "non-discriminatory" regulations designed to protect public health/safety or the environment would not constitute expropriations. Unlike the original vision of the TPP that had hoped

for progress on labour and environment issues to be a subject of common cause, the RCEP negotiations appeared to ignore the opportunity for the treaty to improve basic international standards for workers or to use the treaty as the basis for making regional transitions to greener economic industries such as clean energy. In fact, RCEP is likely to allow dirty energy to sputter along with, for example, the elimination of Chinese tariffs on foreign coal allowing potentially more cola imports into China and displacing pressures for the Chinese economy to rapidly transition to cleaner energy.

For too long, free trade proponents have neglected the externalities associated with unfettered trade. Free trade proponents have deflected concerns by genuflecting to the sovereign State's prerogative to set environmental and labour standards. States, particularly those with populist leaders so not always protect vulnerable populations. This has had devastating impacts on communities who lack a political voice including non-human populations. Accelerated global trade in the late 20th century and early 21st century fueled by hopes of bringing larger numbers of the world's population into a middle class has taken its toll on both human and environmental health. For example, the growth in the palm oil plantations are regularly exposed to toxic levels of particulates during both intentional and unintentional fires. The only limitations on international trade in palm oil are voluntary agreements designed to improve the sustainability of supply chains. Unsustainable palm oil production continues but is shunted to different target markets.

Regional trade agreements such as RCEP which include some of the major global palm oil producers including Malaysia and Indonesia could have been drafted to help sustainable palm oil production in both countries by eliminating markets for unsustainable palm oil. Despite all of the fanfare around RCEP, the RCEP treaty is a lost opportunity for using trade to advance human rights and environmental protection. It is probable with the incoming Biden-Harris administration in the United States that the United States Trade Representative will revive multilateral trade partnership dialogues both to restore the US's shattered credibility as a participant in rule-based frameworks and to advance sustainability goals. How ambitious the US will be in these dialogues depends in part on how the administration reckons with a vocal class of workers who do not yet have the skills to transition to new industries and have been economically undermined by previous global trade pacts.

One of the many global challenges facing policymakers today is how to reconcile global trade with both local development and global conservation needs. With the start of the global colonial enterprise with groups such as the Dutch East India Company, emerging markets have led to unprecedented environmental pressures. In response to new markets, roads and trade networks have reached ever further into landscapes that were used relatively judiciously by local communities to meet local needs. These pressures are particularly obvious in the conversion of the wild ecosystem into crop and pasturelands within regions with numerous biodiversity "hotspots". In Brazil, between 2000 and 2014, somewhere between 26-46.5 million hectares of cropland appeared as a result of conversion of forestlands, pasturelands (that had recently been forestlands), and savannahs.

New trade treaties need to be transformative not status quo like the RCEP. While there are limited models to draw upon, there are some interesting attempts at increasing transparency in bilateral trade that could be "mainstreamed" into regional agreements. Canada's Free Trade Agreement with Columbia offers an important side agreement for development human rights impact assessments. Each partner to the trade agreement produces a report on the impact of free trade with the partnership on achieving human rights obligations. Ideally, all free trade agreement would require governments to engage in annual reporting on human rights and environmental impacts associated with trade. These assessments could change the dynamics of markets by giving consumers essential information about externalities that is currently lost in the anonymized market of trade goods and by stimulating policymakers to take domestic or possibly international action.

As a different measure to influence sustainable trade governance, the US mandate under the Trafficking Victims Prevention and Protection Act that the Department of Labour publiish an annual "List of Goods Produced by Child or Forced Labour" including goods that have inputs produced with forced labour or child labour. Some of the listed goods may be surprising to equity minded American consumers such as cobalt mined in Central Africa by miners that include child labourers, refined in China, and eventually used in electric vehicle batteries in the United States. Even green technology has hidden costs. In theory, the evidence in the annual report forms the basis for trade sanctions and trade incentives that will stimulate systemic change in countries seeking

entry into global trade markets. Listing has also led to some direct aid from the US to address conditions contributing to the use of child and forced labour.

In this world of planetary boundaries and excess global consumption, palm oil from a sustainable oil palm plantation and palm oil from an unsustainable oil palm plantation using forced or child labour really must be regarded as two different products in terms of externalities. Shared rule-based trade treaties offer opportunities for markets to make distinctions between products based on social and environmental impacts rather than the singular narrow focus on balance of trade. While individual public and private industries can make differences in helping to transition to a more sustainable future through their supply chain decisions, States still need to assume leadership where they can. Countries responsible for major production and consumption including especially China and the Unites States have intragenerational and intergenerational duties that include as President Xi Jinping remarked in 2017, "ensuring harmony between humankind and nature". Trade treaties like RCEP present opportunities for practicing enlightened global leadership. Unfortunately, based on the existing uninspiring trade text, any leadership associated with improving regional environmental and social standards remains concealed.

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