TAC, SECTION27 and MSF South Africa call on the EU and India to stop the threats to people?s lives

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The Treatment Action Campaign (TAC), SECTION27 and Médecins Sans Frontières / Doctors Without Borders (MSF) South Africa voice support for their partners across the world opposing provisions in a proposed free trade agreement (FTA) between India and the European Union (EU) that threaten the sustainable supply of affordable medicines to millions of people in the developing world.

PRESS RELEASE

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March 9 2011

FOR IMMEDIATE RELEASE

Johannesburg / Cape Town ? The Treatment Action Campaign (TAC), SECTION27 and Médecins Sans Frontières / Doctors Without Borders (MSF) South Africa voice support for their partners across the world opposing provisions in a proposed free trade agreement (FTA) between India and the European Union (EU) that threaten the sustainable supply of affordable medicines to millions of people in the developing world.

On 2 March 2011, thousands of people from across Asia ? joined by the United Nations Special Rapporteur on the Right to Health ? marched in New Delhi to demand that provisions in the draft FTA, requiring India to adopt stricter protection on intellectual property than required by international trade law, are dropped. These provisions ? if adopted ? would restrict access to currently produced generic drugs and make it more difficult for new generic drugs to be made.

Generic competition is essential to ensuring that medicines are affordable: as more products of proven quality and safety enter the market, prices are pushed downward. Because of generic competition, the price of a commonly used first-line antiretroviral (ARV) treatment regimen has dropped from over R5,000 a month in the late 1990s to less than R100 a month today.

?TAC and its partners have campaigned successfully for expanded access to generic ARVs in South Africa and the region,? says TAC General Secretary Vuyiseka Dubula. ?The proposed India-EU FTA threatens the steady supply of generic drugs, and our ability to access new, innovative medicines. Without generics, the more than one million people currently receiving treatment in South Africa today, including myself, would not have access to ARVs. We rely on these medicines to keep us healthy and alive.?

Of central concern in the India-EU FTA are provisions regarding data exclusivity and tougher border measures, both of which go far beyond what is required under international trade law.

Currently generic manufacturers are required only to show quality and bioequivalency to an existing medicine for

registration. Data exclusivity provisions would prevent generic companies from relying on clinical trial data of a registered product during the period of data exclusivity. This requirement will delay the registration of generic medicines as it will be too costly and, in most cases, unethical to repeat clinical trials.

?Data exclusivity provisions apply regardless of the patent status of a particular medicine,? says Jonathan Berger of SECTION27. ?They would apply even in cases where compulsory licences have been issued to allow the sale of generic medicines during the life of a patent. Their existence threatens to undermine public health safeguards and flexibilities that are necessary to allow for the production in and export of affordable medicines from India.?

Alarmingly, in recent years the European Union has also been pushing policies that allow for the seizure of generic medicines in transit from India through Europe to other countries, even if those products may be lawfully sold in the receiving countries, such as those in sub-Saharan Africa. This has already interrupted the supply of drugs to patients in the developing world. Border measures included in the India-EU FTA would legitimise current seizures, further hampering access to essential, life-saving medicines.

?More than 80% of the ARV drugs our medical practitioners use to treat 175,000 people in developing countries are affordable generics from India,? says Mara Kardas-Nelson of MSF?s Campaign for Access to Essential Medicines. ?Our clinic in Khayelitsha, which supports over 15,000 people on ARV therapy, relies on generic drugs. Many of these patients will need 2nd or 3rd line drugs in the coming years, and we look to India to produce innovative, effective medicines. Beyond HIV, we rely on Indian medicines to treat other illnesses, such as tuberculosis and malaria.

?We can not afford to let our patients? lifeline be cut.?

The proposals contained in the FTA even violate Europe?s own policies on access to medicines. In its current form, the FTA would violate the European Parliament?s 12 July 2007 resolution on the World Trade Organisation Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS).[1] The resolution recognises that ?EU policy should aim at maximizing the availability of pharmaceutical products at affordable prices in the developing world.? The European Parliament must uphold this resolution by rejecting an FTA that threatens drug access.

We also call on the Indian government not to accept provisions in the FTA that will require more stringent intellectual property protection than required by international trade law. Instead, India should use all available means under international trade law such as compulsory licensing to continue producing generic versions of life saving drugs.

Civil society will continue to monitor and mobilise against an unjust and life-threatening FTA.

FOR MORE INFORMATION AND TO ARRANGE INTERVIEWS CONTACT:

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