

## Malaysian civil society on TPPA & Access to Medicines

### MALAYSIAN DECLARATION ON THE TRANS-PACIFIC PARTNERSHIP AGREEMENT & ACCESS TO MEDICINES

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The Malaysian Government is negotiating a Trans-Pacific Partnership (TPPA) free trade agreement in Chicago round talks on 6th to 11th September with the US, Australia, New Zealand, Chile, Peru, Brunei, Singapore and Vietnam. We, the undersigned, declare our opposition to the TPPA as it puts the profits of multinational pharmaceutical companies ahead of the people-s right to health.

We are aware that the United States tabled intellectual property (IP) proposals during previous TPPA rounds that would require significant changes to Malaysian law. If adopted, the U.S. intellectual property proposals to the TPPA would restrict generic competition, raise drug prices and make medicines less affordable and less available to Malaysians. HIV & medicines, Hepatitis C treatments, cancer medicines, essential medicines, and lifesaving medicines for many chronic diseases are all under threat. Many people in Malaysia already lack access to lifesaving medicines and new trade barriers will further limit their access to affordable medicines.

We stand in opposition to any & all proposals that negatively impact access to medicines in the TPPA including:

-DATA EXCLUSIVITY that prevents governments from relying on clinical trial data to register generic versions of medicines even if they are off-patent or after their patents have expired or been revoked. This measure also complicates the issuance of compulsory licenses.

-PATENT TERM ADJUSTMENT/EXTENTIONS that extend the duration of a patent beyond 20 years.

-EXTENSION of PATENT PROTECTION to new uses, methods and forms of known substances. This measure allows the extension of monopolies on these medicines to last a decade or more through minor changes in drug formulation or process.

-PATENT LINKAGE that prevents the registration of generic versions of patented medicines and undermines the early working and research exceptions. This measure can potentially delay the entry of generic medicines even after the expiration or revocation of a patent or when a compulsory license is issued.

-BORDER MEASURES that could deny medicines to patients in other developing countries if custom officials seize generic medicines that are being imported, exported or are in transit.

-IP PROVISIONS that allow multinational pharmaceutical companies in courts to presume any challenged patent valid and that weigh the patent holder-s measure of the value of the damages.

INVESTMENT RULES that could allow multinational companies to sue governments over application of domestic health regulations in private international arbitration & that may prevent governments from promoting local manufacturing.-

We call on:

- The GOVERNMENT OF THE UNITED STATES to immediately withdraw any and all TRIPS-plus provisions in the intellectual property chapter of the TPPA, and to immediately cease all other forms of pressure & lobbying against Malaysia and Malaysian officials.

- NATIONAL GOVERNMENTS OF THE OTHER TPPA SIGNATORY COUNTRIES to come together & refuse to accept any further restrictions on production, registration, supply, import or export of generic medicines; to launch Asian- Pacific collaboration on an urgent basis to put in place a sustainable, affordable pipeline of generic medicines for future generations; and to call for an immediate review of TRIPS & its impact on access to medicines in developing & least developed countries.

- The MALAYSIAN GOVERNMENT to immediately end secrecy around the TPPA negotiations, make negotiation texts available for public scrutiny & to support through open, transparent & public consultations, assessments of the impact of such negotiations on the right to health & other rights.
- MALAYSIAN PARLIAMENT & CONSTITUTIONAL BODIES to immediately request the TPPA negotiating texts; review their impact on the right to health & access to medicines; refuse to endorse or ratify the Agreement that would be signed with provisions that undermine their people-s right to access affordable treatment; and review Malaysian laws including patent and medicine regulatory laws and policies to ensure all aspects and elements of the Doha Declaration are in these laws.
- CIVIL SOCIETY GROUPS, PEOPLE LIVING WITH HIV, ALL COMMUNITIES FACING COMMUNICABLE, CHRONIC &/OR NON-COMMUNICABLE DISEASES in the TPPA signatory countries to join forces to halt any & all trade agreements that restrict access to generic medicines.

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