

Let India make cheap drugs, says America

US is pushing for India's patent laws to be restructured to favour Big Pharma, at the expense of the poor

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Last month, the United States and India announced an important breakthrough concerning India's "right-to-food" programme. The Indian government subsidises food for its poorest citizens through a system of price supports and public stockpiling. The programme is critical to India's future. According to the Unicef, one in three of the world's malnourished children lives in India.

But as India's policy has expanded, it has come into conflict with World Trade Organisation rules on agriculture. The conflict heated up last summer when India demanded an explicit assurance at the WTO that it could maintain its right-to-food programme. The United States resisted, and the standoff delayed the first new global trade agreement at the WTO since the 1990s.

The impasse now seems to be resolved; with American support, India has secured a "peace clause" at the WTO that protects its food programme from legal challenges. As India insisted, the deal applies indefinitely, until a permanent solution to the conflict is found, which could happen as early as the end of next year.

This is good news for poor people in India, including the children and nursing mothers that the programme particularly helps. It is good news for the poor in other countries that may have programmes like India's.

It is good news for India and the United States, the world's two largest democracies, which must be able to cooperate with one another on a range of global issues. And it is good news for the WTO, which can move forward with the delayed agreement on trade facilitation.

This positive development on food, however, is in stark contrast to the United States' approach to India's policies on affordable medicines.

On November 24, while the food deal was being finalised in Geneva, Michael B Froman, the United States trade representative, was in India to demand reform of its patent laws. Those laws are friendly to generic medicines and public health, and the United States wants them restructured to favour American pharmaceutical corporations, often called Big Pharma.

While he was in New Delhi, Froman cited the food deal and its impact on the larger trade agreement as an example of the United States and India "working side by side." But when it came to intellectual property disputes that affect medicines, he was pushing for more Indian concessions.

In fact, the United States has been showing no inclination to compromise as it ratchets up the pressure. It recently initiated a special review of India's intellectual property laws, signalling possible trade sanctions.



NOT A THREAT: India's existing patent law was introduced in 2005 to conform to WTO requirements under the so-called TRIPS agreement. It infuriated Big Pharma by making it more difficult for companies to obtain drug patents in India than in the United States and elsewhere.

After Prime Minister Narendra Modi's recent visit to the United States, the two countries announced a new high-level working group on intellectual property issues, which may foreshadow changes to India's laws.

India faces a public health crisis no less stark than its food security problem. One potential threat comes from patents, which can raise the prices of medicines astronomically.

For example, according to the World Health Organisation, patented triple-combination therapy medicines for HIV/AIDS cost \$10,000 per person per year in industrialised countries.

However, generics can be purchased across the developing world from an Indian company, Cipla, for less than \$200 a year. It is India's laws that have enabled the country's flourishing generics industry to offer its people and other less-wealthy societies such savings.

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Many experts in the United States agree that our own national patent standards make it too easy for corporations to get patent protection, which then allows them to expand or maintain their market power in ways that stifle innovation and keep prices high.

Use of trade pressure

Big Pharma fought the law in India, all the way to its Supreme Court – and lost. Now these companies have turned instead to the office of the United States trade representative and hope to win their campaign. Their strategy is to use trade pressure to undermine the pharmaceutical patents policy of India's democratically chosen government.

Just as the United States is now supporting India on its right-to-food programme, it should lower the pressure on India's patent law, too. For one thing, India's law almost surely complies with the TRIPS agreement. This may be why the United States has never brought an official complaint against India's law at the WTO.

Instead, it is bringing informal pressure, but even that is unwarranted. There should be no hint of a quid pro quo – a trade-off of American support on food for a change in India's laws on medicine.

That, after all, is a possibility suggested by the timing of Froman's comments about the food programme while he was in India to discuss the drug controversy.

Instead, our officials should be supporting India's medicinal patent policies, even if it means standing up to corporate lobbies at home.

India accounts for only about 1 per cent of the market of the United States pharmaceutical industry, so its patent law – like its "right-to-food" programme – is no threat to the United States, or the WTO.

The United States is right to support India's food programme, which aims to lift people out of poverty through democratic initiative, and does not unduly burden international trade. And it is wrong to pressure India to change its patent law, for the very same reason.

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