

With respect to Intellectual Property Rights

The EU and member states should not misuse bilateral Free Trade and Economic Partnership Agreements to introduce patent rules stricter than those already defined in the TRIPS Agreement in developing countries which extend monopolies and introduce new enforcement measures that limit access to medicines.

The European Commission should stop exerting pressure on governments that attempt to exercise their right under the Doha Declaration to access generic medicines in the interests of public health.

The European Commission should amend current border regulations which have the effect of preventing the transit of affordable generic medicines on the grounds that they do not comply with patent requirements.

The EU should ensure that the Anti-Counterfeiting Trade Agreement (ACTA) does not set a new global standard for intellectual property rules that impedes access to affordable medicines in developing countries, (i.e. by setting the standard for genuine medicines as being equal to those protected by patents and thus effectively labelling all generic medicines as counterfeit) .

The European Commission and Member States should identify and support other measures to improve access to generic medicines in developing countries, including the UNITAID patent pool for HIV and AIDS medicines.

The European Commission and Member States should honour commitments made under the Millennium Development Goals, the Doha Declaration on TRIPS and Public Health, World Health Assembly resolutions and the fully implement the World Health Organisation's Global Strategy and Plan of Action.

When will Africa get access to good quality affordable medicines?



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Procuring good quality affordable medicines for all

The various and demanding aspects of good medicines procurement have been widely documented. Among the most challenging is the integration issues related to quality and the law – ensuring good quality medicine is procured with full consideration given to matters of intellectual property and trade.

**EVERY HUMAN
HAS A RIGHT TO
'WELLBEING'**

**The European Commission's trade
agenda hinders access to medicines**

The patent system and internationally binding protocols such as the Trade Related Intellectual Property Rights (TRIPS) Agreement maintain high prices and protect the profits of Pharmaceutical Companies by prohibiting the production of low-cost copies called generic medicines. African governments cannot afford to pay the high prices that the patent system maintains. As a result millions of Africans cannot access essential life saving drugs and their governments cannot stockpile medicines to deal with pandemics, to fight HIV/Aids or to deal with non-infectious diseases such as hypertension, diabetes and mental health problems.

In an effort to address this life-threatening situation the World Trade Organisation meeting held in Doha in 2001 affirmed a nation's "*sovereign right to take measures to protect public health*" thus supporting the right of States signed up to the TRIPS Agreement to circumvent [patent](#) rights in order to access [essential medicines](#). In essence this declaration put the right to public health before the profits of Pharmaceutical Companies.

Double standards in EU Policies

On the one hand the European Union has worked to improve the availability of affordable medicines in Developing countries through investment, by providing new technology and by combating abuses of the patent system. On the other hand these positive measures are countered by others that seek to protect EU trade. In effect these support the interests of business and the pharmaceutical industry and so contribute to preventing the very accessibility to medicines that other EU measures seek to achieve.

For example some EU bi-lateral Trade agreements have required partners in developing countries to agree to recognise patents long beyond the period expected by the World Trade Organisation.



This in effect could mean that the availability of affordable generic versions of some medicines could be delayed by up to fifteen years. Pressure has also been exerted by the EU to prevent developing countries from exercising their right to access (or produce) generic medicines under the "sovereign right" upheld in the Doha 2001 Declaration.

These and other EU measures not only prevent needed medical treatment, they increase suffering and force governments, development agencies and households to use up scarce resources to pay for expensive patent protected medicines. The measures show a double standard that negate the positive EU efforts to improve public health in developing nations. There is a need for a more coherent EU approach that places human rights and health before trade and profitability.

Same sickness different response

We have an opportunity to lobby the incoming European Commission and member States so that the existing contradictions and double standards come to an end.



AFFJN Recommendations

The EU and its member states should ensure that trade policies and agreements are in line with the EU development objective of enhancing access to healthcare.

Specifically they should exclude measures that strengthen intellectual property rights. In addition essential services such as education, healthcare, water and sanitation must be excluded from trade liberalization commitments and finally the European Commission must be held accountable by member states when it fails to uphold these principles.