



**UNCTAD'S WORK ON  
TECHNOLOGY TRANSFER AND DEVELOPING  
COUNTRIES**

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## The United Nations Conference on Trade and Development (UNCTAD)

- Focal point within the United Nations for the integrated treatment of trade, development and interrelated issues in the areas of finance, technology, and investment
- Promote the integration of developing countries into the world economy
- Three pillars of work:
  - (1) intergovernmental deliberations
  - (2) research and policy analysis
  - (3) technical cooperation/capacity building



## The United Nations Conference on Trade and Development (UNCTAD)

- Negotiations on a draft International Code of Conduct on the Transfer of Technology took place under UNCTAD auspices between 1976 and 1985
- Not adopted, but its principles influenced how ToT is reflected in international law and policy today
  - Article 66.2 of TRIPS
  - CBD and Nagoya Protocol benefits
  - WHO's GSPoA on Public Health, Innovation and IP

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## UNCTAD Current Mandates

- **Paragraph 65j of the 2012 Doha Ministerial Mandate**
- **Agreed Recommendation 9c, 2005 Commission on Investment, Technology and related Financial Issues**
- **2008 Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property**
- **Recommendation 40 of the 2007 WIPO Development Agenda**

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## Comments on WIPO DA ToT Project

- **Good and welcome initiative**
- **But need to remind ourselves that IP is not the only driver of ToT**
- **ToT may be encouraged by policies other than IP, such as:**
  - **Health regulations**
  - **FDI-related performance requirements**
  - **Tax incentives, etc.**

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## Health Regulations - Indonesia (1)

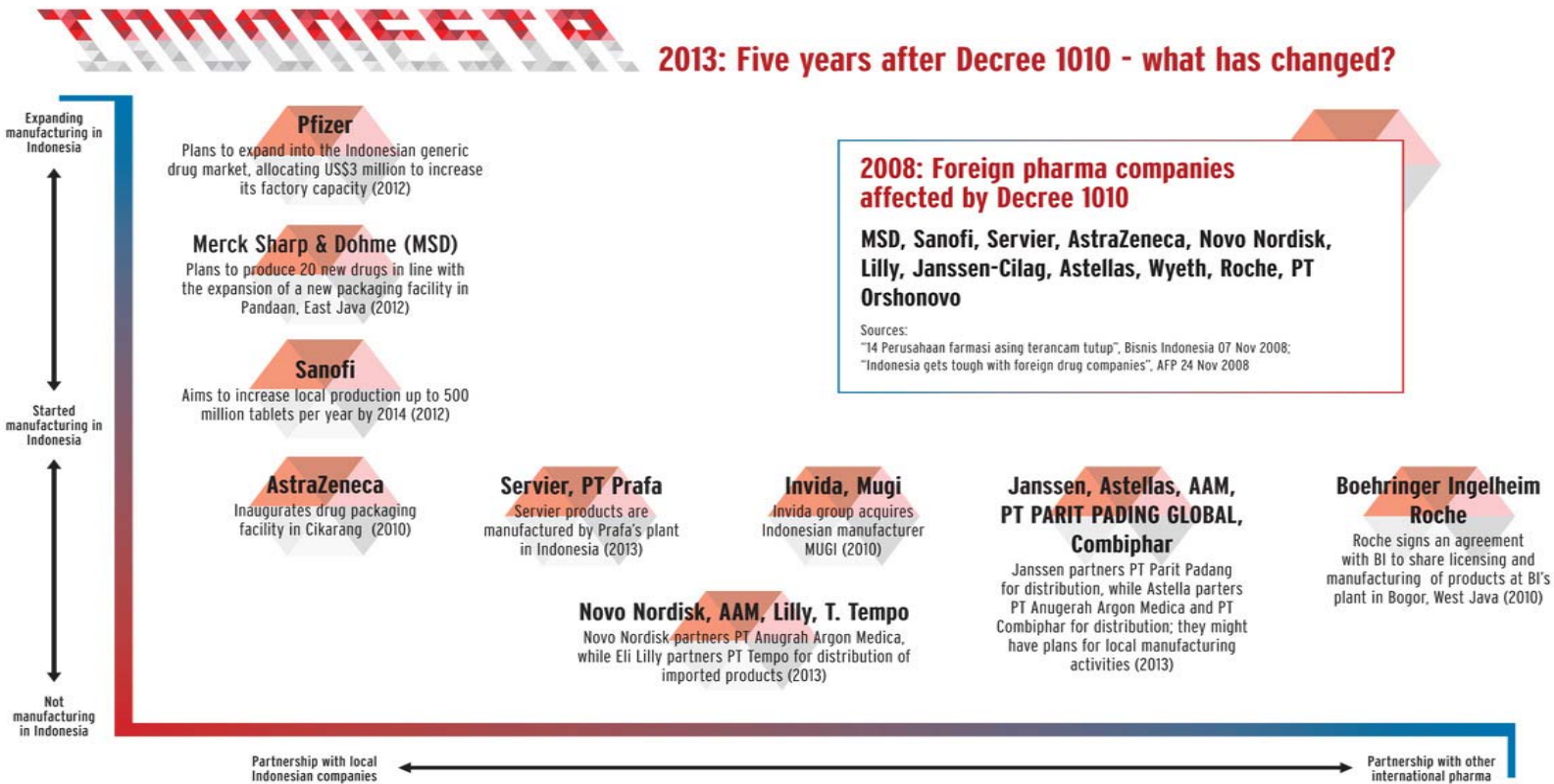
- Each medicine needs authorization from a drug regulatory body before its marketing to the public is allowed
- Ministry of Health Decree 1010 (2008) requires foreign pharmaceutical companies doing business in Indonesia either to manufacture locally or form partnerships with local manufacturing companies in order to register their own drugs
- Products still under patent are exempted, but all pharmaceutical products that are five years past patent expiration have to be locally manufactured, necessitating technology transfer
- Eliminated the permit for small local wholesalers to register imported pharmaceutical products

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## Health Regulations - Indonesia (2)

- When the ruling was announced in 2008, 13 out of the 29 international pharmaceutical firms in Indonesia were affected as they were selling their products in the country without having production facilities
- Aim is to encourage local manufacture in Indonesia and related technology transfer by Big Pharma and tie-ups with large local firms with Big Pharma
  - Since the 2008 decree, PT Pfizer Indonesia, PT MSD Indonesia and PT Sanofi-Aventis Group Indonesia started to expand manufacturing operations in Indonesia

# Health Regulations - Indonesia (3)



\* Not included in the 2013 analysis are: PT Wyeth Indonesia (now under PT Pfizer Indonesia), PT Sterling (now under PT GSK Indonesia), PT Orshonovo (no information available)

Source: Deallus Consulting (2013)





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## Investment - Performance Requirements

- Performance requirements are stipulations imposed on foreign affiliates to act in ways considered beneficial for the host economy; considered a way to induce TNCs to do more to promote local development
- Some countries have applied performance requirements to induce TNCs to undertake more R&D in their countries; this would take the form of a requirement to condition technology transfer upon the granting of an investment permit
- Difficult to monitor - technology transfer agreements will sometimes need to be registered with a country's investment promotion agency
- Used less frequently now

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## Investment and Taxes - China and India

- China's 2004 industrial policy required the establishment of an R&D centre with an investment of at least 500 million RMB for any new automotive project to be approved
- China also provides for an income tax exemption or deduction on income derived from qualified transfer
- In India, R&D requirements have been imposed on both foreign and local investors to encourage them to set up in-house R&D facilities or to enter into long-term consultancy agreements with local R&D institutions

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Thank You