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## **Mexico Among 12 Countries to Sign Trans-Pacific Partnership; Intellectual Property Section a Concern**

by Carlos Navarro

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The debate in Mexico around the Trans-Pacific Partnership (TPP) agreement centers on intellectual property and specifically on whether stricter rules regarding protection of intellectual-property rights for medications and the pharmaceutical industry are beneficial or harmful to the country. Mexico is one of 12 countries that are party to the agreement, which was completed on Oct. 5. The legislative branches of the 12 signatory countries, including the Latin American nations of Peru and Chile, must still ratify the agreement before it can become effective. Other parties to the agreement are the US, Canada, Australia, Brunei, Japan, Malaysia, New Zealand, Singapore, and Vietnam.

"This partnership levels the playing field for our farmers, ranchers, and manufacturers by eliminating more than 18,000 taxes that various countries put on our products," US President Barack Obama said in a statement following the end of negotiations. The US executive also boasted that the agreement contains the "strongest" commitments on labor and the environment of any trade agreement in history.

Despite Obama's comments on the reduction of tariffs, however, the emphasis of the TPP appears to center on the protection of intellectual property, as most of the 12 countries already apply low tariffs to major items traded among them.

### ***Agreement could increase cost of medicines in Mexico***

The sections of the TPP dealing with intellectual property and medications build on another agreement on intellectual property, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), negotiated in 1994 in the context of the emerging World Trade Organization (WTO).

"What these agreements tend to be really about are issues such as intellectual property rights," said a report in Inter Press Service (IPS). "And the most important strategic reason of this initiative for the US is likely to be to counter China's growing influence in the Asia-Pacific region, and to make the region less hospitable for the Chinese 'state capitalism.'"

A major concern about the TRIPS and the TPP is that the two agreements do not take into account the disparity in development among member nations, which in the end could prove particularly harmful to Vietnam, Mexico, Peru, and Malaysia, which previously had no obligation to offer strict protections to the pharmaceutical industry.

The international physicians organization Médecins Sans Frontières (MSF) is concerned that Mexico and other countries will be forced to implement restrictions at home that previously did not exist, which will drive up the cost of medications.

"The big losers in the TPP are patients and treatment providers in developing countries," said Judit Ruis Sanjuan, legal policy adviser to MSF's access campaign. "Although the text has improved over

the initial demands, the TPP will still go down in history as the worst trade agreement for access to medicines in developing countries, which will be forced to change their laws to incorporate abusive intellectual property protections for pharmaceutical companies."

Critics argue that the US and other developed countries seek application of the same standards of protection to all parties to the agreement even though a country like Vietnam has a GDP that is 43 times lower than that of the US.

"With respect to the potential impact of the TPP, in particular, a study by Australian and US researchers estimated that, in Vietnam, the government would only be able to provide anti-retroviral therapy to 30% of people living with HIV (down from its current rate of 68%) since the cost per person per year of treatment would increase to US\$501 under the US proposal from its current level of US\$127.22," said IPS.

"The benefit of easing patent protection is to promote price competition in the pharmaceutical market and, in some cases, clears the way for the development of generic pharmaceutical industries," said IPS. "The most noticeable case is that of India, which developed a strong pharmaceutical industry and is known today as 'the pharmacy of the developing world.'"

A major concern is the lack of data protection for biologic drugs in some countries, including the three Latin American members of the TPP: Peru, Chile, and Mexico. "These countries will pay a heavy price in the decades to come that will be measured in the impact it has on patients," said MSF. "As the trade agreement now goes back to the national level for countries' final approval, we urge all governments to carefully consider before they sign on the dotted line whether this is the direction they want to take on access to affordable medicines and the promotion of biomedical innovation."

"The negative impact of the TPP on public health will be enormous, be felt for years to come, and will not be limited to the current 12 TPP countries, as it is a dangerous blueprint for future agreements," said MSF.

### *TPP could threaten production of generic medicines*

The reactions in the Mexican media were mixed, with some columnists raising the same concerns as MSF. "For Mexican and foreign manufacturers of generic drugs, this is an unfortunate change," Mauricio Jalife wrote in the daily newspaper *El Financiero*. "This is not a good sign in terms of legal certainty and our business climate.

Jalife said that the intellectual-property protection measures in the TPP also run counter to the practices established under the auspices of the Comisión Federal para la Protección contra Riesgos Sanitarios (COFEPRIS), which encourage the development and production of generic medications. "Let us examine the final text of the TPP, which tells us how we must meet this group of obligations as a necessary payment to receive an invitation to this expansive project," said Jalife.

"The good news is that Mexico is associating itself with some of the most powerful economies in the world," columnist Vianey Esquinca wrote in the daily newspaper *Excélsior*. "The bad news is that the US is the main promoter of this agreement, and the federal government and some business chambers are pleased, but nobody else."

Esquinca said a major concern was the lack of information regarding the negotiations, which kept the public in the dark about details of the agreement in every country, including Mexico. "The

negotiations were kept so secret that the media could not determine the time frame covered in the agreement," said the columnist.

Even members of the Senate were kept out of the loop during the negotiating process. The upper house will have to debate the TPP sometime during the first half of 2016 and decide whether to ratify the agreement without the possibility of making changes. "Sen. Gabriela Cuevas, a member of the opposition Partido Acción Nacional (PAN) and chair of the committee on foreign relations (Comisión de Relaciones Exteriores), denounced that the upper house was not allowed to see the text or even provided with information regarding the context of the agreement," said Esquinca. "She accused the government of choosing a policy of isolation during the negotiations."

### *Mexican pharmaceutical industry supports accord*

Despite the criticisms, there was also strong support in the Mexican media. "The participation of Mexico in the TPP was a necessary step to ensure that our country did not remain outside the North American region in this US-led effort to counter the growing economic influence of China," financial columnist Rodrigo Pacheco wrote in *Excélsior*.

Pacheco said the TPP provides the framework to eventually incorporate China into an agreement that places an emphasis on such essential tasks as protection of investments, respect for intellectual property, labor rights, electronic commerce, and the creation of value-added chains.

"The economic opening provides a window to boost investment, promote employment, favor access to state-of-the-art technology and high-quality products," columnist Max Cortázar wrote in *Excélsior*.

Cortázar pointed out that agreements like the TPP have the potential to benefit the broad economy. "The history of Mexico demonstrates with great clarity that protectionism benefits the interests of just a few individuals, while market-opening measures create opportunities for growth."

The Mexican pharmaceutical industry also expressed support for the accord, with officials pointing to the potential for increased investment in Mexico. In an interview, Cristóbal Thompson, executive director of the Asociación Mexicana de Industrias de Investigación Farmacéutica (AMIIF), said he looks forward to greater investments in the next year from half a dozen companies from Asia, the US, France, and Germany. "I have information that six companies have reached out to our industry to ask for information. Many of these companies are involved in biotechnology and are always looking to expand," Thompson said.

Others pointed out that Mexico's potential entry into the TPP has already attracted foreign investors to the country. "In the first several months of this year, investments of US\$600 million were reported, mostly as a result of the confidence that companies have that Mexico would be part of the agreement," said Mikel Arriola, head of COFEPRIS.

Arriola said the investments projected for the next three years will be devoted to research and development of molecular scientific products, resulting in the creation of value-added jobs. "This will encourage Mexican scientists and researchers to stay home instead of emigrating to jobs overseas," he said.

Arriola said the TPP would also promote reinvestments in Mexican pharmaceutical firms, which will have increased opportunities to form alliances with foreign firms and gain access to technology. "We

have a significant group of Mexican companies that have conducted business in Mexico for more than 100 years. They offer high-quality products and have the capacity to develop the volume to support our domestic market and to engage in the export market," said the COFEPRIS director.

Arriola noted that the TPP implies the creation of a free-trade zone comprising 12 countries that account for 40% of the global GDP and 25% of world trade. He said this would benefit Mexicans, who will have access to an increased number of medicines that are available in the market, whether through domestic output or through imports.

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