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.

For several years, US proposals for the TPP – revealed in some cases in earlier partial leaks of US positions – have been seriously criticized by consumer, health and international organizations, as well as the other negotiating countries.

The draft Intellectual Property Chapter published by WikiLeaks confirms these longstanding concerns, for example, that U.S. proposals would:

- **Expand the scope of pharmaceutical patents and create new drug monopolies** by lowering patentability standards and requiring patents be available for surgical and treatment methods as well as 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.

- **Undermine the Indian rule against patent 'evergreening'** at issue in the high-profile Novartis cancer drug case – even though India is not a party to the TPP.

- **Risk facilitating patent abuse** by requiring countries to condition marketing approval on patent status (patent linkage). Under linkage, patents, even ones that should not have been granted, block generic market entry.

- **Extend "data exclusivity" (e.g. commercial control over regulatory information)** by providing at least five years exclusivity for information related to new products and three more in cases of new uses for old medicines -- even when that information is in the public domain.

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Public Citizen's Global Access to Medicines Program

Website:
www.citizen.org/access

E-mail:
medsaccess@citizen.org

Twitter:
@PCMedsAccess

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