

ISSUE FACT SHEET

THREATENING ACCESS TO MEDICINES: THE NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND THE ANDEAN COMMUNITY



Introduction

The European Union (EU) and the Andean Community (CAN) are in the process of negotiating an Association Agreement (AA). The commercial pillar of the agreement will include a chapter on intellectual property (IP) rights which are highly controversial for public health as they pose barriers to access to essential medicines. This is the main reasons why there have been disagreements within the CAN and why negotiations have been on hold.

Rigid IP regulations restrict and delay generic competition and, therefore, sustain high medicines prices.

Contentious issues

1. *General provisions* → objectives on IP in the association Agreement almost exclusively adopt the position of the IP right holders, limiting policy space for public health needs;
2. *TRIPS*: allows for policy space with a view to public health (TRIPS 'flexibilities'). These are reaffirmed in Doha Declaration 2001 → EC proposal severely limits use of these;
3. *Patents*: the proposal obliges the ratification of a compulsory license mechanism that does not work → other options would be more effective but are not foreseen in EC proposal;
4. *Exclusive data protection* → prolongs the duration of a monopoly, limiting the entry of generics to the market even after patents have expired, might lead to unnecessary repeating of dangerous trials on humans;
5. *Enforcement* → offenders will be pursued under criminal law (instead of under civil or administrative law) – this goes beyond Community law, has been rejected by European Parliament and Member States internally;
→ border measures: could temporarily block entry of medicines, delaying entry to the market of (generic) competitors;
6. *Transfer of technology* → There is a profound asymmetry in EC policy, while it refuses to assume new commitments (for instance with regard to technology transfer), it imposes, in turn, heavy burdens onto developing countries.

The current European Commission's proposal is not in accordance with the European Parliament recommendations laid down in [Resolution P6_TA\(2007\)0080](#)

Overtoom 60, II
1054 HK Amsterdam
The Netherlands
sophie@haiweb.org
www.haiweb.org

ISSUE FACT SHEET

THREATENING ACCESS TO MEDICINES: THE NEGOTIATIONS BETWEEN THE EUROPEAN UNION AND THE ANDEAN COMMUNITY



RECOMMENDATIONS

- The European Parliament should adopt a Resolution on the recommendations below with a view to affirming the EC's commitments to Health and Development.
- The negotiated text on IP should be coherent with, and refer to the Global Strategy and Action Plan on Public Health, Innovation and Intellectual Property.
- There should be reference made to the Doha Declaration relating to all IP provisions in the text.
- The proposed text should emphasise that IP enforcement measures should not deviate resources from other priority matters, such as health protection.

IN PARTNERSHIP WITH



Overtoom 60, II
1054 HK Amsterdam
The Netherlands
sophie@haiweb.org
www.haiweb.org