

**Statement of the LATIN AMERICA & CARIBBEAN (LAC)-GLOBAL ALLIANCE
FOR ACCESS TO MEDICINES
on the
TRANS-PACIFIC PARTNERSHIP AGREEMENT (TPP) & ACCESS TO AFFORDABLE MEDICINES**

The Latin American and Caribbean - Global Alliance for Access to Medicines (*Alianza LAC-Global por el Acceso a Medicamentos*) is composed of civil society organizations in Europe, the United States and Latin America, whose mission is to advance initiatives that improve access to medicines globally, with an emphasis on Latin America. The LAC-Global Alliance benefits from the valuable collaboration of MSF Access Campaign, the Latin American Episcopal Council (CELAM in Spanish), the Health Ministry for Latin America (Pastoral de la Salud para Latinoamérica) and the Episcopal Conference of Colombia.

The organizations of the LAC – Global Alliance for Access to Medicines, committed to our mission of defending and promoting the right to health and access to medicines, rightly recognized by the Universal Declaration of Human Rights, the Constitution of the World Health Organization (WHO), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), General Comment No. 14 of ComDESC and numerous binding international treaties, declare the following:

- We reject and denounce the lack of transparency of the Trans-Pacific Partnership negotiations. The failure to involve national parliaments and civil society in the negotiations of a multilateral agreement that holds in its balance the lives of 700 million people constitutes an attack on democracy.
- We oppose any of the proposals included in the TPP that have a negative effect on public health, including:
 - **Expansion of the scope of patentability** which would lead to secondary patents, patents for minor changes to known products, and **patents for diagnostic, therapeutic and surgical methods**.
 - **Extension of the term of pharmaceutical patents** to compensate for perceived delays in the patent prosecution or regulatory approval processes.
 - **“Patent linkage”** or linking regulatory approval to patent status, which can facilitate patent abuse and function as a barrier to the supply of generic medicines.
 - **Elimination of the right** to challenge patent applications before they are granted (**“pre-grant oppositions”**). With the TPP, oppositions to a patent will only be able to be filed once the patent has been issued and often times, once the monopoly has been established.
 - **Establishment of a system of exclusive data protection in countries where it does not exist, and the expansion of data exclusivity in countries where it does exist**. In addition to having damaging implications for access to medicines, data exclusivity is inconsistent with medical ethical standards against duplicating tests in humans or vertebrate animals.
 - **Border measures** which could be used to seize shipments of generic medicines that are in transit to developing countries at the mere suspicion of infringing an intellectual property right.
 - **Judicial and administrative presumption of patent validity**. The laws of several TPP countries do not recognize this provision.

- **Investor-state provisions that threaten public health** by making it possible for developing countries to be sued in foreign tribunals and be forced to pay millions in damages to foreign pharmaceutical companies for alleged undermining of their expected earnings. This significantly limits the regulatory powers of countries to guarantee the right to health of their citizens.
- Provisions related to **health policies, medicine price controls and health spending**. National health policies are part of the sovereignty of states and should not be considered under trade agreements.

All these measures in question are “TRIPS Plus”. Further, they go beyond FTAs signed by several of the countries involved in the TPP. They also run counter to Decision 486, the Common Intellectual Property Regime of the Andean Community of Nations.

If enacted these measures would create further obstacles for countries seeking to adopt policies and regulations designed to promote and defend the right to health. They would cause damaging consequences for public health in TPP countries by promoting the expansion of pharmaceutical monopolies, the delay of generic competition and high costs of treatments for patients and government health programs, thereby endangering access to goods that are essential for health and life.

Compelled by the above, the undersigned organizations, call for the following:

- **To the governments of all TPP countries:** a) Require immediate public disclosure of the texts being negotiated, b) Refuse to approve or ratify an agreement containing provisions restricting access to goods and services essential for the health of their people, and c) Review national legal systems to ensure that they provide broad exceptions to patenting as well as the right to protect public health from the harmful effects of intellectual property, as enshrined in the TRIPS Agreement and the Doha Declaration.
- **To the governments of developing countries involved in the TPP:** a) Evaluate the costs and benefits of the TPP for public health, b) Firmly reject any aspiration to strengthen the monopolies of multinational drug companies at the expense of the health of the population or to impose rules restricting competition or regulation of drug prices, c) Protect governments' rights to use compulsory licenses and other public health safeguards under international law, and d) Demand an exception for public health in order to enable all countries to maintain and even improve access to affordable medicines.
- **To the government of the United States:** Withdraw the TRIPS-plus provisions contained in the proposed Intellectual Property Chapter of the TPP and honor the bipartisan New Trade Policy 2007, in which the U.S. Congress and the Administration agreed to protections for public health in developing countries in future trade agreements.
- **To those within the health sector of the Asia-Pacific region:** Reject the imposition of standards and measures detrimental to public health and proactively support the comprehensive World Health Organization (WHO) Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property (WHA Resolution 61.21, 2008), and the negotiation of the Global Research and Development (R&D) Treaty proposed by the World Health Organization (WHO) Consultative Expert Working Group (CEWG), at both the national and international level, including the principles for the development of demonstration projects leading to a global treaty on medicines research and development that will be presented at the upcoming meeting in late 2013.

- **To all civil society organizations**, especially ones dedicated to those who are living with chronic diseases as well communicable and non-communicable diseases: Take a leading role regarding the TPP negotiations and join forces in blocking any attempt to restrict access to health goods and services.

The TPP prioritizes commercial interests over fundamental human rights. We stand in solidarity with all the movements that have been fighting for the right to life, health, dignity, welfare, equality, food, the environment, education, information, knowledge and traditional systems of life, all of which will be seriously affected by the proposed TPP.

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ORGANIZATIONS THAT CONSTITUTE THE LAC – GLOBAL ALLIANCE FOR ACCESS TO MEDICINES AND HEREBY ADHERE TO THIS DECLARATION

Asociação Brasileira Interdisciplinar de AIDS (ABIA) - Working Group on Intellectual Property (GTPI) (Brazil)

Health Action International - AIS Latin America and the Caribbean

Health Action International - AIS Colombia

Health Action International - AIS Ecuador

Health Action International - AIS Nicaragua

Health Action International - AIS Peru

Health Action International

Health Action International - Europe

Farmamundi (Spain)

Colombian Medical Federation

IFARMA Foundation (Colombia)

GEP Foundation (Argentina)

Caribbean-International Treatment Preparedness Coalition (ITPC)-LATCA Guatemala

KEI - Knowledge Ecology International (USA)

Misión Salud (Colombia)

Políticas Farmacéuticas (Chile)

Public Citizen (USA)

Red Peruana Por Una Globalización Con Equidad (RedGE) (Peru)