



Thailand's Policy on Pharmaceutical Licences Puts Long-term Development at Risk

By Edward J Kelly



The Year of the Pig 2007 could go down as the "Year of Missed Opportunities" for Thailand.

Recent meetings between US business interests and the Thai Ministry of Public Health painted a grim picture for the American reaction to Thailand's broad-based imposition of compulsory licences for patented pharmaceutical products. Given the proliferation of free trade agreements (concluded or under negotiation) between the US and various competitors in the region – including Korea, Malaysia and Indonesia – and also considering Vietnam's accession to the WTO, better opportunities are in the pipeline for regional trade relations with the US and Thailand's loss will be its neighbours' collective gain.

The stakes could not be more important. From the standpoint of healthcare, for example, no country can go it alone in protecting its citizens from the effects of new evolving diseases. In order to stay ahead of the evolution of such diseases, more research and innovation is needed. Unfortunately, research and innovation is not free. For medicine to advance, resources have to be directed to the laboratory.

Patents perform an essential role in stimulating the development of essential drugs, including HIV/Aids drugs, by offering incentives for investing in the inexpensive and long-term research and development of new drugs. Without patents, existing life-saving drugs would not have been produced, and new and better drugs that are needed to overcome the problems of resistance related to evolving disease pathogens would not be under development. The question of how to ensure long-term access to new and innovative drugs is often ignored in favour of arguments addressing only short-term, immediate access to existing low-cost drugs.

At the same time, the patent system contributes a disclosure function to society as a whole by accumulating and making available state-of-the-art human knowledge in the fight against diseases.

Thailand is set to lose a significant competitive trade advantage with the US in the months to come because it has been downgraded to Priority Watch List status by the Office of the US Trade Representative and will no longer qualify for the favourable Generalized System of Preferences (GSP) scheme provided to developing countries by the *US Trade Act of 1974*.

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With no FTA and no GSP, Thailand – once poised to be the regional hub for exports to the US and Japan for so many products, and also with aspirations to be a centre for excellence in the life sciences – could be facing a hopeless disadvantage in relation to other Southeast Asian countries that will have free trade agreements and GSP, and which trade in the same categories of goods and services.

It is difficult for observers to distinguish between the dry facts and the emotional [and manufactured] hype surrounding the relationship between patents and pharmaceuticals.

Generally speaking, poverty, not patent policy, does more to inhibit access to essential medicines in the developing world. According to an authoritative treatise by Amir Attaran, a fellow at the Royal Institute of International Affairs, London, patenting for essential medicines is rare in 65 low- and middle-income countries, with a combined population of 4 billion people. Only 17 of 319 products on the World Health Organization's Model List of Essential Medicines are patentable (even so, these are not usually patented).

Objective economic data from various countries (e.g., Jordan, Singapore, Australia) establish that countries that offer vigorous intellectual property protection profit by greatly increasing the amount of foreign investment in the economy. More free trade is better than less free trade; a rising tide lifts all boats. Can Thailand really afford to miss this chance?

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