

One small step for CAN, one important step for public health protection

19th February 2009



There was some welcome news for public health advocates at the close of the latest round of negotiations on bilateral trade agreements between the European Union (EU) and three of the four Andean Community (CAN) countries that took place on the 9-13th February in Bogota. The highly controversial chapter on intellectual property (IP) proposed by the EU has been revised to reflect the commitments to public health made in the *Doha Declaration on the TRIPS agreement and public health* adopted in 2001 by the members of the World Trade Organization.

A joint HAI Europe and HAI Latin America paper by IP expert, Xavier Seuba, *Health Protection in the New Association Agreement between the Andean Community and the European Community*, was an invaluable tool in achieving this revision, providing CAN negotiators with an in-depth analysis of the IP provisions and their potential consequences for Access to Medicines in the region.

In the European Commission's proposed text, the 2001 Doha Declaration applied only to the article referring to patents, omitting other important IP issues such as data protection, technology transfer and, monitoring and enforcement. This would have drastically reduced the EU's responsibilities to prioritise public health in its treatment of IP and set a dangerous precedent for future agreements between the EU and developing and transitional countries. In the new text the Doha Declaration commitments now apply to the entire IP chapter.

The controversial IP chapter was cited by Bolivian President, Evo Morales, in his letter to the President of the European Commission, José Manuel Barroso, as one of the reasons for Bolivia's withdrawal from negotiations on a trade agreement. And, despite some progress, there are still numerous problems with the IP text that could negatively impact on access to medicines in the other three CAN countries. Inordinately high IP enforcement rights, including jail time for some infringements, have raised concerns all over the region. In an interview for the Colombian daily, *El Tiempo*, the respected Colombian public health advocate, German Holguin, commented, "This level of protection does not even exist in the regulation of the United States or the World Trade Organization, let alone in the CAN countries." Yet, the pursuit of extremely high IP standards continues to be a consistent part of EU trade policy.

An expert meeting at the European Parliament this week revealed deep divisions between the Commission and positions of Andean and European civil society. However, there were promising signs of action as MEP Helmut Markov (GUE/NGL) and MEP Thijs Berman (PES) pledged to "do everything in our limited power to address this issue".

The recent case of the Dutch seizure of generic medicines in transit from India to Brazil was a clear illustration of how over-zealous IP enforcement standards threaten access to medicines in developing and transitional countries. The Dutch intervention represents a vision of things to come if the IP provisions in the EU-CAN trade agreements remain unchanged in the final text.

PRESS RELEASE

Overtoom 60/II
1054 HK Amsterdam
The Netherlands
Tel: +31 20 683 3684
Fax: +31 20 685 5002
Email: info@haiweb.org
www.haiweb.org

