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## **Cutting the Cost of Global Health**

### **Introduction**

Each year, 11 million people die from infectious diseases, many of them because they cannot afford basic medicines. Countless millions live with debilitating illnesses for the same reason. According to the World Health Organisation some 2 billion people lack access to basic healthcare - most of these people live in developing countries. There are many factors behind this exclusion, including levels of spending and the state of public health infrastructures - but the price of medicine matters. The poor communities with which Oxfam works consistently cite the high price of medicines as a major problem for them.

Oxfam is concerned that strengthened World Trade Organisation (WTO) patent rules will drive up the price of new medicines (and new versions of existing medicines) which are already beyond the reach of millions of people in developing countries. Oxfam wants to see reform of the TRIPS (Trade Related Intellectual Property Rights) agreement to ensure that global patent laws do not further diminish the ability of poor people to access essential medicines. We believe that world trade rules must place people's health before short-term corporate self-interest.

### **Rules and Restrictions**

Under the WTO's patent rules, all member countries are required to provide exclusive marketing rights to holders of patents on pharmaceutical products for a period of at least twenty years. By restricting the right of governments to allow the production, marketing, and import of low-cost copies of patented medicines (called generic drugs) during this period, the WTO's rules will restrict competition, increase prices, and further reduce the already limited access of poor people to vital medicines. From 2000 (2006 for Least Developed Countries), developing countries are required to ensure that their national legislation protects the patents of the pharmaceutical companies in this way, or they face the prospect of WTO-sponsored trade sanctions.

Low-income countries could see average price increases of between 200-300 per cent and higher for key medicines. This is not mere conjecture, in-country case studies reveal the extent to which competition from non-patented drugs has driven down the cost of patented medicines. When Thailand ended the exclusive patent period for flucanazole (used in the treatment of HIV-related meningitis) prices fell by 80 per cent in 6 months. In Pakistan, patented antibiotics used to treat childhood diarrhoea cost eight times more than the non-patent equivalents made in neighbouring India. Both Thailand and India are among several developing countries that have established sophisticated generic industries with a specialisation in the development of low-cost equivalents to expensive patented

medicines. Not only have they produced affordable medicines to advance public health in their countries but they have also developed a capacity to export them. New WTO patent rules have the potential to close down these industries and severely restrict the production of generic medicines in the global market. These medicines provide a window of opportunity for poor families seeking affordable treatment for life-threatening diseases.

## **A global health crisis in the making**

Price increases resulting from the extension of exclusive marketing rights will have grave consequences for public health in developing countries. Infectious diseases that were once relatively easily curable with simple antibiotics are becoming increasingly drug-resistant. Old killers such as malaria, tuberculosis, bloody diarrhoea, and respiratory infections – a group of diseases that cost millions of lives each year – are proving increasingly difficult to treat. At the same time millions of lives are at risk from newly virulent diseases, like HIV/AIDs, which affects over 25 million people in sub-Saharan Africa alone.

Improved access to effective and affordable medicines is essential if these threats are to be addressed. But the danger is that use of the next generation of drugs needed to protect public health will be restricted, either by new patent protection or by the extension of old patent rights.

The costs of ill-health are devastating for the poorest households who typically pay 80% of the cost of drugs themselves. In Zambia, where two-thirds of rural households live below the poverty line, it costs one such household US\$9 to treat a single case of childhood pneumonia - an amount equivalent to half the family's monthly income. In many cases household expenditure on education and diet is sacrificed in order to pay for such vital medicines, thus reinforcing the cycle of poverty and ill-health.

## **Profit -v- Public Health**

With a view to achieving a balance between public health and the claims of patent holders the WTO have introduced two safeguards into the TRIPS agreement. Under Article 31 of the Agreement, governments can issue *compulsory licences* to authorise production without the consent of patent holders, subject to adequate compensation. Another measure open to governments is that of *parallel importing*, whereby governments allow the importation of a patented product which is marketed elsewhere at prices lower than those in the domestic market. Yet these safeguards are easy prey to legal challenges and need strengthening if they are to stand up to the heavyweight pharmaceutical companies who own most of the patents.

The deeper problem lies in the enormous political influence of pharmaceutical corporations which leads to a subordination of trade policy to corporate goals, notably in the USA. In the course of the past year, a large number of developing countries, which have failed to strengthen patent rules on terms dictated by the Pharmaceutical Research and Manufacturers of America (PhRMA) have been threatened with WTO-sponsored trade sanctions.

In South Africa HIV/AIDS is projected to reduce life-expectancy by 20 years by 2010 yet efforts by the government to allow the importation of cheap generic medicines have been met with legal challenges mounted by formidably powerful corporations. During 1999, the

South African government faced the constant threat of trade sanctions from the USA. The legal battle will continue in court on March 5<sup>th</sup>, in Pretoria, when 41 of the major pharmaceutical companies, including Glaxo Wellcome South Africa, Merck, SmithKline Beecham and Bayer will pursue their case against Nelson Mandela, Thabo Mbeki and other South African government representatives. Meanwhile, in Kenya, one quarter of the adult population is HIV-positive, but fewer than two per cent receive anti-retroviral treatment. If Kenya were able to import the drug fluconazole from Thailand, it could reduce the annual cost of treatment from over \$3000 to \$104. However, the patent holder for the drug, the Pfizer corporation, applied pressure to stop such imports taking place. The pharmaceutical giant GlaxoSmithKline (GSK) has challenged imports of low cost copies of their patented medicines in Ghana and Uganda. Their 'crime': seeking to import copies of the firm's patented Combivir, an anti-retroviral for the treatment of HIV/AIDS, at prices less than one-third of the brand-name product.

Oxfam is calling upon the powerful pharmaceutical companies to balance their profit-driven trading activities with a respect for the public health needs of developing countries.

## **Islands of Philanthropy**

The pharmaceutical industry rejects the argument that lower levels of patent protection for developing countries are vital to the provision of affordable medicine. It claims that public-private initiatives, which may include agreements on 'tiered pricing' (with companies supplying medicines to poor countries at lower prices), are the appropriate response.

Such public-private partnerships have an important role to play in closing the health divide between rich and poor countries. During 2000, these initiatives were supplemented by an agreement between UNAIDS and five pharmaceutical companies (Glaxo Wellcome (GW), Merck, Hoffman-La Roche, Bristol-Myers Squibb, and Boehringer Ingelheim) to improve access to treatment for HIV-positive people in developing countries. Under this agreement, the companies will provide anti-retroviral products at preferential prices. The main problem with these initiatives is that drugs are often made available in limited quantities, and at prices which compare unfavourably with those for generic-equivalent products. With regard to the five companies' initiative on HIV, many African governments continue to argue that the waiving of patent rights on life-saving drugs would be a far more effective way of bringing down prices.

In effect, corporations in the pharmaceutical sector are offering islands of philanthropy, while promoting a global patents system which would enhance their profitability, but which could also consign millions to unnecessary suffering. Commercial self-interest and corporate philanthropy are pulling in different directions.

## **Research and Development**

Pharmaceutical companies argue that the high costs of research and development necessitate strong patent protection to provide incentives for investment. Oxfam agrees that patents are important to promote innovation. However, we are concerned by the way in which they are being used to advance the power and profits of already dominant and lucrative companies, at the expense of public health in developing countries.

The pharmaceutical industry is already one of the most profitable in the world, and some of the costs of research and development are publicly financed. Operating profits in the

industry as a whole are typically in the range of 20-23 percent, which suggests that 'weak' patent regimes in developing countries have not, thus far, had an adverse effect on profitability. Oxfam believes that the real research and development problem is that there is insufficient investment into finding cures for diseases afflicting the poor because poverty makes for small markets and low profits. Only ten per cent of global research and development is directed towards illnesses that account for 90 per cent of the world wide disease burden. To combat this problem Oxfam believes the international community needs to develop a global fund aimed at supporting a network of public research institutes, dedicated to work on infectious diseases in poor countries.

## **Recommendations**

Oxfam would like the UK Government and the European Union to take the lead at the WTO and to put pressure on the large pharmaceutical companies to ensure that global patent laws do not further diminish the ability of poor people to access essential drugs and medicines.

- **Developing countries should retain the right to produce, market, import and export affordable generic medicines.**
- **Provisions in the TRIPS agreement to safeguard public health through compulsory licensing and parallel importing should be strengthened, and the scope for legal challenges by patent holders limited.**
- **The duration of patent protection on pharmaceutical products should be shortened and the scope of protection limited.**
- **The forthcoming review of the TRIPS agreement should include a comprehensive impact assessment of its effects on the affordability and availability of medicines in developing countries.**
- **Pharmaceutical companies should exercise social responsibility with respect to their patent claims. They should not seek to enforce patent claims in the poorest countries on drugs essential to public health.**
- **Pharmaceutical companies should reduce the price of key medicines in developing countries so that they are affordable to the poor.**
- **A US\$5bn international fund should be set up to support a global network of public research institutions dedicated to developing new medicines and vaccines for diseases of the poor.**

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