



TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPPA)

**Sanya Reid Smith
Third World Network
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TPPA OVERVIEW

- Countries currently negotiating: Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, USA, Vietnam
- Countries in the process of joining: Canada, Japan, Mexico
- Date to conclude negotiations:
 - TPPA governments had said mid-2012 for text (not possible) and schedules by end 2012
 - SME chapter has been concluded
 - Other proposals are still being tabled (including by USA – eg biologics)
 - Next round: 2-10 July 2012, San Diego, USA

TPPA CHAPTERS – LIKELY US POSITIONS IN SOME CHAPTERS

- Goods:
 - remove all tariffs on US products (with maybe 1 exception)
 - USA will not remove all of its tariffs and quotas on products from other TPPA countries (eg sugar)
 - Yarn forward rule for textiles
 - No export taxes
 - US agricultural subsidies to continue
- Services:
 - negative list liberalisation
 - Financial services
 - Telecoms
- Investment:
 - negative list liberalisation
 - Free movement of capital
 - Investment protection as in recent USFTAs
- Government procurement: positive list liberalisation

SOME TPPA CHAPTERS – LIKELY US POSITIONS

- State owned enterprises (SOEs): new US proposal:
 - Competitive neutrality
 - Opens procurement by SOEs?
- Regulatory coherence – see leaked text
- Labour, environment chapters
- Transparency: US proposal restricts ability to have systems to keep medicine prices low

SOME TPPA CHAPTERS – LIKELY US POSITIONS

Intellectual property (see leaked US proposals, include the following TRIPS+ provisions):

- Join PCT, UPOV 1991, Budapest Treaty, WCT, WPPT etc
- Patents:
 - Patents on new forms and new uses, even if no enhancement of known efficacy
 - Patents on plants and animals
 - Patents on diagnostic, therapeutic and surgical methods
 - No pre-grant opposition
 - Patent term extensions for delays by the patent office/drug regulatory authority
- Data exclusivity:
 - For 10 years on agricultural chemicals
 - For 5 years for new medicines and 3 years for new clinical information for old medicines
- Linkage
- Copyright:
 - 120 years of copyright (cf TRIPS = 50 years)
 - Technological protection measures
 - Internet service provider liability
- Enforcement

EXAMPLES OF HOW SOME MINISTRIES AND POLICIES CAN BE AFFECTED BY VARIOUS CHAPTERS

- Ministry of Health:
 - Tobacco and alcohol control: affected by chapters including: preamble, goods, services, investment, intellectual property (geographical indication and trade mark provisions), dispute settlement
 - Medicine prices: intellectual property chapter, investment chapter, transparency chapter, dispute settlement chapter
 - Bans on toxic chemicals may be prohibited by investment chapter
- Ministry of Environment can be affected by preamble, goods, services, investment, environment, dispute settlement chapters
- Balance of payments can be affected by goods, services, investment, intellectual property, competition, government procurement and exceptions chapters
- Industrial policy can be affected by goods (tariffs, export taxes), services, investment, competition, government procurement, dispute settlement etc chapters

LEAKED TEXTS

- Leak of the almost complete IP chapter the USA proposed (eg except for the pharmaceutical provisions which were tabled later, see below): <http://keionline.org/sites/default/files/tpp-10feb2011-us-text-ipr-chapter.pdf>. Some analysis of it is here: <http://keionline.org/node/1091>
- The leaked US proposal on pre-grant opposition: <http://www.citizen.org/documents/Leaked-US-TPPA-paper-on-eliminating-pre-grant-opposition.pdf>
- A leak of some of New Zealand's proposals on the IP chapter: <http://www.citizen.org/documents/NewzealandproposedIPChaptertext.pdf>
- A leak of some of Chile's proposals on the IP chapter: <http://www.citizen.org/documents/ChilePreliminaryConsiderationsforTPPIPChapter.pdf>
- More leaked texts and analysis of them: <http://www.citizenstrade.org/ctc/blog/2011/10/22/leaked-trans-pacific-fta-texts-reveal-u-s-undermining-access-to-medicine/> for:
 - US proposals on pharmaceutical pricing
 - US proposal on TBT Annexes on medical devices, pharmaceutical products and cosmetics
 - US proposal on pharmaceutical provisions in the IP chapter
 - Regulatory coherence chapter
- Some analysis of the leaks are available here: <http://www.citizen.org/accesstomedicine>.

SOME WEBSITES FOR FURTHER INFORMATION

- Agreed outlines of TPPA: <http://www.ustr.gov/about-us/press-office/fact-sheets/2011/november/outlines-trans-pacific-partnership-agreement>
- Analysis of where the initial proposed US IP text is US law-plus is available here:
http://keionline.org/sites/default/files/TPPA_USplus_30Aug2011.pdf
- Analysis of the Malaysia-USFTA is available here (relevant as most of the TPPA will presumably be a typical USFTA which have little variation):
<http://ftamalaysia.org/article.php?aid=156>
- <http://tppdigest.org/>
- www.citizen.org
- <http://www.ftamalaysia.org/>

Thank you

- For specific questions: sanya@twnetwork.org