The United Nations recently adopted Sustainable Development Goals set an ambitious global agenda for the next 15 years. Among the 17 goals and 169 targets is “Target 3.3 By 2030, end the epidemics of AIDS, tuberculosis, malaria and neglected tropical diseases and combat hepatitis, water-borne diseases and other communicable diseases.”

Bolder yet goals to “End AIDS” have also been identified by UNAIDS as a part of the 90 90 90 strategy, including “By 2020, 90% of all people living with HIV will know their HIV status. By 2020, 90% of all people with diagnosed HIV infection will receive sustained antiretroviral therapy. By 2020, 90% of all people receiving antiretroviral therapy will have viral suppression.”

It is clear that these ambitious goals cannot be met without stronger use and application of Trade-Related Aspects of International Property Rights Agreement, or TRIPS flexibilities and equally ambitious commitments on the part of governments and pharmaceutical companies. Further, as these goals are universally applicable across countries of differing levels of income, realizing these targets will necessitate efforts to address the concerns of middle-income countries for whom the financial burden of reaching these goals will remain a significant challenge. Yet, the recent development of regional trade agreements that undermine key mechanisms of TRIPS threaten to undercut these hard-fought successes.

Women living with HIV:

Worldwide, women constitute more than half of all people living with HIV; in fact, for women in their reproductive years (ages 15–49), HIV/AIDS is the leading cause of death. Despite advances in HIV treatment and some successful efforts in utilizing mechanisms such as TRIPS


flexibilities and people women and girls living with HIV worldwide still face significant challenges in achieving universal access to HIV prevention, treatment, care, and support. Persistent challenges such as stock outs and lack of access to second and third treatment lines create concerns regarding treatment resistance and adherence. Emerging issues for women such as cervical and breast cancers for women living with HIV require urgent attention. Research that focuses on the concerns specific to women is largely absent and women remain under represented in clinical trials. 

For women living with HIV stigma and discrimination can lead to human rights violations including substandard healthcare, physical abuse in healthcare settings, forced and coerced sterilization and/or abortion, gender discrimination, and, ultimately, the denial of the right to physical and mental health as guaranteed by the World Health Organization Constitution, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social, and Cultural Rights.

As a global network of women living with HIV, International Community of Women Living with HIV (ICW) are uniquely situated to provide useful insight and expertise to global, regional, and national development processes and, critically, to provide effective and tailored technical assistance and longer-term support to grassroots networks of women living with HIV to engage in and influence key decision-making processes.

ICW promotes the universal right of all people living with HIV to access reliable, comprehensive and sustainable care, treatment, and support. Women living with HIV must be able to make informed decisions about their own treatment and care. Stigma, discrimination and other barriers to treatment and care must be eliminated in order to ensure that women living with HIV and other marginalized populations can receive the care they need and are entitled to.

We advocate for end to policies and practices that further marginalize and create barriers to accessing services for women, young women, adolescents and girls living with HIV. Importantly, we advocate the development of research and clinical trials that address the key overlooked aspects of living with HIV that uniquely impact women. We advocate strong engagement and provision of technical assistance to civil society groups, particularly networks of women living with HIV to engage in efforts to secure access to medicines through mechanisms such as TRIPS.

TRIPS, the Trans-Pacific Partnership, and Women Living with HIV

The Trade-Related Aspects of International Property Rights Agreement, or TRIPS, is a multilateral agreement on intellectual property. Critical for people living with HIV, TRIPS elaborates minimum standards for intellectual property regulation; encompassed in this regulation are patents on medicines, including many ARVs. Additionally, the Doha Declaration on the TRIPS Agreement, a clarifying statement about the scope of TRIPS, states that TRIPS should be flexible to expand access for medicine to all, including providing opportunities for low-and middle-income countries to expand access to low-cost, quality pharmaceutical products. Cases of use of the Doha Declaration are numerous; between 2001 and 2014, the use of TRIPS flexibilities was widespread.

However, “in recent years, [there is increasing pressure] for developing countries to adopt clauses on intellectual property aimed at limiting the use of TRIPS flexibilities that have so far allowed countries to restrict patenting of life-saving medicines and produce or import them in generic forms.” Known as “TRIPS-plus provisions,” these measures require countries to adapt their laws to provide intellectual property protection and enforcement far in excess of what they agreed to under the TRIPS agreement. Furthermore, the number of bilateral and regional trade negotiations has been increasing. Many of these negotiations involve both developed and developing countries, and the ensuing free trade agreements often contain extensive provisions on the protection of intellectual property rights. These provisions usually impose a higher level of protection for intellectual property rights than is required under TRIPS and therefore the TRIPS-plus provisions reduce the affordability of and access to medicine.

These concerns are particularly alarming with regard to the recent negotiation of the Trans-Pacific Partnership Agreement (TPPA), which has been touted as a “model” for modern regional trade agreements—implying that similar provisions are likely to appear in future trade agreements involving different countries. In the TPPA negotiations, the United States has proposed expanded patent protections that will likely impact the affordability of medicines in TPPA partners. This includes antiretroviral (ARV) medicines used in the

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6 Overview: the TRIPS Agreement, World Trade Organization
https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm
7 “The Doha Declaration explained”, World Trade Organization Available at
https://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm
8 “For example, 34 compulsory licences have been issued by 24 countries, she said. Some 48 instances of government use of patents occurred in 34 countries, and 23 least-developed countries used the TRIPS pharmaceutical waiver in 32 instances.” Public Health, Intellectual Property, and TRIPS at 20: Innovation and Access to Medicines; Learning from the Past, Illuminating the Future Panel held at the WTO on 28 October.
Further information available at: http://www.ip-watch.org/2015/10/30/panellists-price-is-main-barrier-to-medicines-access-in-rich-and-poor-countries/ and
https://www.wto.org/english/tratop_e/trips_e/trilat_symp15_e/trilat_symp15_e.htm
9 Quote from Sarah Zaidi, International Treatment Preparedness Coalition (ITPC).
treatment of HIV/AIDS. Overall, the concern is that the implementation of the provisions proposed in the TPPA proposal, and others like it, will “restrict the adoption of policy options for developing countries to ensure that trade or commercial interests do not hinder the protection of health and human development.”

**Case study: Vietnam and the TPPA**

Vietnam is especially important as it has one of the only potential sources of generic treatments of Hepatitis C. With Vietnam being among the 15 PEPFAR focus countries, the impact of TRIPS-plus regulations on AIDS efforts needs more attention. The US PEPFAR strategy specifically calls for Vietnam to become increasingly self-sufficient in its procurement and purchase of ARVs—which will be nearly impossible under key elements of the proposed TPPA.

According to a recent study and subsequent analysis, “Vietnam has the lowest GDP per capita of the 12 countries participating in the TPPA negotiations. Using the current Vietnamese patent regime . . . the impact of alternative patent regimes on access to ARVs in Vietnam [was examined]. The two other scenarios investigated [were] (1) a patent regime making full use of TRIPS flexibilities, and (2) a regime based on the US proposals in the 2014 leaked draft of the TPPA intellectual property chapter.

Using World Health Organization (WHO) treatment guidelines, [the study] identified the most commonly used chemical entities and combinations used in the treatment of HIV. [The study] also examined patent data sets to discover patents that had been registered for these medicines and used information from examination of these patents to identify which might be granted under [the two aforementioned] alternative patent regimes. [The study] then drew on the empirical literature to estimate prices under the three patent scenarios. [The results of the study indicated that] 82% of the HIV population eligible for treatment would receive ARVs under a full TRIPS flexibility scenario, while only 30% of Vietnam's eligible HIV patients would have access to ARVs under the TPPA proposals – more than halving the proportion treated compared to the current 68% receiving treatment. Similar price impacts can be expected for other countries participating in the TPPA, though these are less economically vulnerable than Vietnam.”

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TPPA countries include Singapore, Brunei, New Zealand, Chile, US, Australia, Peru, Vietnam, Malaysia, Mexico, Canada, and Japan.\[11\] Additional examples of TRIPS-plus provisions appearing in trade agreements include the Dominican Republic-Central America FTA (DR-CAFTA) and the US-Jordan free trade agreement.

Much of the research available currently on TRIPS and its impact on people living with HIV is outdated and does not reflect current issues or current regional trade agreements such as the TPPA. More specifically, available research does not examine the impact of TRIPS and the TPPA on women and girls living with HIV. As women are often a vulnerable population due to structural inequality, poverty, and decreased access to treatment, fair trade agreements reducing access to medicine to treat HIV and AIDS could cost them their lives.

**TRIPS, the TPPA, and the Era of Sustainable Development Goals**

Global leaders joined together at the United Nations summit for the adoption of a post-2015 development agenda entitled Transforming Our World: The 2030 Agenda for Sustainable Development (2030 Agenda). The document strives for “a world of universal respect for human rights and human dignity through the rule of law, justice, equality and non-discrimination” and requires governments worldwide to commit to “work for a significant increase in investments to close the gender gaps and strengthen support for institutions in relation to gender equality and the empowerment of women at the global, regional and national levels” with the goal that “all forms of discrimination and violence against women and girls will be eliminated.”\[12\] Critical to women living with HIV, the document articulates a goal to “Ensure Healthy Lives and Promote Well-Being for All at All Ages” which includes “universal access to sexual and reproductive health-care services, including family planning, information, education, and the integration of reproductive health into national strategies and programmes,” and to end the AIDS epidemic by 2030.\[13\] **It will be nearly impossible to meet these universal goals with reduced TRIPS flexibility and with regional, restrictive trade agreements such as the TPPA in place.**

**Call to Action**

It is imperative that we implement interventions to increase access to medicines for women and girls living with HIV by:

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\[13\] Id.
• Increasing the transparency around partnership agreement formation processes, and specific strategies for the inclusion of civil society and women living with HIV in the processes;
• Supporting stronger engagement and provision of technical assistance to civil society groups, particularly networks of women living with HIV, to engage in efforts to secure access to medicines -particularly to raise awareness around the potential impacts of certain TPPA provisions, lobbying governments to understand the dangers of the TPPA and partnerships like it for women living with HIV, and to engage in key TRIPS mechanisms such as pre-grant and post-grant patent oppositions and patent revocation provisions;
• Researching the effects of TRIPS and the TPPA on women and girls living with HIV globally;
• Researching the contributions and possible effects of TRIPS and the TPPA on the Sustainable Development Goals, specifically Goal 3 and Goal 5;

NOTHING FOR US WITHOUT US.

For more information please visit: www.iamicw.org

The International Community of Women Living with HIV, the first and only global network by and for women and girls living with HIV, has worked for over 20 years to address and support the challenges of, as well as collectively celebrate, all self-identifying women and girls living with HIV throughout the world.