



## What's At Stake with Current Negotiations Over Access To Medicines At The WTO?

In November, 2001, WTO countries signed an agreement, called the Doha Declaration on TRIPS and Public Health, that affirmed countries' rights to override drug company patent rights in the interest of public health and access to medicines for all.

Now the United States is trying to undermine this Declaration, and developing countries are under enormous pressure to accept a bad deal from the United States on a key issue that the WTO left unresolved.

That issue is, how are poor countries in need of affordable, essential generic medicines going to be able to get access to them?

Most poor countries don't have the capacity right now for local production of generic versions of all the medicines they might need. Because they have small pharmaceutical markets, it's not possible for them to reach the scale of production that would result in the deepest price cuts possible.

But in order to get the price cuts from generic competition that come with "compulsory licensing" of medicines--manufacturing a generic version of a patented product without the permission of the patent holder--WTO rules require countries to produce and consume medicines domestically.

But countries that can't make generic medicines domestically need to get the medicines from somewhere.

Getting around this problem--the inability of countries to export generic versions of patented medicines to countries that can't produce them on their own--is a matter that WTO Members were fighting over all last year. It was a matter that the historic WTO declaration on TRIPS and Public Health, signed in Doha in November 2001, directed the WTO to settle.

### What role does the US play in all this?

But there was no agreement last year, and there is still no agreement. That is because the United States, acting on behalf of U.S.-based drug companies, insisted that any solution be limited to medicines for a random list of diseases. Developing countries rejected this so-called "solution" from the United States.

The Doha Declaration is not limited to a pre-set list of diseases. Therefore many countries rightly saw the U.S. position as putting new restrictions on poor countries' rights to get access to generic drugs. Developing countries blocked the U.S. proposal, but the U.S. refused to budge.

George Bush endorsed generic AIDS drugs access in his State of the Union Address on January 28. It is contradictory for the U.S. to support access to affordable medicines for some diseases and not for others. Poor countries have the right to decide on their own what the public health needs of their countries are.

But there were other problems with the deal that was on the table at the WTO last year. This deal also would have disqualified many needy countries from using the solution, simply because they were not poor enough.

Also, instead of being easy and quick to use, the deal would have been so complicated to put into practice, countries would have found it impossible to actually use the so-called "solution."

Finally, the deal would not have covered vaccines and diagnostic tests, even though these are critical public health tools poor people need greater access to.

These and other problems should be corrected in the final agreement--or else the agreement will most likely do more harm than good.

**FOR MORE INFO, CONTACT ASIA RUSSELL: Tel +1 267- 475-2645, Em [asia@healthgap.org](mailto:asia@healthgap.org)**

About Health GAP: We are an organization of U.S.-based AIDS and human rights activists, people living with HIV/AIDS, public health experts, fair trade advocates and concerned individuals who campaign against policies of neglect and avarice that deny treatment to millions and fuel the spread of HIV. We are dedicated to eliminating barriers to global access to affordable life-sustaining medicines for people living with HIV/AIDS as key to a comprehensive strategy to confront and ultimately stop the AIDS pandemic. We believe that the human right to life and to health must prevail over the pharmaceutical industry's excessive profits and expanding patent rights.

### What can I do to help?

This issue will be on the table at the WTO several times during February: at the WTO General Council meeting 10-11 February, the TRIPS Council meeting 18-19 February. Now is a key time to get involved. A bad deal on this issue will have a very negative affect on public health and sustainable access to affordable medicines.

Civil society can educate and pressure national officials who are assigned to this policy issue about the health impact of a bad solution to this problem. Usually the officials people who work in Ministries of Commerce, Ministries of Trade, or Ministries of Finance. You can contact your national government and request more information about who within your government is dealing with this matter.

Up to now, officials from developing countries have mostly been hearing from other negotiators, especially from the United States, and professional lobbyists, from the drug companies, who subject them to tremendous pressure. NGOs concerned about health care have a major stake in this issue, but their voices haven't been heard.

Trade officials need to hear your voice, as well. They need to know that you are monitoring the progress of negotiations, and you want there to be an outcome that supports the interests of the developing world and poor people who have no access to medicines.

The issue of access to medicines is testing whether or not global trade rules can truly work for poor countries. The U.S. is very interested in forcing poor countries into a bad deal, just so they can say they have done something for the developing world.

A bad deal, in this case, would be worse than no deal at all. We must do all we can to urge developing country negotiators to reject any deal that would undercut access to essential medicines.

**For more information and background**, including letters that advocates have sent to trade negotiators, the positions of WTO Member countries, & contact info for more detailed information.

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