

What will the TPP mean for nutrition-related health?

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Trans Pacific Partnership: Impact on Thailand's Economy, Society and
Health System

Bangkok, 10 August 2016

Overview

- Existing evidence about trade agreements and nutrition
- TPP and nutrition – concerns that have been raised
- Final TPP outcomes: specific TPP chapters
 - Investment
 - Technical Barriers to Trade (TBT)
 - Cross-border trade in services
 - National treatment and market access for goods
 - Regulatory Coherence



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Trade and nutrition

- 3 changes to food systems (Friel et al, 2013)
 - Increased food related trade and foreign direct investment
 - Increased penetration of transnational food companies
 - Intensified advertising

➔ Shifts towards Western diets

- Examples:
 - Mexico (NAFTA)
 - Central America (CAFTA)
 - Pacific Islands



Image: Pixabay

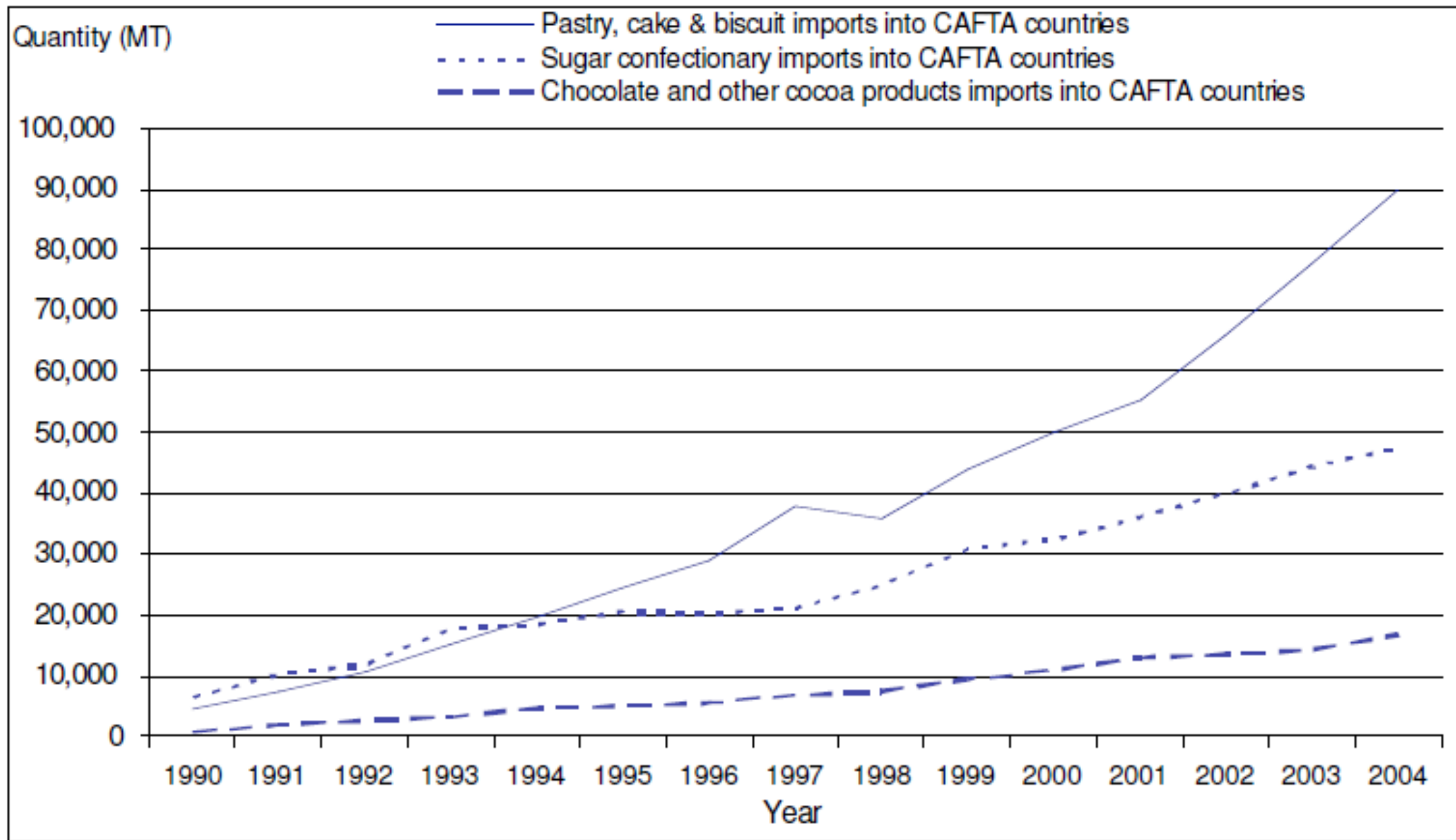


Figure 9
Pastry, biscuit and confectionary imports into Central America, 1990–2004. Source [14].

Source: Thow & Hawkes
 (2009)

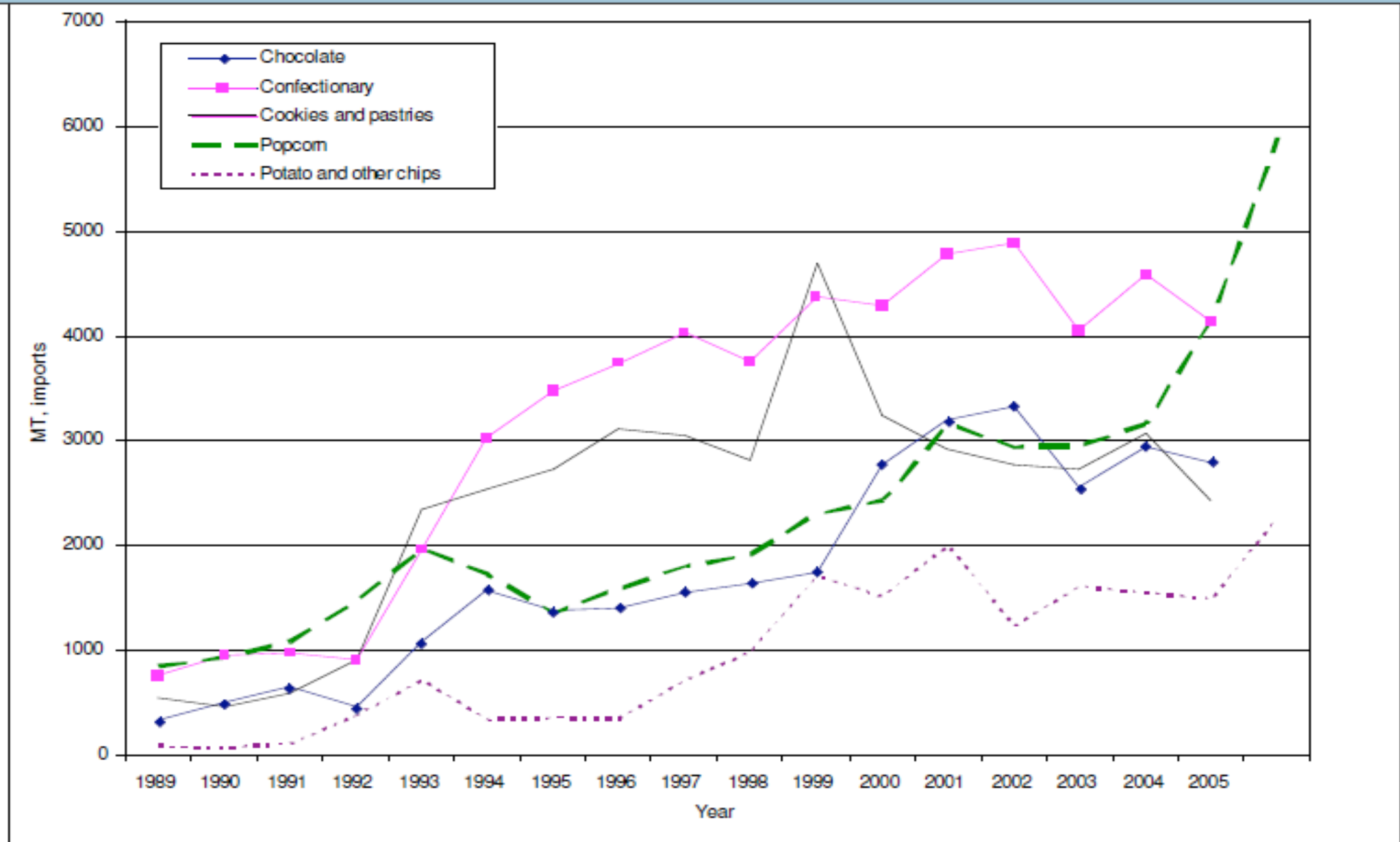


Figure 10
Snack imports from the United States into Central America, 1989–2006. Source [14].

Source: Thow & Hawkes
 (2009)

Effects of trade agreements on nutrition

- Limited evidence to date
 - Quantitative studies linking trade agreements to changes in consumption of sugar-sweetened beverages (SSBs)
 - Case studies of effects on governments' ability to prevent and manage diet-related disease



Image: Pixabay

Quantitative studies: trade agreements and SSB consumption

- Stuckler et al (2012): Low and middle income countries with an FTA with the US had approx. 63.4% higher level of consumption of soft drinks per capita than those without US FTAs
- Schram et al (2015): sales of SSBs accelerated in Vietnam after accession to the WTO (faster than control country)
- Baker et al (2016): increased FDI in Peru after US-Peru FTA associated with a sustained increase in soft-drink production



Image: Pixabay

Case studies

- Samoa's ban on turkey tail imports
 - Removed in 2013 as a condition of WTO accession
- Vietnam's plan to introduce an excise tax on carbonated soft drinks
 - Withdrawn in 2014 after American Chamber of Commerce claimed it could violate Vietnam's trade agreements and erode investor confidence
- Thailand's plan for traffic light nutrition labelling on snack foods
 - Replaced with "Should consume less, and exercise for a better health" monochrome label following US expressing concern at WTO Committee on Technical Barriers to Trade, 2007

TPP, food and nutrition: concerns raised during negotiations

Thow et al (2015): TPP likely to affect capacity to implement the WHO Global Action Plan for NCDs through 5 pathways:

- 1) Increased stakeholder input into policy making
- 2) Reduced range of possible interventions to discourage consumption of unhealthy foods, or ability to implement them
- 3) Reduced capacity to implement policies that differentiate between similar products, or give preference to healthier food options
- 4) Restrictions on the ability to use technical standards that can act as barriers to trade
- 5) Reduced revenue for public education campaigns in low & middle income countries

Investment chapter

- **Issues**

- Broad definition of investment
- Expansive set of investor rights
- Investor-state dispute settlement process
- Exceptions do not rule out cases over food and nutrition policy (no carve-out)

- **Implications for nutrition**

- Large number of transnational food companies headquartered in the US
- Processed food TNCs increasingly adopting strategies of Big Tobacco
- Potential for regulatory chill



Image: Pixabay

Technical Barriers to Trade Chapter (TBT)

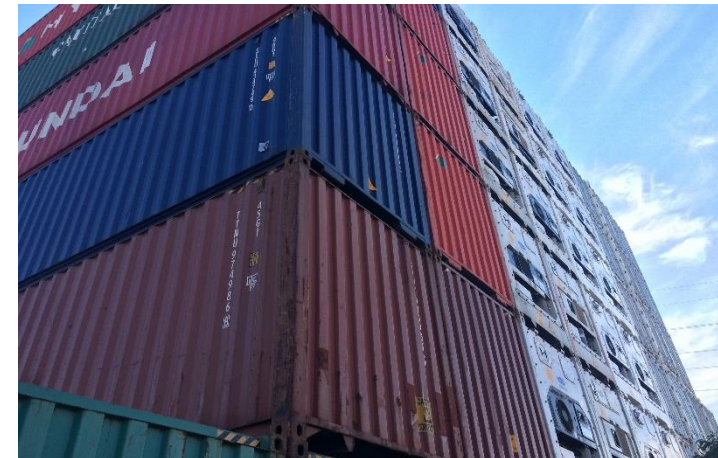
- Issues and implications (1)

- Inadequate protection of policy space:

Nothing in this chapter shall prevent a party from adopting or maintaining technical regulations or standards in accordance with its rights and obligations under this Agreement, the TBT Agreement and any other relevant international obligations (Art 8.3.6)

- Cooperation to ensure that new international standards do not create “unnecessary obstacles to international trade”

The Parties shall cooperate with each other, when feasible and appropriate, to ensure that international standards, guides and recommendations that are likely to become a basis for technical regulations and conformity assessment procedures do not create unnecessary obstacles to international trade. (Art 8.5.3)



Technical Barriers to Trade Chapter (TBT)

- Issues and implications (2)

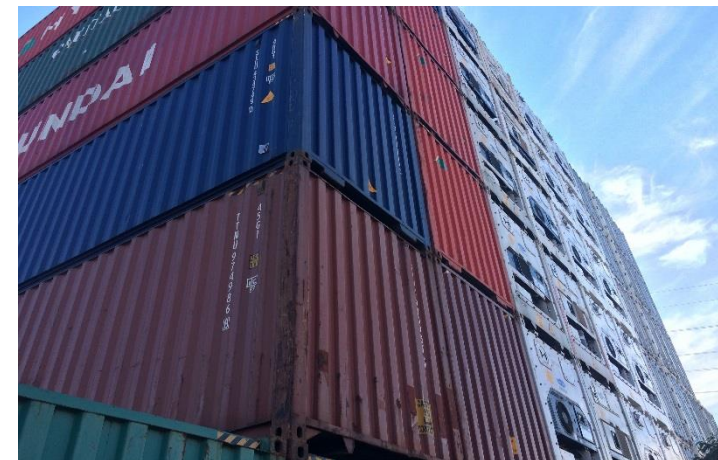
- “persons of the other Parties” able to participate in development of regulations & standards; Parties to encourage NGOs to do same

1. Each Party shall allow persons of another Party to participate in the development of technical regulations, standards and conformity assessment procedures by its central government bodies³ on terms no less favourable than those that it accords to its own persons. (Art 8.7.1)

2. Each Party is encouraged to consider methods to provide additional transparency in the development of technical regulations, standards and conformity assessment procedures, including through the use of electronic tools and public outreach or consultations. (Art 8.7.2)

3. If appropriate, each Party shall encourage non-governmental bodies in its territory to observe the obligations in paragraphs 1 and 2. (Art 8.7.3)

- Requirement to allow time for another Party/interested person of another Party to comment
 - potential for delay (8.7.10, 8.7.11)



Technical Barriers to Trade Chapter (TBT)

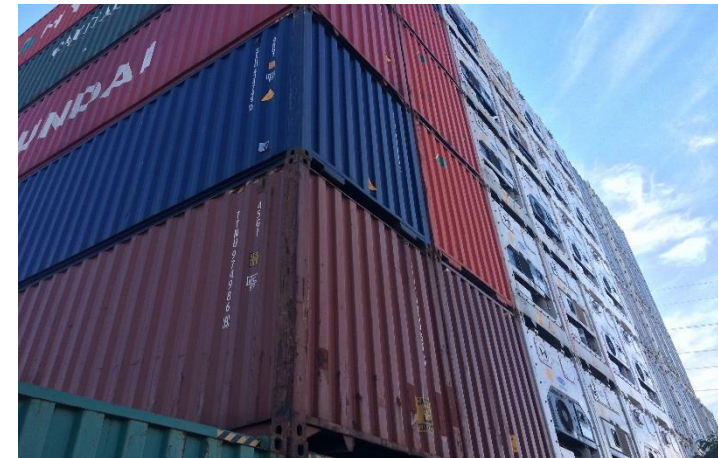
- Issues and implications (2)

- Annex 8-F (Proprietary formulas) may make it difficult for governments to acquire information on proprietary formulas

3. When gathering information relating to proprietary formulas in the preparation, adoption and application of technical regulations and standards, each Party shall:

*(a) ensure that its information requirements are **limited to what is necessary to achieve its legitimate objective**; and*

*(b) ensure that the **confidentiality of information** about products originating in the territory of another Party arising from, or supplied in connection with, the preparation, adoption, and application of technical regulations and standards, is respected in the same way as for domestic products and in a manner that protects legitimate commercial interests.*



Cross-border trade in services

- Covers production, sales, distribution, marketing etc.
- Negative list: everything is covered except for sectors/services listed as NCMs
- Binding on regional level of government as well as central
- National Treatment

Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords, in like circumstances, to its own services and service suppliers. (Art 10.3.1)
- Most-Favoured-Nation Treatment

Each Party shall accord to services and service suppliers of another Party treatment no less favourable than that it accords, in like circumstances, to services and service suppliers of any other Party or a non-Party. (Art 10.4)
- Places restrictions on ability to regulate services
 - No limits/quotas on number of service suppliers, value of service transactions, number of services operations, quantity of service output

National Treatment and Market Access for Goods

- National treatment
 - May make it difficult to discriminate between 'like' foods (where one is less healthy than the other)
- Market access
 - Reduction/removal of tariffs on processed foods may drive increased consumption
 - Generally, tariffs cannot be raised on products from TPP countries
 - Generally, countries cannot adopt or maintain import or export restrictions

Regulatory Coherence

- Not enforceable, but:
- May be used to pressure countries to use more industry-favourable forms of regulation (e.g. self-regulation)
- Financial and administrative burden for LMICs that could deter governments from developing new public health measures (requirements for coordination, consultation, regulatory impact assessments)
- Opportunities for private actor engagement

The Committee shall establish appropriate mechanisms to provide continuing opportunities for interested persons of the Parties to provide input on matters relevant to enhancing regulatory coherence. (Art 25.8)

Conclusions

- Opportunities for transnational food companies to seek compensation for policies that harm their investments (ISDS)
 - Potential for expensive litigation and regulatory chill
- Increased opportunities for industry stakeholders in policy making (TBT, reg coherence)
- Parties to cooperate to ensure international standards to prioritise trade-compliance
- Difficult for countries to require information on proprietary formulas
- Restrictions on ability to regulate services (e.g. marketing)
- Tariff reductions may increase consumption of processed foods
- Administrative burden associated with new regulations

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