



Open Letter to: Dutch Ministry of Finance Dutch Ministry of Economic Affairs Dutch Ministry of Foreign Affairs Dutch Ministry of Health

10th February, 2009

Subject: Dutch customs interception delays access to generic medicine in contradiction with European law. Civil society calls for an immediate inquiry.

Dear Sir/Madam,

Oxfam Novib and Health Action International call on the Dutch Government to launch an immediate inquiry on the interception of a shipment of generic medicines by the Dutch customs authorities. The seizure of this shipment, in transit from India to Brazil, undermines the free trade of goods and contradicts international public health policies, which have been strongly endorsed by the Dutch government.

Dutch customs authorities intercepted several batches of the generic blood pressure medicine, Losartan, produced by Indian manufacturers. The shipment has since been returned to India despite the fact that the medicine in question is no longer under patent in India or Brazil.

We are deeply concerned about the actions of the Dutch authorities, as they contribute to a harmful precedent for the delivery of affordable medicines to developing and transitional countries. As this is not an isolated case, many producers are already looking into alternative routes and storage facilities to avoid shipment seizures in Europe. This is very likely to have an impact on the cost competitiveness of Indian generic drugs according to Ind-Swift vice-chairman, N.R. Munjal.

The action is diametrically opposed to the principles of the Doha Declaration on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement and Public Health, which was so strongly supported by the Netherlands. Furthermore, as members of the World Trade Organization (WTO), all European Union Member States recognised in the 2001 Doha Declaration:

"the gravity of the public health problems afflicting many developing and leastdeveloped countries"

and stressed,

"the need for the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) to be part of the wider national and international action to address these problems."

In Paragraph four of the same declaration, WTO members also agreed that,

"the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all."

If European Union Member States take the position that legitimate goods in transit through EU ports are subject to the full European regulatory regime –including internal EU IP regulation – this will create a substantial impediment to global trade and operate precisely contrary to the preamble of the TRIPS Agreement that ensures "that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade."

We would welcome clarification on the Dutch and EU positions for enforcing patent rights' regulations for goods in transit to developing and transitional country markets, not only for medicines but also for other products.

Finally, considering the present case, we ask the Dutch government to assess and determine conclusively whether the present EU regulations and practices are consistent with policies for facilitating universal access to medicines. We kindly request a response on the outcome of this assessment.

Sincerely,

Teresa Alves, Health Action International

Overtoom 60 II 1054 HK Amsterdam Tel: +31 20 683 3684 Fax: +31 20 685 5002

Email: teresa@haiweb.org www.haiweb.org

Farah Karimi, Oxfam Novib

Mauritskade 9 Postbus 30919, 2500 GX Den Haag T: +31 70 342 17 23 F: +31 70 361 44 61 Juliet.van.oudenhoven@oxfamnovib.nl

www.oxfamnovib.nl

Endorsed by:









