WORKING GROUP ON ACCESS TO MEDICINES AND TREATMENT

Working Group on Access to Medicines and Treatment

Statement on the EU-India Free Trade Agreement

New Delhi
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The Working Group on Access to Medicines and Treatment notes the joint announcement by the European Union and the Government of India on the conclusion of negotiations for the EU-India Free Trade Agreement (FTA). According to the European Commission's press release, the agreement provides for a *"**high level of protection and enforcement of Intellectual Property** (IP) rights, including copyright, trademarks, designs, trade secrets and plant variety rights. It builds upon existing international IP treaties and brings Indian and EU intellectual property laws closer. This will make it easier for EU and Indian businesses that rely on IP to trade and invest in each other's markets."*

This formulation clearly demonstrates that India has agreed to IP protection and enforcement standards that go beyond the minimum obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement). However, notably, the press release does not mention patent related provisions, nor does it clarify whether the agreement includes controversial TRIPS-plus measures such as patent term extensions, pharmaceutical data exclusivity, or other forms of market exclusivity for medicines. .

This lack of clarity is a serious concern. We recall that when negotiations were relaunched in 2022, the European Union's proposed IP text explicitly sought patent term extension and data exclusivity protection for pharmaceutical products. In the previous rounds of negotiations, particularly during 2007-2013, India had these TRIPS-plus demands following strong opposition from civil society, patient groups, and public health advocates. We caution against repeating the approach adopted in the FTAs with EFTA and the UK that risk having a direct or indirect impact on access to affordable medicines.

Furthermore, it is also important to note that recent practice as seen in the EU–Mercosur agreement, reflects a shift away from the inclusion of patent related TRIPS-plus provisions in FTAs. This precedent should be followed in the EU-India agreement. In this context, we urge and request the Government of India to:

- Clarify and ensure that the final text does not include any TRIPS-plus provisions, particularly patent term extensions and data exclusivity, which would compromise the availability of affordable medicines.

- Immediately release the full text of the agreement for public scrutiny and place it before the Parliament for detailed discussions prior to signing, to enable informed debate on the FTA's implications for public health.

India plays an important role as a supplier of affordable generic medicines to low- and middle-income countries. Any weakening of its patent laws or regulatory framework through FTAs risks having an impact not only patients in India, but millions worldwide who depend on Indian generic production.

Therefore, we urge the Government of India to reaffirm its longstanding commitment to ensuring access to affordable medicines.

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