

Exports of generic drugs at centre of dispute

* Intellectual property rights versus access to medicine

* EU ready to clarify rules to ensure access

By Jonathan Lynn

GENEVA, May 12 (Reuters) - India and Brazil launched a trade dispute against the European Union and the Netherlands on Wednesday, saying their seizures of generic drugs were hurting healthcare in poor countries and disrupting international trade.

The row turns on one of the most sensitive issues dividing rich and poor nations -- the intellectual property rights of corporations such as makers of pharmaceuticals versus access to affordable medicine for people in developing countries.

India said the repeated seizures were based on allegations of the infringement of intellectual property rights in the country of transit, even though the generic drugs in question were legal in their countries of origin and destination.

"Our first concern is that intellectual property issues are being raised on drug consignments where they are absolutely not merited and the fact that international transit guarantees are being violated," India's ambassador to the World Trade Organization, Ujal Singh Bhatia, told a news conference.

He said the seizures were part of a concerted effort by rich nations to stiffen the current intellectual property regime and claw back special treatment for developing countries.

EU officials, who argue that their checks aim to identify counterfeit medicine rather than stopping people in developing countries from getting treatment, had been hoping to negotiate a way out of the dispute.

EU trade spokesman John Clancy said the European Commission had been discussing the problem with India for months and signalled its intention to modify legislation to clarify rules on medicine in transit.

"The EU remains fully committed to ensuring that people in the world's poorest countries can access affordable medicines," Clancy said in a statement.

Bhatia said India had repeatedly asked the EU and Dutch authorities for a list of seizures so that India could investigate companies making fake drugs.

"Till today we have not received details of even one consignment where there was an allegation of sub-standard medicines," he said.

BLOOD PRESSURE DRUG

The case dates back to the seizure by Dutch customs in December 2008 of a blood pressure drug en route from India to Brazil.

Dutch officials seized a shipment of losartan, the generic name for Merck & Co's <MRK.N> blood pressure drug Cozaar, which was developed jointly by Merck and E I du Pont de Nemours & Co <DD.N>.

The drugs -- enough to treat 300,000 people for one month -- had been exported by India's Dr Reddys Laboratories <REDDY.BO>, which flew them back to India after customs released them.

The Dutch port of Rotterdam is a major transit hub as well as key point of exit and entry for Europe.

India says Dutch customs seized at least 19 consignments of drugs in 2008 and 2009, including treatments for blood pressure, cardiological conditions, HIV AIDS, schizophrenia and dementia. French and German customs also seized drugs.

Brazil's WTO ambassador, Roberto Azevedo, said the case was not limited to Brazil and India. It was the potential for continuing violations not the number of seizures that counted.

"This is a systemic issue. Any seizure from anywhere along those lines of allegations of infringement of intellectual property rights in the country of transit in our view is illegal," he said. "The regulation itself is illegal."

The risk of seizures meant generics producers in developing countries were avoiding shipping goods via Europe, driving up transport costs and so undermining the purpose of using cheap generics, he said.

"The actions by the EU have widespread consequences including the work and the cost of health programmes in the developing countries," he said.

Both India and Brazil requested consultations with the EU and Netherlands on the issue, the first formal step in a WTO dispute, and confirming a threat reported by Reuters in October last year. [ID:nLM697156]

They now have 60 days to try and resolve it, otherwise Brazil and India can ask the WTO to set up a panel of experts to rule whether the European actions breach international trade rules. It is still unclear whether the consultations will run in parallel or be consolidated into a single dispute.

(Additional reporting by Bate Felix in Brussels; Editing by Laura MacInnis and Philippa Fletcher)