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EU negotiators are trading away Access to Medicines in Andean countries

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This week the concluding rounds of the trade negotiations between the European Union and Peru and Colombia will take place in Lima, Peru. The CAN-EU Alliance of European and Andean civil society organisations is calling on the EU to abandon all TRIPS *plus* demands in order to protect access to medicines for the Andean populations.

Intellectual Property Rights, Bilateral Agreements and Public Health

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), concluded in 1994 at the WTO, contains strong IP regulation. Nonetheless, this multilateral agreement also recognises public health needs and allows certain policy space for developing countries to protect public health (through the so-called “TRIPS flexibilities”). However, bilateral trade agreements negotiated by the US and the EU are frequently used to set higher standards of IP protection, ignoring progress made in multilateral forums. TRIPS *plus* and TRIPS *extra* standards consolidate and extend monopolies for brand name pharmaceuticals, protecting high prices and profit margins at the expense of access to medicines.

Impact studies have shown that the EU’s proposals on intellectual property will harm public health, potentially affecting access to medicines for up to 5 million people in Colombia and 6 million in Peru.ⁱ The EU’s own trade sustainability impact study,ⁱⁱ presented on 16 July, also recognises that the IP proposals put forward by EU negotiators would negatively affect public health for the Andean populations.

In light of the controversies surrounding the unrelenting demands of IP rights holders, there is an emerging consensus that the current system is not working for poor people in developing countries, prompting Venezuela to challenge the patent system for medicines. New ideas for incentive systems and technology sharing such as, patent pooling, are paving the way for medicines’ policies that prioritise access to affordable essential medicines. In his recent speech at the WIPO conference, the Director-General of the World Trade Organization, Pascal Lamy emphasised the need for an IP system that benefits everyone and not only rights holders.ⁱⁱⁱ Even within Europe, alleged misuses of the IP system have been linked to delays in generic competition and access to affordable medicines, according to the DG Competition inquiry.

In spite of this, the EU trade negotiators remain staunchly in favour of expanding the IP system, and the rights and profits of the IP holders at the expense of Access to Medicines for millions of people.

The European proposal on the *Enforcement of IP rights* transforms the responsibilities in the TRIPS provisions. From stipulating only the outcomes, which allowed room for manoeuvre according to national law, the EU's proposals seek to specify the entire architecture of enforcement in minute detail. The cost of implementing such measures would represent a huge burden on the governments of Peru and Colombia. Moreover, such intractable enforcement measures could potentially deter legitimate trade in low-cost generic medicines, as demonstrated by the recent seizures of in-transit medicines in the Netherlands and Germany.^{iv} The CAN-EU Alliance calls upon the EU not to go beyond TRIPS, and abandon all TRIPS *plus* provisions in the final agreements.

"Let's hope that the push to close the negotiations this week does not marginalise the progressive proposals from the Colombian and Peruvian negotiators that aim to safeguard public health and allow room for competition from low-cost generics." Sophie Bloemen, Health Action International.

For more information about this campaign, please contact Project Officer, Sophie Bloemen: sophie@haiweb.org or +31 20 683 3684

ⁱ Impacto sobre el precio y consumo de medicamentos de un acuerdo comercial entre la Union Europea y dos paises de la comunidad andina. Fundacion Ifarma, 2009.

ⁱⁱ <http://www.euandean-sia.org/media/docs/EU-Andean Trade SIA Draft Final Report July 2009.pdf>

ⁱⁱⁱ http://www.wipo.int/meetings/en/2009/ip_gc_ge/mp3/13_am_lammy.mp3

^{iv} Xavier Seuba; Health Protection in the European and Andean Association Agreement. January 2009. <http://www.haiweb.org/23032009/18%20Mar%202009%20Policy%20Paper%20EU-CAN%20Association%20Agreement%20FINAL.pdf>