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# Fostering Trade in Health in Asia

Dr. Deborah Elms

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[elms@asiantradecentre.org](mailto:elms@asiantradecentre.org)



# Trans-Pacific Partnership (TPP) Agreement

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- TPP= Most consequential trade deal in decades
- Twelve countries, three continents, diverse levels of economic development
  - Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam
- Negotiations completed on Oct 5, 2015
  - Full texts and schedules now available online
- Accession clause for future expansion
  - Korea, Hong Kong, China, Taiwan, Philippines, Columbia, Costa Rica, Panama?



# Current TPP Twelve



# What's Different About the TPP?

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- TPP is broader:
  - Covers markets for *all* goods (including sensitive items), services, investment, government procurement, e-commerce with meaningful promises for opening
  - 30 chapters included in agreement, 8000+ pages
- TPP is deeper:
  - Has new rules for areas like intellectual property, food and food safety (SPS), standards (TBT), environment, labor, competition, customs, etc.
- Shared norms:
  - Every member has same commitments (just longer time frames for some members to implement deal)



# What Happens When the TPP Starts?

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- Sensitive products often excluded or carved out of trade agreements--TPP does not
- Tariffs will drop to 0 on 90% of *all* goods trade between the TPP members on day one, rising to 98% quite quickly
- Faster, smoother trade across borders
- Services and investment dramatically opened, more transparency, protections
- Some new standards included
- E-commerce and digital trade rules
- Government procurement markets opened
- Legally binding



# Benefits for Health: Devices

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- Medical devices often considered sensitive and excluded: TPP does not
  - Tariff reductions (often to 0 and often on day 1)
  - Applies to all TPP members (even if specific commitments vary across members)
- New rules in TBT chapter (8) and annex (8E) for devices specifically
  - Mutual recognition agreements/arrangements
    - Fewer duplicative tests
  - Greater transparency
- Interesting new options for device/pharma nexus?



# Benefits for Health: Health Services

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- Normally, health services closed to foreign providers
- But TPP opens health services—hospitals, clinics, diagnostic tests, nursing homes, hospice, specialist care, etc.
  - *All services opened, unless restrictions listed*
- TPP opens to TPP member firms
  - May still need licenses, immigration
  - For private medical services, not public facilities
- Services chapter (10) also includes temporary entry of business providers (12)



# Benefits for Health: Pharma

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- Extended patent protections in IP chapter (18) and annexes
  - Issue for Americans on biologics data protection
  - Dramatically longer (0 years to 5+ years protection) for most member governments
  - In practice, TPP parties follow US approvals anyway
- Also see TBT chapter 8, esp annex 8C on pharmaceuticals that includes:
  - Specific rules to be followed for who can regulate (and who cannot)
  - Use science, not sales or financial data
  - Greater transparency in decisionmaking, esp for marketing authorization
  - Sets out some conditions for marketing authorization



# Right to Regulate

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- In the TPP, like all trade agreements, government retains full right to regulate for:
  - Human, animal, plant life and health
  - Security and defense
  - Public interest
- Implementation will be worth watching— agreement provides framework, but details will matter
- TPP cannot undermine existing commitments in other trade agreements (like World Trade Organization)



# TPP Timelines

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- **Complication: approval in the United States**
  - Trade Promotion Authority (TPA) has some specific deadlines that must be followed
  - Agreement signed Feb 4, 2016
  - Could be submitted to Congress: lame duck session in Nov/Dec 2016; or 2018?
- **Implementation:**
  - 1. All 12 approve in 2 years: 60 days later
  - 2. US+Japan+4 more members inside 2 years: automatic EIF on April 4, 2018
  - 3. US+Japan+4 more after April 2018: 60 days later



# TPP Benefits for Health

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- The TPP provides substantial benefits for many sectors
- But health may provide important new opportunities
  - Focus has largely been on negatives (especially biological data protection length)
  - Has obscured many other elements of agreement for health industry and health providers
- Implementation will be important
  - Especially for pharmaceuticals—how medicines are now approved for formulary countries? IP protections? IP enforcement?
  - Early stages may be uneven in some TPP members



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*The Asian Trade Centre is the premier regional thought leader, advocate and educator for trade in Asia*

For more information, please contact:

Deborah Elms  
Executive Director  
Asian Trade Centre  
Singapore

[www.asiantradecentre.org](http://www.asiantradecentre.org)

