



## DECLARATION

# Trading Away Access to Medicines

## European Union's trade agenda has taken a wrong turn

European Union trade policies consistently threaten access to affordable essential medicines by seeking to entrench overreaching intellectual property (IP) rules. The EU has also failed to commit sufficient resources towards promoting medical innovation that meets the needs of people in developing countries. Moreover, it has not dedicated financial or political support to new models of innovation that aim to overcome the deficiencies of the patent system and encourage innovation and access to medicines where they are most needed.

The EU's IP demands restrict competition from generic medicines and discourage medical innovation for 'neglected diseases'; thereby sustaining high prices for branded medicines and leaving a research gap for medicines to treat diseases that predominantly affect developing countries.

Multilateral agreements such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), concluded in 1994 at the World Trade Organization, contain strong IP rules. Nonetheless, this agreement also recognises policy space for developing countries to protect public health. However, bilateral trade agreements, global IP enforcement initiatives and political pressure from EC trade negotiators are frequently used to set higher standards of IP protection and enforcement, ignoring commitments made in multilateral fora. EC trade negotiators remain staunchly in favour of expanding the IP system and the rights and benefits of IP holders at the expense of Access to Medicines for millions of people, particularly in poor countries.

If the current EU trade policy remains, it will have a disastrous impact on the lives of millions of people in developing countries. For example the Indian generic medicines industry, which exports two-thirds of its production to developing countries, could face severe restrictions. These restrictions will deny affordable medicines to millions of people in both India and India's developing country trading partners.

EU Member States and the European Parliament must take on their rightful role of holding the European Commission to account and ensuring that the incoming Commission's policies on trade respect long-standing European commitments on health and development.

*Oxfam International, Health Action International (Europe) and Médecins Sans Frontières therefore make the following recommendations:*

1. The European Commission and EU Member States should honour commitments under the MDGs, the Doha Declaration on TRIPS and Public Health, and relevant World Health Assembly (WHA) resolutions on innovation and access to medicines, including full implementation of the WHO 'Global Strategy and Plan of Action'.
2. The EU should ensure its trade policy is in line with its development objectives, including specifically enhancing access to health care and access to medicines. EU Member States must act to hold the EC accountable when the EC fails to uphold these principles.

With respect to IP:

- a. The EU and Member States should not misuse free trade agreements to introduce TRIPS-plus IP rules in developing countries that extend monopoly protection and introduce new enforcement measures, which limit access to medicines.
- b. The European Commission should stop exerting pressure on governments that attempt to introduce safeguards and flexibilities to protect and promote public health.
- c. The European Union should amend its customs regulation EC 1383/2003 of 22 July 2003 to ensure it does not have a detrimental impact on developing countries, by excluding border measures for violations of pharmaceutical patents, especially for medicines in-transit.
- d. The EU should ensure that the Anti-Counterfeiting Trade Agreement (ACTA) does not set higher IP standards that might impede access to medicines in developing countries. Therefore, the EU should ensure that patents are excluded from any agreed framework.
- e. The European Commission and Member States should identify and support other measures to improve access to generic medicines in developing countries, including the UNITAID patent pool for HIV and AIDS medicines.

With respect to R&D:

- a. European donors, including the Commission, should scale up their financial contribution to R&D to address diseases that disproportionately affect people living in developing countries, especially through alternative funding mechanisms that delink the R&D cost from the end-cost of products to thereby promote access and therapeutic innovation.
- b. The EU should also support Product Development Partnerships (PDPs) that are designed to deliver affordable and effective new products, and it should continue building R&D capacity in developing countries.
- c. The EU should support the implementation of the World Health Organization Global Strategy and Plan of Action (GSPA) on Public Health, Innovation and Intellectual Property and the Expert Working Group in its efforts to explore new models of innovation that increase both innovation and access.
- d. The European Commission should take appropriate measures to ensure that initiatives such as the Innovative Medicines Initiative (IMI) meet real health needs and that both the IMI and the EU's regulation on children's medicines can also be to the benefit of developing countries.