THE TRANS-PACIFIC PARTNERSHIP FREE TRADE AGREEMENT
UNIONS DEMAND FAIR TRADE NOW!

INTELLECTUAL PROPERTY AND PUBLIC HEALTH

For years, the intellectual property rights (IPR) chapters of free trade agreements have provided excessive protections for the producers of brand-name pharmaceuticals. These agreements far exceed the international standards for patent protection established in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Together, these provisions jeopardized peoples' access to affordable medicines, particularly in developing countries.

CONSUMERS AND PUBLIC HEALTH DEPARTMENTS SHOULD NOT PICK UP THE TAB FOR EXCESSIVE PHARAMCEUTICAL INDUSTRY PROFITS

Some recent trade agreements provide for the granting of a new patent if a new use or method of using an existing product is discovered. This grants companies additional years of monopoly rights on drugs without any innovation. Generic drugs are copies of existing drugs. They can be sold when the patent on a brand-name pharmaceutical expires and provide competition that forces down prices for consumers. Generic drug producers can come on the market much faster if they are able to obtain marketing approval before the patent on an existing drug expires but brand-name pharmaceutical manufacturers are using free trade agreements to make this as difficult as possible. One way is to deny generic drug producers access to the results of the tests which demonstrate the safety of the drug. These tests are a crucial step in bringing a drug to market. TRIPS requires protection of test data against unfair competition, but leaves flexibility for governments to provide access to generic manufacturers. In contrast, some free trade agreements oblige parties to grant exclusive rights for at least five years after a patent expires, potentially preventing competition for even longer. Free trade agreements also use the drug registration process to give any entity claiming a pharmaceutical patent the power to stop it from reaching the market.

TRADE UNIONS SAY NO TO TRIPS+ PROVISIONS, WHICH UNREASONABLE IMPEDE MORE AFFORDABLE, GENERIC DRUGS FROM ENTERING THE MARKET

As if the IPR provisions were not enough, some recent trade agreement have also included provisions that undermine public pharmaceutical benefit schemes. The Korea-US FTA, for example, requires a country to "appropriately recognize the value of the patented pharmaceutical product or medical device in the amount of reimbursement it provides." It contains a "transparency" mechanism that allows pharmaceutical companies greater access to the government committees that decide whether to fund new pharmacuticals. It also establishes an "independent review process" that allows corporations to appeal the prices they receive from the public authorities. The impact of these provisions in clear – more profits for pharmaceutical corporations, more expensive drugs and less access to affordable medicine for the rest of us. Negotiators are considering similar language in the TPPA.

TRADE UNIONS SAY NO TO EXCESSIVE PHARMACEUTICAL PROFITS AT THE EXPENSE OF PUBLIC HEALTH