Intellectual Property in the Trans-Pacific Partnership

How the TPP Endangers Access to Affordable Medicines

The Trans-Pacific Partnership (TPP) is a proposed free trade agreement under negotiation between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam. The United States has ambitions to eventually apply the terms of the proposed TPP to all members of the Asia Pacific Economic Cooperation (APEC) forum – roughly 40% of the world's population.

The U.S. Trade Representative (USTR) has proposed measures harmful to access to affordable medicines that have not been seen before in U.S. trade agreements. These proposals aim to transform countries' laws on patents and medical test data, and include attacks on government medicine formularies. USTR's demands would strengthen, lengthen and broaden pharmaceutical monopolies on cancer, heart disease and HIV/AIDS drugs, among others, in the Asia-Pacific region.

The negotiations are closed and the draft text is secret. Nevertheless, leaks have confirmed the longstanding criticisms of close observers and many negotiating countries, revealing that U.S. demands for the TPP would:

- **Expand the scope of pharmaceutical patents and create new drug monopolies** by expanding the scope of patent protection and requiring patents be available for minor variations on old medicines.
- **Lengthen drug monopolies** by requiring countries to extend patent terms if review at the patent office or regulatory authority exceeds a prescribed period – even for low-quality patents that should not have been filed or granted.
- **Risk facilitating patent abuse** by requiring countries to condition marketing approval on patent status (patent linkage). Under patent linkage, even spurious patents may function as barriers to generic drug registration.
- **Extend commercial control over regulatory information (expand data & market exclusivity)** by providing at least five years exclusivity for information related to new products and three more in cases of new indications or submissions for old medicines. For biologic medicines, such exclusivity would extend for 12 years.
- **Expose domestic policies to challenges by foreign corporations in extrajudicial tribunals** through special investor privileges. Pharmaceutical company Eli Lilly is currently demanding $500 million from Canada under NAFTA's investment chapter for using patent standards that have resulted in the invalidation of Eli Lilly patents.
- **Threaten drug cost containment** by imposing new 'transparency' rules and restrictions on how governments decide formularies coverage and reimbursement prices.

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Public Citizen's Global Access to Medicines Program

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