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Access to Medicines in the Trans-Pacific FTA

The Trans-Pacific Partnership is a proposed free trade agreement under negotiation between Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam. The United States has ambitions to eventually apply the terms of the proposed Trans-Pacific FTA to the entire Asia-Pacific region – roughly half the world's population. Recently, President Obama told reporters that the Trans-Pacific FTA could be "a real model, not only for the region but for the world."

While the negotiating parties to the Trans-Pacific FTA pledged that it will represent a "new model" and a "high-standard, 21st century agreement," it has become clear that the U.S. Trade Representative (USTR) intends to follow the same aggressive models established by other free trade agreements of years past – and then go even further. USTR has proposed measures harmful to access to medicines in several chapters that have not been seen before in U.S. trade pacts. These terms concern not only patent and data rules but also attacks on government purchasing and medicine formularies.

The U.S.-proposed terms would inhibit access to medicines in individual Trans-Pacific FTA countries and also constrain potential and emerging sources of supply such as Vietnam and Malaysia. Applied regionally, the Trans-Pacific FTA would limit the economies of scale necessary for the generics industry to keep prices low. These risks combined make the Trans-Pacific FTA especially dangerous for generic competition and access to medicines in the Asia-Pacific region.

The negotiations are closed to the public and the text is secret. Nevertheless, leaked texts have revealed U.S. demands that would:

- Expand pharmaceutical patenting and create new drug monopolies, by lowering patentability standards and requiring patentability of minor variations of older, known medicines.
- Lengthen drug monopolies by requiring countries to extend patent terms.
- Eliminate safeguards against patent abuse, including among others the right of third parties to challenge patent applications (pre-grant opposition).
- 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.
- Expand exclusive control over clinical trial data including through an extra three years of data exclusivity for new uses of known products (in addition to five years exclusivity for first uses) and a new provision on biotech medicines.

Our work with partners has supported and helped facilitate impressive resistance from health advocates and developing countries to anti-access proposals in the Trans-Pacific FTA. Peru has publicly announced it will yield "not one centimeter more" to U.S. demands on trade and health, and influential new partners such as the Malaysian AIDS Council have publicly criticized the agreement. Coalition work has also led to a new U.S. government initiative on access to medicines that, while substantively flawed, testifies to the growing influence of the access to medicine movement. Help us stand for access and fight Big Pharma in the Trans-Pacific FTA.