Fostering Trade in Health in Asia

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May 25, 2016
FT Asia Healthcare & Life Sciences Summit, Singapore
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Trans-Pacific Partnership (TPP) Agreement

• 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

The Trans-Pacific Partnership
12 Markets
36% of Global GDP
¼ of the World’s Trade

Australia
New Zealand
Vietnam
Brunei
Singapore
Malaysia
Japan
Canada
USA
Mexico
Peru
Chile
What’s Different About the TPP?

• 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?

- 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

• 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

• 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

- 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

• 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

• 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

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

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