



MSF General Statement at the 56th Series of WIPO Assembly

Médecins Sans Frontières (MSF) would like to urge WIPO and its member states to tackle the ongoing challenges of spiralling drug prices and neglect of public health priorities in the IP-driven medical innovation system.

The use of TRIPS flexibilities in safeguarding access to medicines continues is under threat due to free trade agreements. Alongside the Trans-Pacific Partnership Agreement (TPP), the leaked negotiation text of the Regional Comprehensive Economic Partnership (RCEP) has revealed harsh proposals by Japan and South Korea for restrictive 'TRIPS Plus' provisions that could have a detrimental impact on affordable generic medicines. The final report of the United Nations Secretary General's High Level Panel on Access to Medicines reaffirmed the negative impact of TRIPS-plus provisions on access to medicines. We urge WIPO and Member States to take a firm stand in rejecting TRIPS-plus IP proposals and provisions in free trade agreement negotiations.

We have seen the benefits of governments implementing TRIPS flexibilities first-hand. India's substantive patent examination system, strict patentability criteria, and patent opposition mechanism have consistently facilitated the delivery of life-saving affordable essential medicines to the developing world. However for many developing countries, implementing TRIPS flexibilities remains challenging. Technical assistance and law reform process need to prioritise public health needs and address countries' development objectives.

A recent report by the Fix the Patent Laws Campaign in South Africa shows that a lack of robust patentability criteria, substantive patent examination, patent oppositions or compulsory licensing mechanisms has resulted in excessively high rates of evergreen patents for pharmaceuticals, and low availability of affordable generic alternatives of critical medicines treating cancer, HIV/AIDS, TB and other diseases. We encourage South Africa and other countries that face this challenge to accelerate reforming their national patent law to safeguard access to medicines.

A lack of transparency in the current intellectual property system also remains a major obstacle to tackling poor-quality patent claims that lead to costly litigation and longer monopolies, delaying the early introduction of generic competition. MSF has repeatedly called for the normative development of disclosure requirements based on international non-proprietary names (INN) of medicines to be incorporated by patent offices. We also note the UN High Level Panel's report provided an explicit recommendation to WIPO to tackle transparency issues, and therefore we urge WIPO and Member States to give improving the transparency of the current patent system adequate priority.

Finally, the spiralling prices of medicines, lack of access to rapid diagnostics and surging prices of vaccines are affecting all countries, and illustrates a critical flaw of incentivising drug development through patent monopolies. In particular this model of drug development does not generate medical tools that are affordable and suitable, and often fails to address critical public health needs. MSF urges all member states to not only ensure maximum public health flexibility of IP laws but also to introduce and scale up models of R&D that separate the cost of R&D from the final product price, and ensure WIPO plays a constructive role as new models of drug development emerge.