29 November 2014
New Delhi

To
Smt Nirmala Seetharaman,
Hon'ble Minister,
Ministry of Commerce and Industry
Government of India

Sub: Appeal to reconsider India's engagement in Regional Comprehensive Economic Cooperation Agreement (RCEP)

Dear Hon'ble Minister,

We are writing to express our concern on Government of India's engagement in Regional Comprehensive Economic Cooperation Agreement (RCEP) in which presently 16 governments i.e. 10 ASEAN countries and Australia, China, India, Japan, the Republic of Korea and New Zealand are involved. We learn that the RCEP negotiations include issues that affect every aspect of the Indian economy and its people, such as goods, services, investment, economic & technical cooperation, intellectual property, competition and dispute settlement. Apparently the negotiation process also includes flexibility to include new areas.

We note with concern that seven of the key RCEP members including Australia, Brunei Darussalam, Japan, Malaysia, New Zealand, Singapore, and Vietnam are negotiating the Trans Pacific Partnership Agreement (TPP) with countries like United States and Canada. It is expected that the TPP will form the so called 'gold standard' of a deeper and expansive trade regime. Similarly, the "Guiding Principles and Objectives for Negotiating RCEP" calls for ' deeper engagement with *significant improvements over the existing FTAs* '.

Trade in Goods: The deeper liberalisation attempted through RCEP has the potential to irreparably damage both the agriculture and manufacturing sector for decades to come. Countries like Australia and New Zealand will surely ask for deep access to India's agricultural markets while their farmers will continue to receive subsidies of various kinds. Dairy will be one key sector to be hit by the RCEP.

The well recognised advanced manufacturing capabilities of countries such as China, Japan, South Korea and some members of ASEAN pose significant threat to India's manufacturing sector and jeoparadise the government's efforts such as 'making in India' to revive manufacturing sector.

The SME sector in particular will face additional and severe threat. The RCEP bears the danger of locking the Indian manufacturing sector in the low value chain.

Apart from the macro-economic consequences of an ever increasing negative trade balance, freer trade in goods would further intensify the cut-throat competition to reduce the cost of production which will adversely affect workers across the region in terms of poor quality of employment and downward pressure on wages. This would harm workers' welfare in the region and pit them against each other while seriously impairing workers' efforts to achieve 'Decent Work' and their right to organise and bargain collectively.

Investment: We are concerned that the negotiations on the issue of investment may include typical provisions such as fair and equitable treatment (FET), compensation in the case of direct or indirect expropriation, National and Most Favored Nation (MFN) treatments for foreign investors, freedom from performance requirements, free transfer of capital, an umbrella clause with blanket obligations towards investor rights and the ubiquitous Investor-State-Dispute-Settlement (ISDS) clause which will grant the corporations right to claim compensation against governments.

Many developing countries including South Africa, Brazil, Argentina and Venezuela are now taking initiatives to reject ISDS provisions. Even the Government of India is undertaking a review of Bilateral Investment Protection and Promotion Agreements (BIPA) in the backdrop of international arbitration processes launched by 2G telecom companies whose licenses were cancelled by the Supreme Court owing to corruption in allotting those licenses. In such a scenario the decision to go ahead with RCEP negotiations on investment that would merely serve corporate interests is inappropriate and baffling.

Intellectual Property Rights: The leaked draft of intellectual property text of TPP negotiations exposed that those governments are negotiating to provide unprecedented standards of protection for patents including for medicines. As RCEP is being negotiated by some of the same governments, we are concerned that 'TRIPS-plus' provisions including data exclusivity, evergreening, patent term extension, plant variety protection and more extensive geographical indications will be part of RCEP negotiations. Further, we note that that the Japanese non paper circulated in the previous round of RCEP negotiation contains TRIPS Plus provisions.

Such a strict intellectual property regime will only protect monopoly of big pharmaceutical companies while restricting generic manufacturing of medicines at affordable prices. Further 'TRIPS-plus' provisions will adversely affect farmers' rights (and raise costs), civil liberties and would harm consumer rights with respect to digital goods.

Services: Various reports suggest that India could manage only negligible gains on services through its FTAs with ASEAN, Japan and South Korea while it has already opened its market for trade in goods to them. Further, we are concerned that RCEP negotiations processes may be used to seek commitments that go beyond current regulations in India with regard to FDI in Retail.

Here it is appropriate to highlight that the UNCTAD Trade and Development Report 2014 insists that the developing countries need to have sufficient policy space and states that ' a post-2015 development agenda will not be feasible without the availability of more instruments and greater flexibilities in policymaking.' We are concerned that the RCEP will further erode the government's policy space.

Soon after taking over as the Minister of Commerce and Industry you had stated that the Government will thoroughly review India's Free Trade Agreements (FTAs). Unfortunately, the government has not yet made public the studies conducted to review the impact of FTAs on the development objectives of the country and its people. Even in the absence of such a comprehensive analysis of benefits and losses, and informed public debate on already signed FTAs, your government continues to blindly follow the aggressive trade policy laid out by the erstwhile UPA government.

We also note that a Parliamentary Standing Committee was appointed in the year 2013 to review India's engagement in FTAs. The Committee is yet to come out with its recommendations. The government should respect this democratic process and wait for the Report to come out before continuing further negotiations on FTAs. Through Right to Information queries we also learnt that the government has not even conducted a study to assess the benefits and loss of RCEP negotiations and therefore the haste to advance negotiations is unwarranted.

In this backdrop we call upon the Government of India

- **To immediately halt India's engagement in all FTAs including RCEP negotiations.**
- **Make public the review of India's existing FTAs and their benefits to the development of Indian economy and its people**
- **Make public all RCEP documents and negotiating texts**
- **Immediately conduct a Socio-Economic and Human Rights Impact Assessment of the proposed RCEP Agreement**

- **Hold public consultations with all who will be directly affected by RCEP including farmers' organizations, trade unions, patient groups, generic medicine manufacturing companies, SMEs and civil society organisations.**

- **As many subjects discussed under RCEP fall under state subjects, the government must hold consultations with state governments and evolve consensus.**

Initial Signatories:

1	Adivasi Aikya Vedika, India
2	All India Coordination Committee of Farmers Movement - Yudhvir Singh
3	All India Drug Action Network (AIDAN)
4	All India Kisan Sabha (AIKS) - Hannan Mollah,
5	All India Union of Forest Workers and People (A.I.U.F.W.P) - Ashok Choudhary
6	Bharatiya Kisan Union (BKU) - Rakesh Tikait
7	Bhartiya Udyog Vyapar Mandal
8	Center for Internet Society , Banglore
9	Centre of Indian Trade Unions (CITU) - Amitava Guha,
10	Citizen News Service - CNS
11	Delhi Hawkers Welfare Association
12	Delhi Network of Positive People
13	Democratic Alliance for Knowledge Freedom
14	Diverse Women for Diversity
15	Dr. Smitha Francis - Institute for Studies in Industrial Development (ISID)
16	Dr. Surajit Mazumdar, CESP/SSS - Jawaharlal nehru University
17	Drug Action Forum - Karnataka
18	FDI Watch, India
19	Feminist Learning Partnerships - Kalyani Menon Sen,
20	Film maker, Maharastra - Suma Josson
21	Focus on the Global South, India
22	Food Sovereignty Alliance , India
23	Forum Against FTAs
24	GGS Indraprastha University - Dr. N. Raghuram
25	Hawkers' Federation
26	Indian Social Action Forum - INSAF
27	Initiative for Health & Equity in Society
28	International Treatment Preparedness Coalition (ITPC) - South Asia

29	Kerala Sastra Sahitya Parishad (KSSP) - Dr. B.Ekbal
30	Knowledge Commons - Prabir Purkayastha,
31	LOCOST - S Srinivasan,
32	Madhyam - Kavaljit Singh,
33	National Campaign Committee for Rural Workers (NCCRW) - Subhash Lomte
34	New Trade Union Initiative (NTUI)
35	Pairavi - Ajay Jha,
36	Prof. Jayati Ghosh, Jawaharlal Nehru University
37	Prof. Nina Rao, (Formerly) Delhi University
38	Prof.B.Krishnamurthy, Pondicherry University
39	Prof.Dinesh Abrol Jawaharlal Nehru University (JNU)
40	Socialist Front/ Samajwadi Samagam - Vijaya Pratap
41	South Solidarity Initiative -ActionAid India - Benny Kuruvilla,
42	Swadeshi Andolan - K V Biju
43	Third World Network (TWN), India

Contact:

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CC to/-

Chief Secretary, Department of Commerce and Industry

Additional Secretary, Department of Commerce and Industry

Secretary, Department of Industrial Policy and Promotion (DIPP)

Joint Secretary, Department of Industrial Policy and Promotion (DIPP)