

News Update: EU-India FTA negotiations could have negative impact on access to medicines

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Dimitri Eynikel, EU Policy Advisor for MSF's Access Campaign:

“It is deeply concerning to see that the EU is going back on its commitments and pushing yet again for harmful provisions including patent term extension and data exclusivity in the ongoing trade negotiations with India. These provisions would further strengthen the monopolistic position of multinational pharmaceutical corporations and would restrict generic manufacturers from India to supply affordable lifesaving medicines on which MSF and millions of people around the world rely. In the past negotiations, India had successfully removed these provisions, which go beyond international trade rules, to ensure access to medicines for people in low and middle-income countries.

The EU must immediately withdraw all proposals that could be harmful for access to medicines, particularly those provisions that it previously committed to withdraw. We also urge the Indian Commerce Ministry to maintain the country’s strong opposition to all problematic intellectual property provisions being proposed by the EU in this trade deal that could jeopardize access to, and production and supply of, affordable generic medicines from India.”

Status

This week, delegations from the Indian Ministry of Commerce and the European Commission are meeting in Brussels to continue negotiations on a free trade agreement (FTA). In June 2022, the European Union (EU) and India relaunched negotiations on this FTA, which once again include discussions on a chapter related to intellectual property (IP) issues, including on pharmaceuticals. Since then, three rounds of negotiations have been completed and the fourth round of talks is taking place this week (March 13-17, 2022).

Between 2007 and 2013, the EU softened its position and committed to remove two harmful IP provisions, , from an earlier negotiation text upon strong pushback, including by MSF and patient groups and a refusal by the Indian government to accept those proposals. These provisions, if accepted by India, a major manufacturer and supplier of generic medicines, could have a significant negative impact on people’s access to medicines in low and middle-income countries.

However, the [draft EU India FTA](#) text published by the EU in July 2022 show that the EU has brought back some of these harmful provisions that were removed earlier. The most damaging measure is so-called ‘data exclusivity,’ which if accepted, would delay the registration of generic versions of medicines, even when there is no patent on that medicine. Patent term extension or supplementary protection will extend the drug companies’ patent terms beyond the existing 20-year term blocking the entry of generic competition on newer treatments by several years. The proposed text also contains provisions on IP enforcement that could hinder legitimate trade in generic medicines.

Why is MSF concerned?

As a medical treatment provider, Médecins Sans Frontières / Doctors Without Borders (MSF) relies on more affordable, quality-assured generic medicines produced in India to treat many people, including those with tuberculosis (TB), malaria, HIV/AIDS and other infections that affect some of the most vulnerable communities. Competition among generic producers brings medicines prices down and saves lives, but it is constantly under threat from FTAs that expand intellectual property

monopolies on medicines. India is currently negotiating FTAs with several countries and trading blocs including the UK, the EU and the European Free Trade Association.

Given the direct impact EU-India trade deal could have on availability of affordable treatments from India, MSF called on the EC to stand by its earlier commitment to not pursue the issue of supplementary protection any longer in the negotiations and to ensure that the FTA will not require India to introduce any kind of data exclusivity provisions. MSF also called on negotiators to ensure that IP enforcement provisions, including the controversial border measures that can block trade in legitimate generic medicines, be completely removed from the FTA negotiations.