

25 August 2017

Dear TPP11 Ministers,

Subject: Concerns from the health community regarding proposed next steps in the TPP11

Since US President Trump indicated his intent not to ratify the Trans-Pacific Partnership Agreement (TPP)¹ and it cannot therefore come into force as signed,² we understand that the remaining TPP countries (TPP11)³ have been assessing the options to bring the TPP into force among themselves.⁴

According to news reports, the options you have been discussing seem to be:

1. Only changing the entry into force provisions so that the remaining 11 countries can bring it into force without the US.⁵
2. Freezing controversial provisions pending the US rejoining the TPP, in addition to amending the entry into force provisions.⁶
3. Re-writing certain TPP provisions in light of the US' absence, in addition to amending the entry into force provisions.⁷

We note with concern that these options appear not to include the health impact assessments that the health community has urged you to undertake before proceeding any further with the TPP.

Whichever of the three current options you choose for the way forward with a TPP11 will have serious consequences for the health of the people in our countries. It is imperative that you make the options public and that before deciding on them you consult stakeholders regarding both the options and the choices within each of them, such as which provisions to freeze or renegotiate.

Given that most of the TPP's provisions that will impact negatively on health were imposed by the USA and the USA is no longer in the TPP, it makes no sense for you to keep those provisions, particularly without the projected gains from access to US markets. This is especially the case since many TPP provisions do not suit the TPP11. For example, all of your countries,⁸ aside from Japan, are net intellectual property (IP) importers, so stronger intellectual property protection does not benefit you – but it would benefit the US in return for no concessions by the USA.

Therefore, if you decide that a free trade agreement (FTA) between the TPP11 countries should occur, we call on you to renegotiate it from first principles with provisions that suit the TPP11 countries, having conducted a comprehensive health impact assessment of the available options.

If you intend to proceed with what appear to be the three current options, it is clear that Option 1 makes no sense.

If Option 2 was chosen, previous expert analyses of the text from a public health perspective show that *at a minimum* the implementation of the following TPP provisions should be frozen:

- Intellectual property (IP) provisions that go beyond rules established by the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) which would roll back public health safeguards and flexibilities enshrined in

¹ http://www.rieti.go.jp/en/columns/a01_0468.html

² Since Article 30.5 <https://www.tpp.mfat.govt.nz/text> requires ratification by countries accounting for at least 85% of the GDP of the original signatories which requires the USA to ratify it.

³ Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam

⁴ <https://www.tpp.mfat.govt.nz/>

⁵ Bloomberg, 'Australia Meeting Could Test Support for Pacific-Trade Pact', also in Spanish at <http://gestion.pe/economia/tpp-reunion-australia-pondra-prueba-apoyo-al-pacto-comercial-2197512>.

⁶ Bloomberg, 'Australia Meeting Could Test Support for Pacific-Trade Pact', also in Spanish at <http://gestion.pe/economia/tpp-reunion-australia-pondra-prueba-apoyo-al-pacto-comercial-2197512>.

⁷ <https://www.ictsd.org/bridges-news/bridges/news/tpp-11-negotiators-examine-options-for-advancing-deal-without-us>

⁸ Brunei and Vietnam did not have sufficient data, from <http://data.worldbank.org/indicator/BM.GSR.ROYL.CD/> and <http://data.worldbank.org/indicator/BX.GSR.ROYL.CD>

international law, and put in place far-reaching monopoly protections that will restrict generic competition and keep medicines unaffordable. These strict IP rules will keep medicines prices high and people in TPP11 countries are already struggling to afford medicines at the current prices. These TPP provisions include but are not limited to: secondary patents, patent term extensions, market exclusivity on medicines (including for biologics), patent linkage and stringent enforcement procedures;

- The investment chapter provisions including but not limited to fair and equitable treatment, expropriation and investor-to-state dispute settlement;
- The transparency chapter's annex on pharmaceutical products and medical devices;

If Option 3 is chosen, *at a minimum* the above provisions should be renegotiated as well as the general exceptions provision and its application across the whole TPP.

However, as noted above, the only truly acceptable approach to ensure adequate and effective protection of health and access to affordable medicines in all TPP11 countries is to renegotiate the whole TPP. We the undersigned public health, consumer and patient groups from the TPP11 countries urge you to do so.

Yours sincerely,

	Organisation	Country
1	Loreto Sisters Australia & S E Asia	Global
2	Médecins Sans Frontières Access Campaign	Global
3	People Over Profit	Global
4	People's Coalition on Food Sovereignty	Global
5	World Federation of Public Health Associations	Global
6	Third World Network	Global
7	Alianza LAC - Global por el Acceso a Medicamentos	Regional
8	Asia Pacific Forum on Women, Law & Development (APWLD)	Regional
9	Asian-Pacific Resource and Research Centre for Women	Regional
10	Missionaries of the Sacred Heart Justice and Peace Centre	Regional
11	Moana Nui	Regional
12	Presentation Society of Australia and Papua New Guinea	Regional
13	Red Latinoamerica por el Acceso a Medicamentos (redLAM).	Regional
14	Southeast Asia Tobacco Control Alliance	Regional
15	AID/WATCH	Australia
16	Australian Council of Trade Unions	Australia
17	Australian Education Union	Australia
18	Australian Fair Trade and Investment Network	Australia
19	Australian Nursing and Midwifery Federation	Australia
20	Catholics in Coalition for Justice and Peace	Australia
21	Civil Liberties Australia	Australia
22	Community & Public Sector Union/State Public Services Federation Group	Australia
23	Electrical Trades Union Western Australia	Australia

	Organisation	Country
24	Finance Sector Union of Australia	Australia
25	FOODwatch	Australia
26	GetUp	Australia
27	Grail in Australia Global Justice Network	Australia
28	MADGE Australia Inc	Australia
29	National Tertiary Education Union	Australia
30	Presentation Congregation Queensland	Australia
31	Presentation Sisters WA (INC)	Australia
32	Presentation Sisters Wagga Wagga	Australia
33	Sisters of Charity	Australia
34	South Australia Unions	Australia
35	Sutherland Shire Environment Centre	Australia
36	Textile Clothing & Footwear Union of Australia	Australia
37	The Public Health Association of Australia Inc	Australia
38	Union Aid Abroad APHEDA	Australia
39	Unions Western Australia	Australia
40	World Trade Organization Watch Queensland	Australia
41	Australian Council of Trade Unions	Australia
42	Canadian Aboriginal AIDS Network	Canada
43	Canadian AIDS Treatment Information Exchange (CATIE)	Canada
44	Canadian HIV/AIDS Legal Network	Canada
45	Grandmothers Advocacy Network	Canada
46	Interagency Coalition on AIDS and Development (ICAD)	Canada
47	Realize (formerly The Canadian Working Group on HIV and Rehabilitation)	Canada
48	Japan Federation of Medical Workers' Unions	Japan
49	Pacific Asia Resource Center(PARC)	Japan
50	People's Action against TPP	Japan
51	Malaysian AIDS Council	Malaysia
52	Malaysian Council for Tobacco Control (MCTC)	Malaysia
53	Persatuan Kesedaran Komuniti Selangor	Malaysia
54	Positive Malaysian Treatment Access & Advocacy Group (MTAAG+)	Malaysia
55	Association of Salaried Medical Specialists	New Zealand
56	Doctors for Healthy Trade	New Zealand
57	Medical Students for Global Awareness	New Zealand

	Organisation	Country
58	New Zealand Medical Association	New Zealand
59	New Zealand Nurses Organisation	New Zealand
60	OraTaiao: The New Zealand Climate and Health Council	New Zealand
61	Public Health Association of New Zealand	New Zealand
62	Acción Internacional para la Salud	Peru
63	Asociación Programa De Soporte a la Autoayuda de Personas Seropositivas - PROSA	Peru
64	Red Peruana de Pacientes y Usuarios - RPPU	Peru
66	Red Peruana por una Globalización con Equidad (RedGE)	Perú
65	Red Uniendo Manos Perú	Peru
67	Vietnamese Network of People Living with HIV/AIDS	Vietnam