

May 2009

U.S. Civil Society Platform on Trade-Related Intellectual Property and Access to Medicines Issues

The following represents four key goals that our organizations agree should guide US trade policy and practice with regard to intellectual property (IP) and health matters.

Under each goal we have listed specific actions that we would like to see the Obama Administration -- including but not limited to the Office of the United States Trade Representative (USTR) -- and the U.S. Congress take, as appropriate, in order to work toward these goals.

This is not meant to be an exhaustive list of actions, but rather those we all agree are critical to achieving these goals. Some of our organizations do not work on all of the issues raised, while others work on relevant issues not specifically mentioned in this platform. Yet we are united in our support for these goals and would like to work with the Administration and Congress to advance such an agenda to promote both innovation and access to affordable life-saving medicines.

US trade policy and practice should:

1. Promote availability of affordable life-saving medications and protect public health in developing countries

Among the actions we recommend toward this end are the following:

- Reaffirm the US commitment to the 2001 WTO Doha Declaration on the TRIPS Agreement and Public Health and the 2008 WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, permit use of TRIPS safeguards and flexibilities by Member Countries to increase access to medicines for all, and actively support and promote countries' efforts to implement those flexibilities.
- Forbid the use of threats and punitive actions, such as listing in the Special 301 Watch List and/or withdrawal of Generalized System of Preferences benefits, in response to a country's use of TRIPS safeguards and flexibilities or refusal to adopt TRIPS-plus measures.
- Commit to not implementing or enforcing TRIPS-plus provisions in existing free trade agreements (FTAs), which adversely affect access to affordable medicines, and adopt a policy not to implement, include or enforce TRIPS-plus measures in pending or future trade agreements.

- As a starting point, extend the limited public health flexibilities in the US-Peru Free Trade Agreement to existing, pending and future bilateral and regional FTAs that include TRIPS-plus provisions.
- Encourage governments to require open licensing of publicly funded medical inventions for use in the developing world, for example through licensing to the UNITAID patent pool for medicines.

2. Promote innovation to develop and distribute new, effective medicines that address essential health needs without limiting access to existing or future medical products

Among the actions we recommend toward this end are the following:

- Actively support and implement the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property of the WHO Intergovernmental Working Group to promote both innovation and access to medicines.
- Establish a time-bound working group within the US government to consider new models of innovation that can encourage innovation for new medicines without restricting access to existing or future medicines, such as prize funds that separate the market for health products from the market for innovation, patent pools and a proposed WHO R&D Biomedical Treaty.
- Encourage governments to provide open access to government funded medical research, such as is now required by the NIH Public Access Policy.

3. Respect the right of all governments to regulate pharmaceutical markets and ensure equitable access

Among the actions we recommend toward this end are the following:

- Forbid the restriction or interference with any national, regional, or local government program to establish reimbursement rates or otherwise control the costs of pharmaceuticals or medical devices.

4. Promote transparency and integrate public health interests into trade policy-making

Among the actions we recommend toward this end are the following:

- Assure fair and adequate representation by advocates for public health and for access to medicines on federal advisory committees to the U.S. Trade Representative.
- Provide adequate and open information regarding on-going US negotiations on key intellectual property treaties that will affect access to medicines, including bilateral FTAs and the Anti-Counterfeiting Trade Agreement.

Endorsed by the following organizations:

ACT UP/New York
ACT UP/Philadelphia
ActionAid International USA
Africa Action
African Services Committee
American Medical Student Association (AMSA)
American Public Health Association (APHA) Trade and Health Forum
American University, Washington College of Law, Program on Information Justice and Intellectual Property (PIJIP)
Center for Policy Analysis on Trade and Health (CPATH)
Essential Action
Forum on Democracy & Trade
Global AIDS Alliance
Health GAP (Global Access Project)
Interfaith Center on Corporate Responsibility (ICCR)
Knowledge Ecology International (KEI)
Missionary Oblates of Mary Immaculate
Oxfam America
Peoples Health Movement-USA
Salud y Fármacos
Stop HIV/AIDS in India Initiative (SHAI)
Student Global AIDS Campaign (SGAC)
TransAfrica Forum
Treatment Action Group (TAG)
Universities Allied for Essential Medicines (UAEM)
University Coalitions for Global Health (UCGH)
Vermont Global Health Coalition