

TPP ENDANGERS GLOBAL ACCESS TO MEDICINE

The Trans-Pacific Partnership (TPP) is a massive pro-corporate “free trade” agreement among the US and 11 other Pacific rim countries: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. If enacted, the TPP rules would impact everything from medicine to the environment to local governance, affecting 40% of the global economy.

Decreasing Access to Medicine

The TPP would expand monopoly power over medicines just as the US public and elected officials are waking up to the excesses of pharmaceutical pricing domestically. TPP rules increase patent and data-related monopolies and pharmaceutical company enforcement powers, and lock in a policy framework that privileges drug companies’ monopoly powers over the need for affordable access to medicines in the following ways:

- ❖ **EXTENDS PATENT TERMS** - The TPP would require countries to enact and maintain laws that expand drug companies’ monopoly powers, including:
 - Additional 20-year “evergreening” of patents that are about to expire by taking out new patents on associated delivery systems or other minor changes, for longer periods of time than were previously permissible by law.
 - Mandatory extension of patent monopolies to compensate for delays in patenting and/or registering medicines for use
 - Monopolies on registration-related data, for both traditional medicines and biologics, that can preclude generic competition even when a drug is off-patent
 - Enhanced enforcement power including higher damages, mandatory injunctions, and seizures of medicines at borders

- ❖ **ALLOWS DRUG COMPANIES TO SUE GOVERNMENTS FOR DECISIONS AFFECTING IP RIGHTS & PROFITS** - The most serious Trojan-Horse provision for the U.S. in terms of access to affordable medicines in the TPP is investor-state-dispute-settlement (ISDS). Under the ISDS, drug companies can sue government for regulations or decisions that cut into their profits. Every regulatory decision by the FDA, every effort by Congress or the courts to tighten up patenting criteria, every adverse patent decision, or pharmaceutical listing decision could potentially be subject to ISDS private arbitration.

- ❖ **LOCKS IN PRICE-GOUGING** - The TPP restricts the U.S.’s future policy options to enact sensible measures to reign in pharmaceutical profiteering. The TPP would lock in a global policy framework that privileges drug companies’ monopoly powers over the need for public access to medicines, just as the US public and public officials are waking up to the excesses of pharmaceutical pricing. According to a recent

Kaiser Family Foundation report, 77% of Americans want the President and the Congress to prioritize addressing high drug prices. Under the TPP, consumers and healthcare providers will pay higher prices on more drugs for longer— or go without needed treatment.

❖ **DECREASES ACCESS TO AFFORDABLE MEDICINES IN DEVELOPING COUNTRIES**

Four parties to the TPP are classified as developing countries: Vietnam, Malaysia, Mexico, and Peru. Low- and middle-income countries face multiple health challenges, not only from key infectious diseases like HIV, TB, malaria, dengue fever, and viral hepatitis, but also from non-infectious chronic diseases. Although the common claim from the USTR and the U.S. pharmaceutical industry is that heightened intellectual property protections are good for low- and middle-income countries, the bulk of evidence and policy analysis refutes this claim. In these countries, public and private expenditures on health are orders of magnitude less than the U.S. and the percentage of health expenditures devoted to medicines is varied but significantly higher, and more often, an out-of-pocket expenditure for patients.

❖ **INCREASES DRUG COMPANY INFLUENCE IN FORMUARY DECISIONS** - The TPP allows increased pharmaceutical influence in government drug coverage and pricing decisions.

The Process

The deal has been in the works since 2008, negotiated in secret by trade ministers and industry, and was unveiled in November 2015. The soonest country leaders could sign the agreement is February 4, 2016, and President Obama has formally indicated to Congress his intention to sign. The deal would then have to be ratified by Congress in enabling legislation. TPP parties comprising at least 85% of the Pacific-rim economy thereafter have to formally ratify the TPP in order for the TPP to be enacted; to achieve this percentage both the US and Japan would have to ratify. When President Obama will bring this legislation to Congress is an open question, but it could be voted on as early as April.

Coalition Opposed to TPP

The agreement is opposed by many civil society groups. Health Global Access Project, Doctors Without Borders, AARP, Public Citizen, KEI, American Medical Student Association, and Universities Allied for Essential Medicines are among those primarily concerned with the health implications. A broad range of labor unions, environmental groups, consumer organizations, family farmers, food safety, and human rights organizations are also opposed.

For greater detail on the TPP threats to access to medicine, see Health GAP
http://www.healthgap.org/trade_access_to_medicine