

 [Back](#)

Trans-Pacific trade is a win-WIN-WIN

This article is a response to “Keeping Medicines Affordable for All,” which appeared in our July-August 2013 issue.

D. Wayne Taylor

Policy Options, October 21, 2013

Share



In a century when the need for innovative pharmaceutical advances remains urgent and the cost and time required for innovation are both growing, the very intellectual property system that has given the world almost all medical advances is under attack by the ill-informed around the world — even right here at home.

In the July-August issue of *Policy -Options*, two representatives of the Médecins sans Frontières/Doctors without Borders (MSF) claimed, without verifiable evidence to support their claims, that the proposed Trans-Pacific Partnership (TPP) will undermine global access to, and innovation in, drugs. Citing only “leaked” documents from “closed door” negotiations, the

authors claimed that the TPP will make worse an already bad situation in which millions die each year in low- and middle-income countries due to intellectual property rights (IPRs) and the high drug prices that they sustain.

Nothing could be further from the truth and the facts prove otherwise.

- The pharmaceutical industry is the most research-dependent industry in the world.
- Pharmaceuticals, like most legal consumer products, are sold globally using differential pricing — basically charging what each respective market can bear. The US has the highest standard of living and therefore pays the highest prices for drugs. Brazil and India are middle-income countries and pay less. The least-developed countries pay the lowest price — if anything at all.
- Of all the medicines deemed “essential” by the World Health Organization (WHO) 98.6 percent are already off-patent, genericized and selling at lower prices.

In the fall of 2010, the Cameron Institute released a 200-page study that showed that the research-based pharmaceutical industry had sponsored or participated in over 150 public-private partnerships that had successfully improved access to drugs for the 50 least-developed countries. As of that year US\$8.5 billion had been spent on providing 9.5 billion doses or treatments to nearly 1 billion of the poorest on earth; 350,000 doctors, nurses and other health professionals had been trained; new research centres had been created to develop cures or vaccines for the diseases that plague the poorest of nations. The industry’s efforts have also included infrastructure and capacity-building, and information and support.

The Cameron Institute also found no evidence that patents posed any barrier to essential medicines being affordable and accessible throughout the world. In fact, if it wasn’t for patent protection most of those medicines would not have been available in the first place; all were developed by private industry, producing revenue from developed countries that now allows 100 medicines and vaccines to be in development to tackle malaria, multi-drug-resistant tuberculosis, dengue fever and all the other scourges of the developing world.

Negotiations on the Trans-Pacific Partnership, a free trade agreement among countries bordering on the Pacific Ocean, have been under way since 2010. In addition to eliminating tariff barriers, the TPP aspires to the harmonization of member states’ legislative and regulatory regimes as much as possible in order to promote trade and open up markets. One of these is the protection of intellectual property rights.

TPP countries have agreed to reinforce and develop the World Trade Organization’s agreements with respect to IPRs, and that IPR text will reflect a commitment to the yet-to-be-ratified 2003 Doha Declaration on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and Public Health.

If we are to improve the public health of developing countries, as the Doha declaration requires, and we agree that innovation is part of the solution, then intellectual property — by definition — becomes part of the solution and not a barrier. The synergy among innovation, free trade, protection of intellectual property and democratic societies is no mistake. It is no accident that the lion's share of the world's innovativeness comes from democratic stalwarts like the United States and the United Kingdom. Disregard for the protection of intellectual property creates a very real threat to economic growth, job creation and the public welfare.

The real issues confronting public health workers in developing countries are the lack of potable water for one-third of the world's inhabitants — which is expected to rise to two-thirds by 2025 — and the lack of freedom to allow medicines to be distributed and administered to those who need them. Indeed, diversion of medicines from their intended recipients due to corruption is a significant issue, as is the limited local medical expertise to properly administer medicines. Even in situations where the little medicine that can get through to the neediest patients gets through without interference, there is often inadequate infrastructure, human resources and transport available — even when the price for a product is zero.

Uganda's president, Yoweri Museveni, who presided over the world's largest reduction in HIV/AIDS prevalence, has declared that the whole essential medicines argument against patents is a red herring. According to the Organisation for Economic Co-operation and Development, pharmaceutical companies punch way above their weight in the field of international development assistance, contributing over 10 percent of all money for this purpose.

In their article, the MSF authors deplored that drug prices increased 20 percent over five years in Jordan after the US-Jordan Free Trade Agreement was implemented. They forget to say that at less than 4 percent per year, the rate of increase was below the average rate of inflation — 5 percent — for health care. So, one could argue that free trade was good, with as little evidence to support that claim as MSF had for the other side.

The MSF article suggests that the universally accepted TRIPS global patent standard of 20 years is too long a time frame. But the authors forgot to say that unlike other products that are patented and for sale, pharmaceuticals are for sale for only a few years of that patent time before generics may enter the market, because the majority of the patent period is spent in research, development and government-mandated trials and evaluation.

As an alternative to IPRs, MSF suggests open-sourcing and prizes as incentives for innovation. Yet when you look at its open-source drug operation, the Drugs for Neglected Diseases initiative, almost all of that program's revenue comes either from governments or from the pockets of über-rich philanthropists. While it is true that cash prizes were an incentive for the development of margarine, the successful canning of vegetables and the world's first privately

designed spacecraft, the prize money only rewarded the researchers involved for filing the patent. Up to 10 times the prize money was spent to actually commercialize the product, as in the case of Virgin Galactic's privately designed spacecraft. Prize monies encourage linear invention — but often to the exclusion of serendipitous discoveries that often become the most beneficial and disruptive ones.

Contrary to the opinion of those opposed to IPRs, patents have next to nothing to do with drug access and innovation in the least-developed countries. But patents have everything to do with the number of knowledge-based jobs in a country. Contrary to the myths perpetrated by MSF, the TPP will do nothing to threaten our freedoms and rights as a sovereign nation or any of our cherished national icons such as universal health care.

Canada needs a strong private sector of industry and commerce to support the public sector, which supplies defence, justice, public protection, education, health care and so on. Incentives are at the very core of this economic symbiosis, incentives that offer investors a chance of a return on their investment. When the right mix of incentives exists, investments are made to produce goods and services that generate wages, salaries and investment income for the investors. People have jobs, investors make money to then reinvest, and governments reap tax revenues for public programs.

Discovery (research) is serendipitous while innovation (commercial development) is difficult and expensive. Incentives for innovation include the legal protection of intellectual property through devices such as trademarks, copyrights and patents. The historical record shows that countries with strong patent protection have experienced stronger economic and employment growth — and better health.

When it comes to investing in and accruing the benefits from innovation and IPRs, however, Canada does not compare well with sister high-income countries such as the US or the UK. In fact, we are more comparable to middle-income countries like Mexico, Malaysia and Russia in the national protection of intellectual property. Canada has lost millions of dollars (and possibly billions more in economic and social spinoffs) from the recent reduction of — and failure to attract new — private pharmaceutical research facilities and clinical trials over the past few years. Canadians should be embarrassed and outraged.

If Canada is to embrace the innovation-led, knowledge-based economy of the 21st century and grow beyond our heritage of “hewers of wood and drawers of water,” then it needs to engage in 21st-century protection of intellectual property, open its doors to TPP countries and harmonize our legal and regulatory frameworks with our future trade partners.

With respect to access to medicines, less talk and more action is needed in reducing the real barriers to access in developing countries. Perhaps MSF could focus more on democratic and

structural reforms in the neediest of countries rather than the trade negotiations of countries like Canada that are doing their best to improve the human condition around the world, or the pharmaceutical industry, which is developing the medicines and vaccines of tomorrow to meet patient needs.

The first tenet of medicine is to “do no harm.” The Trans-Pacific Partnership will do no harm to those in need of safe, effective, affordable drugs.

D. Wayne Taylor, recently retired from McMaster University, where he was a professor, is the executive director of the Cameron Institute, an alternative not-for-profit think tank specializing in health, economic and social issues.

Share



RELATED

The Age of Man

[Bruce Wallace](#)

The decline of Canadian economics

[Herb Emery, Wayne Simpson and Stephen Tapp](#)

A stamp of approval for reducing wage inequality

[Katie Ragan](#)



Why is the same drug readily available for one Canadian but not for another?

Subscribe

Contact us

 514-985-2461

 irpp@irpp.org

 1470 Peel St. #200 Montreal, Quebec
Canada H3A 1T1

About the IRPP

[Mission](#)

[People](#)

[Annual reports](#)

Media centre

[Podcasts](#)

[News releases](#)

[Op-eds](#)

Policy Options

[Subscribe to the magazine](#)

[Advertising](#)

[Article Submission](#)

[Essay Competition](#)

