

TRIPS-Plus Implications for Access to Medicines in Developing Countries: Lessons from Jordan–United States Free Trade Agreement

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Since the establishment of the World Trade Organization (WTO) in 1995 and implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) as a result, the United States (US) sought to impose still higher levels of intellectual property rights on developing countries, a phenomenon that is commonly known today as TRIPS-Plus. The Jordan–US FTA, signed in 2001, contains several TRIPS-Plus rules that restrict the poor's access to medicines, and is today touted by US officials and the US Trade Representative (USTR) as a success, and providing a wide range of benefits. These benefits not only include a higher growth rate, but also more specific benefits to the pharmaceutical sector in particular, such as an improved ability to develop generic medicine and engage in new innovative research, as well as increasing the presence of and collaboration with multinational drug makers. This article analyzes in detail the TRIPS-Plus provisions of the Jordan–US FTA. It challenges the claims that the FTA brings general and specific benefits to developing countries, and provides fresh evidence which strongly suggests that benefits from the Jordan–US FTA have been largely exaggerated while the costs underestimated.

Keywords FTA; TRIPS-plus; pharmaceuticals; Jordan

Implemented in 1995 following the creation of the World Trade Organization (WTO), the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was one of the main inventions of the new multinational trade system. Although TRIPS provides a relatively high level of protection to intellectual property rights (IPRs), the United States (US) continued to seek ways and mechanisms to impose higher levels of intellectual property (TRIPS-Plus) on developing countries which evidently restrict the poor's access to cheap medicines. One such mechanism, rapidly growing since the beginning of the twenty-first century, has been bilateral free trade agreements (FTAs) with several developing countries (Oxfam, 2007).¹

In 2001, Jordan became the first Arab country, and the fourth in the world, to enter into an FTA with the US. The Jordan–US FTA incorporated several TRIPS-Plus sets of laws, despite the available empirical evidence which strongly suggests