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Are **Free Trade Agreements** (FTAs) **bad for health?**

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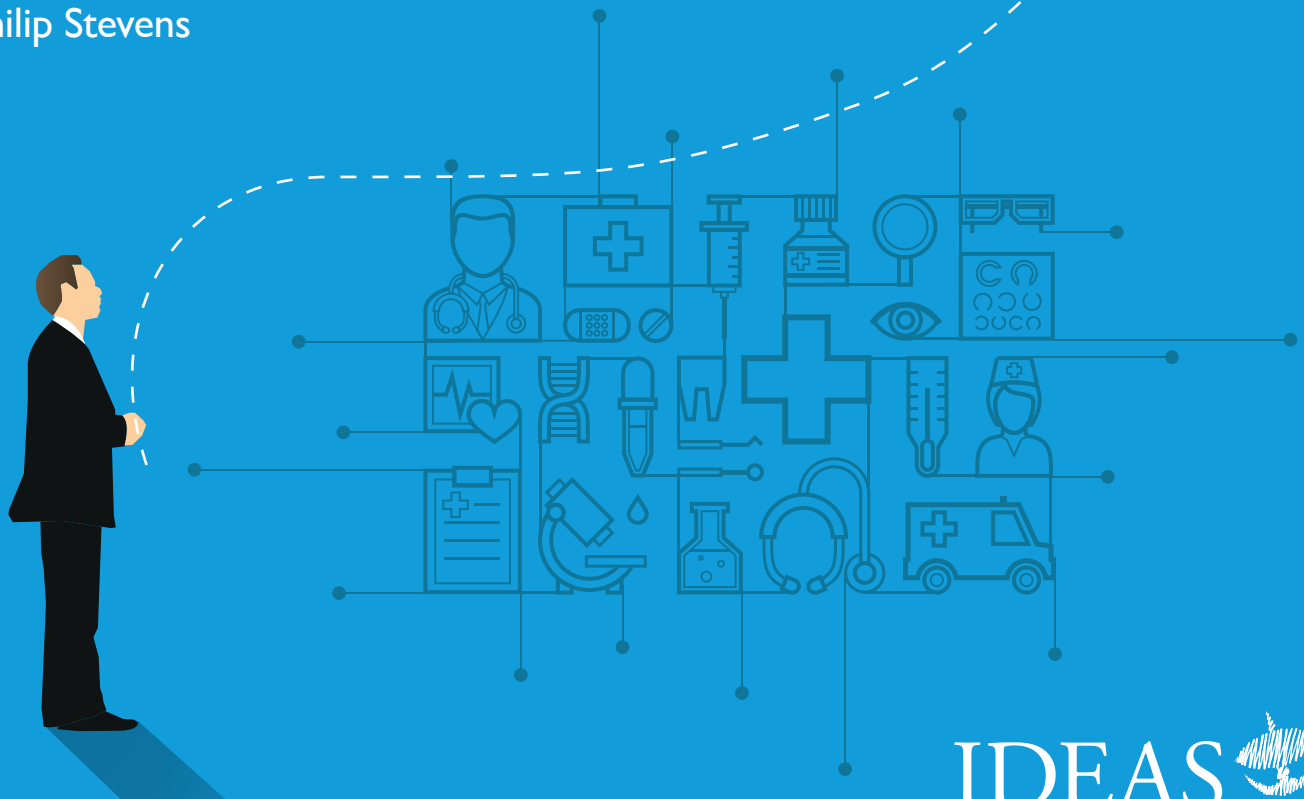

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Executive Summary

This policy brief is a simplified version of the Geneva Network's working paper titled "Are Free Trade Agreements bad for health? Quantifying the impact of FTAs on health outcomes". The paper was originally published in August 2015 and can be found online at www.geneva-network.com.

Using statistical methods, the paper argues that free trade agreements (FTAs) have modest positive impacts on health outcomes in the countries that concluded them (measured in terms of infant mortality, life expectancy and deaths from non-communicable diseases).

Moreover, the analysis shows:

a) that FTAs have not resulted in increases in out of pocket spending
b) a very clear association between trade openness (measured by ratio of trade to GDP) and improved health outcomes.

The paper therefore suggests that FTAs should be viewed in terms of their wider socio-economic impacts, rather than through the narrow lens of chapter-specific critiques.

Introduction

The Trans-Pacific Partnership Agreement (TPPA) has been widely criticised in Malaysia over fears that it would raise medicine prices and restrict the poor's access to healthcare. Critics - including respected parliamentarians and prominent economists - often blame this on the inclusion of intellectual property provisions that go beyond the minimum standards laid out by the World Trade Organization's Trade-Related Aspects of Intellectual Property Rights Agreement (commonly referred to as TRIPS-plus). The TPPA however, is not the first FTA with TRIPS-plus provisions. At least 11 other bilateral agreements[1] have been signed with similar provisions.

Existing literature on healthcare and FTAs mostly start from the assumption that FTAs containing TRIPS-plus provisions will certainly worsen health outcomes, as a result of their potential to raise medicine prices.

This paper shows such fears to be overblown, as **FTAs containing TRIPS-plus provisions have not negatively impacted health outcomes in the countries that concluded them**. Furthermore, we find that FTAs have not resulted in increases in out of pocket spending.

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[1] For more information see http://applications.emro.who.int/dsaf/dsa1081.pdf

1 TRIPS-plus and Health

The ratification in 1995 of the TRIPS Agreement, administered by the World Trade Organization (WTO), introduced intellectual property (IP) into the international trading system for the first time, and set out minimum standards of IP protection that all WTO member states have to afford to creators from other WTO member states.

In 2015, the TRIPS agreement marked its twentieth anniversary. Over this period, technology has progressed, patterns of trade have changed and many developing countries have become far wealthier. Given that TRIPS requires a minimum standard of IP protection, certain developed countries, notably the United States of America and member states of the European Union and European Free Trade Association (EFTA), are increasingly using bilateral and regional FTAs to secure higher standards of intellectual property protection and enforcement amongst their trading partners.

Almost all of these FTAs require partner countries to accede to a range of World Intellectual Property (WIPO) conventions and treaties, for example the Patent Cooperation Treaty, the Patent Law Treaty and the Trademark Law Treaty. In addition, many FTAs contain IP provisions around patents, regulatory test data protection and enforcement that are particularly relevant to the biopharmaceutical sector and go beyond the standards required by TRIPS. As these IP provisions impact trade in, and marketing of, biopharmaceutical products, FTAs have the potential to impact on health.

TRIPS
• Set the standards for IP protection across the world • Came into force on 1st of Januart 1995 • Binding to all members of the World Trade Organisation (WTO)
TRIPS-plus
• Sets higher and tougher IP protection standards than the TRIPS agreement • Common examples include: 1. Extending the term of patent protection longer than the 20 year minimum 2. Introducing provisions that limit the use of compulsory licensing that might restrict generic competition.

2 What does the literature say about FTAs and Health?

The literature on FTAs and health falls into two main categories. The most prolific are theoretical studies which make the a priori assumption that FTAs containing TRIPS-plus IP provisions will certainly worsen health outcomes, as a result of their potential to raise medicine prices. The second category, of which there are only a small handful of examples, attempts to quantify the impact of FTAs on the pharmaceutical sectors of partner countries, in particular the impact on drug prices.

With regards to the theoretical literature, regional and bilateral FTAs are almost uniformly condemned as threatening access to medicines by delaying generic entry and raising drug prices (Smith et al, 2009; Lindstrom, 2010). The TPPA comes in for especial criticism, in particular its potential to undermine existing flexibilities enshrined within the TRIPS Agreement, delaying the introduction of generic drugs and imposing restrictions on the operation of domestic pharmaceutical programmes that would undermine the regulation of drug prices (Gleeson & Friel, 2013; Baker, 2013; Logfren, 2011; Flynn et al, 2012; Trachtman, 2011). All the authors in these studies make recommendations for negotiating countries to maintain their intellectual property rights (IPR) safeguards or reject the TPPA's Intellectual Property Rights (IPR) chapter in order to protect access to medicines.

In the more empirical category of studies, civil society group Oxfam released an unreviewed briefing paper in 2007 claiming that medicine prices in Jordan had increased at a rate considerably higher than in neighbouring Egypt following the conclusion of an FTA with the US (Oxfam, 2007).

> *"The most prolific are theoretical studies which make the a priori assumption that FTAs containing TRIPSplus IP provisions will certainly worsen healthoutcomes, as a result of their potential to raise medicine prices."*

However, this study did not factor in a significant devaluation of the Egyptian currency that was occurring at the time, which makes such comparisons of limited use (Ryan,2007).

The above empirical studies look at the IPR chapters of FTA in isolation and consider input measures such as the price of medicines and their constituent active ingredients. They do not capture the wider impact of FTAs on human welfare, including indicators such as life expectancy and infant mortality, assuming instead that rises in prices automatically undermines population health.

While not looking specifically at FTAs, a handful of studies have attempted to quantify the impact of trade openness on health indicators, with Owen & Wu (2007), Stevens et al (2013) and Herzer (2014) finding that open trade is associated with better population health particularly in lower-income countries.

In order to better understand the impact of FTAs on public health, there is a need to build on these studies. This will provide an alternative and more meaningful framework through which to judge the desirability of entering into such agreements, particularly in light of the fact that FTAs affect many sectors other than pharmaceuticals, and will therefore have an impact on major determinants of health such as economic growth and individual incomes.

3 FTAs do not negatively impact health: Research Questions

In order to demonstrate how FTAs do not negatively impact health, the paper investigates two key questions:

(1) The impact of FTAs and trade openness on health outcomes. We define health outcomes to encompass infant mortality (less than 1 per 1000 births), infant mortality (less than 5 per 1000 live births), life expectancy of males and females and the total number of deaths due to non-communicable diseases (NCDs). NCDs include deaths due to cardiovascular diseases, chronic respiratory diseases, cancer and diabetes.

(2) The legitimacy of claims that FTAs and trade openness undermine access to healthcare by driving up health costs. Additional control variables in this model are public health expenditure (as % of GDP), out-of-pocket health expenditure (as % of private health expenditure), proportion of the population below 15 years and above 64 years, trade openness and per capita GDP.

The study uses data from the World Development Indicator 2015 online database and 2014 WHO country profiles.

> *"In order to demonstrate how FTAs do not negatively impact health, the paper investigates (1) The impact of FTAs on trade openess and health outcome, and; (2) The legitimacy of claims that FTAs and trade openess undermine access to healthcare by driving up health cost."*

The data covers the period 1990-2012 and includes countries that have a free trade agreement either with US or EU/EFTA. The countries included in the analysis are: Australia, Bahrain, Chile, Canada, Morocco, Jordan, Oman, Singapore, Mexico, Egypt, Lebanon, Tunisia and Albania.

Table 1

Country	Date of FTA
Albania-EFTA	2010
Australia-United States	January 2005
Bahrain-United States	January 2006
Canada (included as NAFTA)	1994
Chile-United States	January 2004
Jordan-United States	October 2000
Lebanon-EFTA	2007
Mexico (included as NAFTA)	1994
Morocco-United States	January 2006
Oman-United States	January 2009
Panama-United States	October 2012
Singapore-United States	January 2004
Tunisia-EFTA	2005

For more information see http://applications.emro.who.int/dsaf/dsa1081.pdf

4 Results

4.1 Impact of FTAs and health outcomes

The statistical analysis indicate that:

01

The relationship between the existence of an FTA and infant mortality is found to be statistically significant. The presence of an FTA leads to a 0.157% decrease in infant mortality (with a one year lagged effect). That means for a country in 2016 with an FTA in 2016, mortality will decrease by 0.157% in 2017- and over a 5 year period, the impact will be greater.

02

The impact of FTAs on life expectancy and mortality due to non-communicable diseases are found to be statistically insignificant. This means that the presence of an FTA does not affect the population's life expectancy.

03

The impact of trade openness on all health outcomes (mortality due to non-communicable diseases, life expectancy and infant mortality) **is found to be positive and statistically significant.** This implies that countries that engage in freer trade have better overall health outcomes.

04

As expected, an increase in GDP per capita is found to have a significant positive effect on infant mortality and life expectancy. Wealthier populations have better overall health outcomes since they have greater purchasing power to afford medical care as well as better medicines, sanitation and nutrition.

4.2 Impact of FTAs on health expenditure

As mentioned earlier, one of the major criticisms against FTAs is that their IP provisions have the potential to make healthcare more expensive and thus less accessible.

The statistical analysis provides some answers to this criticism:

01

There is a slight positive relationship between trade openness with health expenditure, but this correlation is found to be statistically insignificant. In other words, trade openness does not have a significant effect on the cost of the health care.

02

The impact of FTAs on health expenditure is found to be positive and statistically significant. However, this impact is much smaller in relation to the other statistically significant variables such as per capita GDP, public health expenditure and proportion of population above 64 years. This implies that other factors account for much of the increase in health expenditure.

03

Further, we cannot rule out the possibility that much or all of the increase in the cost of health expenditure may be due to inflation. This implies that FTAs do not impose a significant financial burden on individuals accessing healthcare.

04

Out of pocket payment is also found to be statistically insignificant. This implies that individuals pay, out of their own pockets, approximately the same amount for healthcare regardless of whether their country enters into an FTA.

Conclusion

Statistical analysis shows that FTAs have modest positive impacts on health outcomes in the countries that have entered into them. These findings suggest that the IP components of FTAs have not historically undermined public health, a finding of particular relevance to policymakers in countries considering entering into a bilateral or regional FTA containing IP provisions.

The paper also finds that trade openness (ratio of trade to GDP) is more clearly associated with improved health outcomes. As the aim of FTAs is to increase overall levels of trade between signatory countries, they can be said to contribute to trade openness. The contribution FTAs make to overall trade openness could therefore be seen as an important mechanism for improving human welfare, in particular health. FTAs should therefore be viewed in terms of their wider socio-economic impacts, rather than through the narrow lens of chapter-specific critiques.

This study indicates that FTAs are associated with increases in overall health expenditures, albeit weakly. Given this weak relationship, it may be possible that the increase is unrelated to the FTA, but rather be attributable to factors such as inflation, demographic changes or changes in political spending priorities.

However, the paper finds no link between the existence of an FTA and increased out-of-pocket expenditures on health. This is a particularly important finding for developing countries considering entering into an FTA, as large proportions of the population in such countries continue to pay out of pocket for healthcare.

The trade landscape is evolving, with new FTAs constantly on the horizon. Although the precise nature of future FTAs may vary - with respect to IP provisions - this analysis suggests that if they resemble other trade deals with TRIPS-plus provisions, it is unlikely to have negative impacts on public health. These FTAs could in fact improve health by contributing to greater trade openness amongst its members.

Reference

Baker B, (2013) "Leaked TPP Investment Chapter Presents a Grave Threat to Access to Medicines", HealthGap Global Access Project

Flynn S, Baker B, Kaminski M, Koo J, (2012) "The US proposal for an IP chapter in the Trans Pacific Partnership", American University International Law Review, (28)1: 106-202Gleeson D, Friel S, (2013)"Emerging threats to public health from regional trade agreements," The Lancet (13)60; 312-8

Herzer, D (2014) "The long-run relationship between trade and population health: evidence from five decades", Beiträge zur Jahrestagung des Vereins für Socialpolitik 2014: Evidenzbasierte Wirtschaftspolitik - Session: Development II, No. B01-V1

Lindstrom B, (2010) Scaling back TRIPS-plus: an analysis of intellectual property provisions in trade agreements and implications for Asia and the Pacific. NYU J. Int. Law Polit. 42:917–80Löfgren H, (2011) "The Trans-Pacific Partnership Agreement: a threat to affordable medicines and public health", Southern Med Review 4;2:49-50

Owen A & Wu S, (2007) "Is trade good for your health?" Review of International Economics, 15(4), 660-682.

Pesaran, M.H. (2007) A simple panel unit root test in the presence of cross-section dependence. Journal of Applied Econometrics, 22(2), 265-312.

Phillips P, & Hansen B, (1990) Statistical Inference in Instrumental Variables Regression with I(1) Processes. Review of Economic Studies, 57, 99–125.

Ryan M, (2007) "Intellectual Property Reforms, Pharmaceuticals, and Health Competitiveness in Jordan: Misunderstanding and Misinformation from Oxfam International", George Washington University Law School, Creative & Innovative Economy Center

Smith R, Correa C & Oh C, (2009) "Trade, TRIPS, and pharmaceuticals', The Lancet, 373: 684–91

Stevens P, Urbach J, and Wills G, (2013) "Healthy Trade: The Relationship Between Open Trade and Health", Foreign Trade Review, 48(1)

Trachtman, J (2011) "Development Aspects of a Trans-Pacific Partnership", Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1953943

UNDP, UNAIDS (2012) "The Potential Impact of Free Trade Agreements on Public Health", Issue Brief, May 2012.

Xu, K. and Saksena, P(2011) "The Determinants of Health Expenditure: A country level panel data analysis ", Results for Development Institute, WHO Working Paper.WHO (2014), "Non Communicable Diseases Country Profiles 2014" WDI Online (2015) "data.worldbank.org/data-catalog/world-development-indicators", Accessed on July 17-21, 2015.

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