



Karel de Gucht
European Commissioner for Trade
European Commission
Directorate General for Trade
Rue de la Loi, 200
1049 Bruxelles- Belgium

Dear Commissioner

We, the undersigned student organisations represented at numerous European Union universities, have felt compelled to write to you given our grave concerns regarding the Free Trade Agreement currently being negotiated with India. As active members of universities, which are an important source of health-care related intellectual property, we urge you not to pursue TRIPS-plus provisions. We urge you to consider the millions of lives that are at risk should you shut the pharmacy to the developing world. Indeed, a recent study published by the Journal of International AIDS Society found that about four million people started treatment between 2003 and 2008, due to largely India's ability to produce low-cost quality medicines [1]. As EU citizens, our trust in the democratic system of governance is being shaken where the fulfilment of human rights appears to be less of a priority than a hope of maintaining economic trade advantages.

The terms of the FTA you are seeking with India will determine the future of access to medicines, and we implore you to consider the consequences of your decision-making.

The provisions we are referring to are those which have been proposed to India in the trade and investment agreement negotiations.. Firstly, we are concerned about patent term extensions through Supplementary Protection Certificates which will delay the entry of generic competition into the market, and extend pharmaceutical companies' price monopoly. Secondly, we are alarmed by the prospect of enforcing data exclusivity provisions which could delay and even prevent the manufacture of generic versions of medicines by requiring that costly clinical trials be unnecessarily repeated. Finally, perhaps of gravest concern are provisions relating to enforcement and border measures which would legalise the confiscation of life-saving generic medicines in transit to developing countries. Our concerns regarding this last point are outlined in more detail in the "Berkeley Declaration on Intellectual Property Enforcement and Access to Medicines"[2] which has been released by a number of civil society organisations, including Universities Allied for Essential Medicines (UAEM) – one of the student organisations who signed this letter.

We are in no doubt that these provisions will have grave consequences where public health in many developing countries depends on India for its generic production of cheap essential drugs: Indian generic producers supply the majority of ARVs in developing countries with Indian-produced generic antiretrovirals (AIDS drugs) comprised 87 per cent of ARV purchase volumes and accounted for 91 per cent of paediatric ARV volumes in 2008 [1]. Indeed, 80% of MSF's antiretrovirals are sourced in India [3]. As such, we simply cannot fathom why the EU as a supporter of the Global fund for AIDS, TB and Malaria would take deliberate action to dramatically increase the cost of managing the AIDS epidemic for those who utilise the fund. Are we now to deny individuals the hope of life-saving treatment by making the management of this disease uneconomical?

As young adults, it is our generation which will bear the consequences of the decisions taken by politicians now. Looking at the EU's commitment to fighting global poverty in the Renewed Sustainable Development Strategy we could be hopeful of a future which is not so vastly unequal. Furthermore, considering the European Parliament's resolution in 2007 to restrict the Trade Commissions mandate to prevent its pursuit of TRIPS-plus provisions, then we might assume that our representatives would not continue to damage access to medicines in this way.

Mr de Gucht, we might even infer confidence from your own personal commitment to preserving free trade in generics in the India-EU FTA as voiced in January 2010. The promise made to us for the future has been that we are part of a political system endeavouring to eliminate health inequalities through access to essential medicines, not create them. Access to basic healthcare is a human right – and access to medicines is an essential component of basic healthcare. Therefore, we think that the solemn declaration taken by EU member countries to uphold human rights principles must extend to situations like pharmaceutical patenting even if a supposed economic advantage over competing markets might be compromised. This must particularly be the case as, in 2007, the European Parliament specifically asked the European Commission not to include TRIPS-plus provisions (including data exclusivity) in FTAs with developing countries [4]. All the more worrying it is for us therefore to hear that the European Commission is extending FTA negotiations to several low-and middle income countries including Brazil, Thailand, and South Africa. In our opinion, it is imperative that the EC remove all TRIPS-plus provisions from these negotiations.

We are now gravely concerned that provisions in the FTA will be pursued regardless of their glaring contradictions with the EU government's past policies and position on promoting access to medicines, and global health. It would be extremely disappointing if the progressive steps taken by this administration might be negated by hasty decisions made during these negotiations with India. As citizens of the EU, as well as members of the most important sources of healthcare-related intellectual property, our universities, we urge you not to dash the hopes and aspirations generated by your promises.

The decisions you make now will have a significant impact on securing global access to essential medicines in the future. We implore you to seek health justice and to cease trading with people's lives.

Yours sincerely,

Universities Allied for Essential Medicines – European Committees (UK, Germany, Norway)

The International Federation of Medical Students' Associations (IFMSA)

Medsin

The StopAIDS Campaign

PharmAware

Friends of Médecins sans Frontières

The Norwegian Medical Students' Association

The Globalisation and Health Initiative (Gandhi)

References:

[1] Waning B, Diedrichsen E, Moon S. A lifeline to treatment: the role of Indian generic manufacturers in supplying antiretroviral medicines to developing countries. J Int AIDS Soc. 2010 Sep 14;13:35.

[2] Berkeley Declaration on Intellectual Property Enforcement and Access to Medicines. Jul 15 2010. Available from: http://www.law.berkeley.edu/files/Berkeley_Declaration.pdf

[3] MSF Campaign for Access to Essential Medicines. Overcoming Challenges: Staving off the Second Wave of the Access Crisis. Available from: http://utw.msfacecess.org/background/overcoming_challenges

[4] The European Parliament. European Parliament resolution of 12 July 2007 on the TRIPS Agreement and access to medicines. 12 Jul 2007. Available from: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2007-0353+0+DOC+XML+V0//EN>