

主論文の要約

(Abstract of Dissertation)

論文題目 : Politics of Intellectual Property Rights and Access to Affordable Medicines: Problems and Conflicts in Intellectual Property Rights Regime (知的財産と入手可能な価格の医薬品へのアクセスをめぐる政治 –知的財産権レジームにおける問題と紛争–)

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論文内容の要約 :

The first chapter of the dissertation introduces the problematic issues involving intellectual property (IPR) protection and the concerns for countries with limited technological capabilities or low and middle-income countries, especially a problem of medicine patent and medicine price problems. Then two main questions are raised: for the policy-making at the international level how the IPR regime has changed, and how states and other actors respond to the IPR regime. The chapter identifies the methodology of the research, scope and limitations, and organization of the chapters.

In chapter two, relevant literature works are surveyed. As the research aims to seek IR/IPR analytical tools for the issue, it starts with IP politics studies, international regime studies, then the chapter explores the concept of regime complexes, regime shifting, and forum or venue shopping strategies.

In chapter three, four and five, the first research question is addressed. In examining the changes in the IPR regime, chapter three starts by firstly exploring the background of the IPR protection in history and examining the expansion and internationalization of the rules into the global trade regime today. From the historical review from the fifteenth century to the eighteenth century, the nineteenth century to the current, three significant points are revealed. Three main components that were found crucial in shaping the rules of the global IPR regime under the WTO are also presented in this chapter.

Chapter four then focuses on the contestation and conflicts in the current global IPR regime. This chapter discusses the path of the global IPR regime formation which results in the limiting of policy space of countries participating in international trade under the WTO rules. Events that have manifested tensions between public health goals and respecting the IPRs in connection to

some IPR issues in Thailand's context. Also, the Doha Declaration in 2001 as the change of TRIPS Agreement are discussed in details.

Chapter five then points out the increasing interactions among nations in several areas, the complexity of international regimes. The IPR regime as well demonstrates the complexity of the involved multiple international organizations, international treaties and rules, and actors in the governmental and business sectors. With the emerging trend of the Post-TRIPS era, the recent regional trade talks like Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and Regional Comprehensive Economic Partnership (RCEP) are introduced.

In sum, chapter three to five demonstrate the transformation of IPR rules, and in the post-TRIPS era, changes are also observed. For example, the CPTPP and the RCEP and other bilateral trade deals that states are pursuing, show that multilateralism under the WTO rules is challenged by other ways of talks, such as regional and bilateral trade agreements. IPR protection regime which was transformed from the past is now continuing to be robustly presented into current regional and bilateral trade talks. The more regional and bilateral deals show that nation-states nowadays are tremendously relying their economies on trade and investment. The multilateral approach in global institutions may face more frequent deadlocks or disruption. Increasing regional and bilateral trade deals may lead to more contestation with other non-trade issues and policies.

In Chapter six, the second research question is addressed by examining the empirical case of Thailand's experience in implementing government use of patented HIV/AIDS drugs during 2006–2008. The concepts of regime complexes, regime shifting, and venue or forum shopping, which were previously reviewed in the literature survey part, are used to examine the Thai case. Specific regimes and actors that involved in the Thai case are identified and presented. In examining the case of Thailand, this research presents the four elements as background in the context of Thailand's trade policymaking. The features that shaped the rationale for actors to move to other regimes or forums are; the economic relationship with major power states (in this case the United States), the conduct of economic actors, the compliance with the international IPR regime, and the existing national policy on HIV/AIDS and medicine prices. This chapter also discusses the related Articles in TRIPS Agreement, the Doha Declaration and the Thai Patent Law B.E.2522 (1979) in the experience of Thailand in exercising medicine CLs during 2006–2008.

Two remarks are drawn from the case study. First, the findings from the case study lend support to the needs to be aware of international regime complexes and the use of the political strategy of regime shifting in contemporary trade politics.

Second, the conceptualization of regime shifting and forum shopping helps to reveal some implications for developing countries. This research has added to the existing literature in three ways. First, is about the incentive or the rationale for actors to choose the regime-shifting strategy and the finalized rationale of the actors. Context of international trade policy-making needs to be considered to understand the rationale or the necessity of using regime shifting. Second, is about the process of regime shifting also includes international level and the national

level. It also gives rise to the questions of whether this kind of strategy is mostly on ad hoc or experimental basis or if it can be useful in dealing with frequent conflicts in any highly contentious debate on international regimes. Third, multiple actors collectively participate in regime shifting strategies.

In sum, the complexes of the global IPR regime provide ways for social activists and patients that seek more access to expensive antiretroviral drugs to make their voice heard in public health and human rights policy venues, rather than IPR. However, the outcome of campaigns through various agencies and organizations can be different among countries.

Chapter seven is the concluding chapter. It revisits this research and implies the importance of regime complexes studies. It points out increasing potential, but avoidable, conflicts of norms in WTO law as a part of international law, normative justifications are needed and suggested to be future study. This chapter then summarizes answers to the first and second research question. Changes in the global IPR regime which is discussed in chapter three to five are connected to the transformation and expansion of the future IPR regime. From this medicine CLs dispute case in Thailand, IPR regime complex and the use of political choice of regime shifting in contemporary trade politics are demonstrated through the Thai case. Implications for IR and policy scholars and some recommendations are provided.