

Critics of the proposed Trans-Pacific Partnership Agreement (TPP) voice concerns over the U.S.'s stronghold on intellectual property rights.

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WASHINGTON, Aug 26, 2011 (IPS) - Critics of the proposed Trans-Pacific Partnership Agreement (TPP) gathered here Thursday to voice concerns over the U.S.'s stronghold on intellectual property rights.

The seventh meeting to determine policy for the TPP - an Asia-Pacific regional trade agreement between Australia, Brunei, Chile, Malaysia, New Zealand, Peru, Singapore, the United States and Vietnam - is slated for Sep. 6 in Chicago, but advocates for access to health and information have disapproved strongly of some proposed measures.

Although the Office of the U.S. Trade Representative, the United States primary negotiator for the agreement, has not released official material, leaked documents reveal a precarious situation for international intellectual property and copyright law if the agreement comes to fruition, with particularly serious implications for health initiatives aimed at HIV treatment and tobacco consumption.

Matthew Kavanaugh, director of U.S. Advocacy for the Health Global Access Project (GAP), said that the implications for TPP could be disastrous, and that the partnership's reach would eventually extend beyond those included in negotiations.

"This is in fact overtly meant to be a broader trade agreement," said Kavanaugh. "It's a beachfront strategy for gaining a hold in Asia for a certain set of countries, for a certain set of interests."

At the Global Congress on Public Interest Intellectual Property held at American University here this week, Kavanaugh and a panel of others went through the proposed legislation, arguing that provisions in the agreement would benefit predominantly big transnational companies and powerful states like the U.S.

Judit Rius, campaign manager for the Access to Medicines programme at Doctors Without Borders, said that a majority of provisions for the TPP were dependent upon interpretations of U.S. law, which could provide challenges for the future.

"Case law is still developing in some areas, so codifying these principles into an international instrument before it's properly developed within the U.S. is problematic," Rius said.

An element of the partnership agreement would alter current policy regarding provision of affordable drugs for the prevention and treatment of HIV/AIDS. Under the legislation proposed, critics said, there would be an expansion of intellectual property barriers, enabling pharmaceutical companies to hold or renew patents for longer, limiting the availability of generic medicines and treatment.

Prices of medications to treat HIV and AIDS globally have fallen dramatically in the past 20 years, Kavanaugh said, largely due to intellectual property legislation which allows for more wide-spread access to patents that were hitherto guarded by major money-making players like the Pharmaceutical Research and Manufacturers of America (PhRMA).

Tobacco has also come under fire in the TPP negotiations, as companies would be permitted to sue governments who impose restrictions on packaging - such as use of warning labels for the health risks associated with using the product, making recent moves by the Food and Drug Administration obsolete.

The TPP copyright model mimics the existing system in the U.S., said Jonathan Band, attorney at Policy Bandwidth, but is lacking the exceptions that make a stable environment, swinging too far in the other direction.

"It's exporting the enforcement provisions, supporting the more draconian features of U.S. copyright law, without all of the balancing features," Band said, citing fair use as a common exception to copyright law in the U.S., a provision not featured in TPP.

Without such provisions, Band said, restrictions could be placed on entities like libraries and internet service providers, which provide access to information.

The negotiation process for TPP has been plagued by criticism of free trade policies, with one of the biggest frustrations for advocates being a lack of transparency from negotiators, including the Office of the U.S. Trade Representative.

Peter Maybarduk, director of the Access to Medicines Program at Public Citizen, said that not addressing the implications of TPP legislation could lead to a dramatic change in international policy.

"What we're seeing with the TPP is a whole slate of new proposals designed to get in under the political radar where no one's watching, and expand patentability in as many ways as possible without going through a domestic political fight in the United States," said Maybarduk.

Office of the U.S. Trade Representative did not respond to inquiries for comments or background, and efforts to follow the negotiations of the TPP process through their webpage were fruitless, as it was not functioning.

Updates on the office's "outreach" strategies have not been updated since June 2010.

Band said that the structure for the TPP as it stands failed to take into account trade and technological developments of the past 30 years, which could prove to be its biggest downfall.

"The whole international framework that we're pushing is the PhRMA approach, because that's the template that made sense in the 1970s, the 1980s, the 1990s," Band said. "Then, it was very much 'we developed the copyright product, and we want to sell it internationally and prevent infringement internationally'."

"But (now) we live in a much more complicated world," Band said.

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