



World trade meeting affirms importance of public health in intellectual property issues

Following months of intensive debate leading up to their November 2001 meeting, delegates at the Ministerial Conference of the World Trade Organization (WTO) in Doha, Qatar, declared that the WTO's accord on intellectual property rights "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" (see sidebar piece entitled "WTO declaration on intellectual property and public health").

The meeting delegates also affirmed that WTO Member countries have the right to grant compulsory licenses for the local manufacture of drugs and that each Member has the right to determine what constitutes a national emergency or other urgent circumstances that would justify such a step. This section of the WTO declaration could be open to very broad interpretation, according to James Love, director of the Consumer Project on Technology (CPT), a Washington, D.C.-based activist group that has fought to improve developing-countries' access to affordable medicines (2). "While there are some references [in the WTO declaration] to special cases involving some diseases or epidemics," said Love, "these are not in any way limiting in terms of the overall declaration, and even here, within the special case of an emergency, the cases are illustrative, but not limiting. Countries could, for example, adopt a much different definition of an emergency, such as a poor life expectancy or more generally conditions such as lack of access to medicines."

But while the declaration represents a strong affirmation of the rights for those countries able to manufacture drugs, the meeting delegates postponed a decision on how to help countries that lack manufacturing capacity and would want to import lower-cost generic drugs.

The WTO's Qatar meeting was called to discuss various international trade issues and to lay the groundwork for a new series of worldwide negotiations on commerce. The WTO Members had tried to agree to launch that new round of trade talks at a 1999 assembly in the city of Seattle, in the United States, but failed to do so at a meeting disrupted by thousands of demonstrators expressing their opposition to world economic globalization.

In the months leading up to the Qatar meeting, such developing countries as Brazil, India, and South Africa had challenged the authority of lead-

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ing pharmaceutical companies and of governments in developed countries to stringently enforce drug patents and thus maintain high worldwide prices for pharmaceutical products (3–5). Brazil won a victory in June when the United States Government dropped a complaint it had filed before the WTO alleging that Brazil's patent law violated the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). That Brazilian law had helped the country to develop its pharmaceutical industry and to reduce the price of medicines, most notably for Brazil's highly successful HIV/AIDS program.

A number of pharmaceutical companies also suffered a blow in April of this year when the firms dropped a lawsuit they had filed challenging South Africa's Medicines Act, which the country had approved in an effort to ease the import of cheaper generic drugs and which the drug companies said violated WTO rules.

For their part, generic-drug manufacturers in India had offered to produce their own versions of the drugs used to fight HIV/AIDS and to sell those products at prices far below those charged in developed countries, thus encouraging large pharmaceutical companies to lower their own prices in developing nations.

Further increasing the pressure on developed countries and on the major pharmaceutical firms was intensive lobbying by CPT and numerous other nongovernmental organizations (NGOs), including Oxfam and Médecins Sans Frontières (MSF).

The negotiating position of the United States at the WTO meeting was also weakened by a threat the Government had made a month earlier to override the patent that the pharmaceutical company Bayer holds on ciprofloxacin, a carboxyfluoroquinoline antimicrobial agent. The United States Government had warned it might take that step in the wake of several deaths from anthrax that had been sent through the postal mail system in the United States.

Many NGOs applauded the results of the Qatar meeting (6). "Doha is a big step forward in the battle for affordable medicines," said an Oxfam representative. "The huge profile given to the issue changes the political climate, building on the victories in the South Africa and Brazil cases. It will now be much harder for the [United States] and the drug companies to bully poor countries over their patent policies."

"Since [the WTO meeting in] Seattle there has been a seismic shift," commented Daniel Berman, of MSF. "Two years ago many developing countries felt they were powerless against the will of the wealthy countries and their drug companies. Here in Doha more than 80 countries came together and

negotiated in mass. In practical terms it means that countries are not at the mercy of multinationals when they practice price gouging. Now patent holders either offer prices that make their drugs accessible or risk losing their monopoly rights."

Representatives for the major pharmaceutical firms tried to downplay any changes that might result from the WTO declaration. The Geneva-based International Federation of Pharmaceutical Manufacturers Associations (IFPMA) issued a statement (7) saying the group "believes that the results of the discussions on the intellectual property aspects of the debates reflect a balanced interest to encourage innovation in new drug therapies and vaccines, while seeking to promote improved access to medicines."

Both the IFPMA and the United States-based Pharmaceutical Research and Manufacturers of America (PhRMA) emphasized the numerous factors, besides ones relating to intellectual property rights, that hamper countries' access to affordable drugs (7, 8). "With this reaffirmation of the TRIPS Agreement," said PhRMA President Alan F. Holmer, "we hope member countries will now focus on and address the real barriers to access to medicines in developing countries: poverty, too few trained doctors and adequately equipped facilities, high tariffs on medicines in many developing countries, the need for more developed country support, [and] political will in developing and developed countries alike."

One major issue left unresolved at the Qatar meeting concerns nations that lack pharmaceutical manufacturing capacities (2). Many developing countries and NGOs had pushed for an agreement that would have allowed developing countries to import less-expensive generic drugs from third countries. Under the final WTO agreement, however, a country can only issue a compulsory license for a drug it is able to manufacture. To deal with this situation, the WTO declaration called for the WTO's Council for TRIPS to seek a remedy for this problem and to report to the WTO General Council before the end of 2002.

SINOPSIS

Reunión del comercio mundial reafirma la importancia de la salud pública en conexión con la propiedad intelectual

Después de varios meses de intensos debates en preparación para su reunión de noviembre de 2001, los delegados de la Conferencia Ministerial de la Organización Mundial del Comercio (OMC) declararon en Doha, Qatar, que el acuerdo de esta Organización en relación con los derechos de la

propiedad intelectual "pueden y deben ser interpretados y llevados a la práctica de una manera que apoye el derecho de los miembros de la OMC a proteger la salud pública y, en particular, a promover el acceso de todos a los medicamentos". Los delegados que asistieron a la reunión también afirmaron que los países miembros de la OMC tienen derecho a conceder licencias obligatorias para la fabricación local de medicamentos y que cada país miembro tiene el derecho de determinar lo que constituye una emergencia nacional u

otra circunstancia urgente que justifique una medida tal. No obstante, si bien la declaración de la OMC representa una sólida reafirmación de los derechos de los países que pueden fabricar medicamentos, los delegados pospusieron hasta por lo menos 2002 una decisión de la OMC sobre cómo ayudar a los países que carecen de la capacidad para fabricar sus medicamentos y que desean importar fármacos genéricos a un costo más bajo.

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The Crisis of Neglected Diseases conference

Date: 14 March 2002
Location: City University of New York
Graduate Center
New York City

In a one-day conference, the Drugs for Neglected Diseases Working Group and other international experts will address such questions as: What is the extent of the crisis of neglected diseases? How does it impact patients and doctors around the world? What are the challenges in creating sustainable research and development programs for different neglected diseases? What needs to be done and who should do it? How can there be an effective international response that involves key players and ensures accountability?

The conference is intended for researchers, health providers, industry representatives, policymakers, students of medicine or international studies, and members of the general public interested in this global crisis. The event is free, but participants must register in advance for the conference.

Information:
Conference Coordinator, Crisis of Neglected Diseases Conference
Telephone: 212-847-3147
E-mail: dnd-conference@newyork.msf.org
Internet: <http://www.neglecteddiseases.org>