Trade Facts

Office of the United States Trade Representative www.ustr.gov
January 2006

Pharmaceuticals and the US-Thailand Free Trade Agreement

Claim:

"The FTA will raise the price of generic and innovative medicines in Thailand, especially for those most in need."

Fact:

The FTA will not raise the price of generic medicines in Thailand. Those medicines will continue to available at whatever prices the Thai generic companies choose. Most HIV/AIDS drugs used by Thai patients are generic.

The prices of innovative drugs also will not be increased by the FTA. Indeed, by eliminating the 10 percent tariff on medicines (which is not applied to AIDS drugs) imported into Thailand, the FTA should help lower the cost of drugs in the Thai market.

Claim:

"The FTA will limit the access of low income HIV/AIDS and other Thai patients to the lifesaving drugs they need."

Fact:

HIV/AIDS and other Thai patients will continue to have timely access to lifesaving medicines. The Thai Government's program of universal access to subsidized treatment for all of Thailand's patients living with HIV/AIDS will not be affected by the FTA.

The FTA will fully respect Thailand's rights under the recent WTO solution on TRIPS (Trade Related Aspects of Intellectual Property Rights) and public health, which ensures access to medicines. This solution enables countries that lack capacity to manufacture drugs to import them from other WTO members.

The U.S. Government has provided more assistance to help treatment of Thai HIV/AIDS patients than any other country. It has committed more than $12 million annually toward HIV/AIDS prevention, treatment and care and other public health issues in Thailand.

Claim:

"The FTA, including the data protection provisions, will extend patent protection, slowing the introduction of generic medicines into the Thai market."

Fact:

The United States is not proposing extension of patents beyond the 20 years that is already the law in Thailand. The FTA provisions would clarify Thailand's current practices regarding data protection, which protects the detailed data that companies must provide the Thai Government to prove a drug's safety and effectiveness so it can get approval to market that drug.

Companies spend millions of dollars researching and developing drugs and doing the clinical trials required to bring these drugs to market. If there is no incentive for their work and for the costs of bringing a drug to market, the second generation of HIV/AIDS and other lifesaving drug treatments that Thai patients will need in the future may not be developed and companies may not seek to rapidly market their most innovative products in the Thai market. The FTA strikes a careful balance between measures that ensure access to lifesaving medicines for Thai patients and providing the incentives needed to ensure future innovation that is vital for public health.

Global trade rules (the Trade-Related Aspects of Intellectual Property, or TRIPS) already require protection for data submitted for marketing approval. Article 39.3 of TRIPS requires countries to protect such data against "unfair commercial use. Generic firms can apply for approval at any time using their own data. After the period of protection is over, other producers can apply for marketing approval by relying on the innovator's data.

The Jordan example:

- The U.S.-Jordan FTA, signed in 2000, contained an intellectual property chapter that covered data protection.

- Since 2000, there have been 32 new innovative product launches in Jordan, a substantial increase in the rate of approval of innovative drugs, helping facilitate Jordanian consumers' access to medicines.

- Since enactment of the FTA, the Jordanian drug industry has begun to develop its own innovative medicines. This is an example of how strong intellectual property protection can bring substantial benefits to developing countries.