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Public good, not profit

India must hold firm in the current tussle with the US over intellectual property rights in the pharma sector. It will benefit millions, especially the poor

As it does ever so often, the underlying tension in Indo-US ties caused by various trade issues, particularly relating to intellectual property rights (IPR), is surfacing again. It has been some time coming; the relationship between Delhi and Washington has been adrift for a while now, and the Devyani Khobragade row has pushed it into a particularly rocky phase. And US Assistant Secretary of State Nisha Desai Biswal's just-concluded visit is unlikely to have eased matters with the possibility of Washington designating India a Priority Foreign Country — a label given to countries that perform most poorly when it comes to protecting intellectual property and could lead to trade sanctions — casting a long shadow over the trip. Given that the Indian pharmaceutical sector's production of generic drugs is at the heart of the IPR issue, Commerce Minister Anand Sharma's aggressive stance is both justified and necessary.

The fundamental incompatibilities between the stands taken by both countries have been shown up in both the Nexavar case — where India issued a compulsory license (CL) to Natco Pharma to manufacture and sell the cancer-treatment generic at a price 30 times lower than that charged by patent-holder Bayer — and the Supreme Court's 2012 rejection of Novartis's bid to patent cancer drug Glivec. The pressure big pharma has brought to bear on Washington is not surprising. Given that research and development costs and gestation periods for new products are both high, patent maximisation is a common strategy in the pharma sector. But from New Delhi's perspective — and in the developing world in general — public good, not profit motive, are prime factors. Ninety per cent of India's $13 billion drugs market is made up of generics. They play an important role in a country where a miniscule percentage of the population has medical insurance. And these generics have a global reach; they have been crucial in providing affordable treatment for AIDS, cancer and hepatitis all over the developing world, particularly in Africa.

As far as World Trade Organization (WTO) strictures go, Delhi is in the clear. For all that the Novartis judgement was portrayed as a blow against IPR, it had more to do with pushing back against evergreening; small changes in the production of medicines that allows companies to renew patents. And as far as Nexavar goes, the WTO allows for CLs in instances where the public good is concerned. It is, in any case, the first CL that Delhi has issued, in contrast to Washington.

David Hammerstein (@DaHammerstein), European advocate for Transatlantic consumer dialogue

Big Pharma #ttip wish list: block trial transparency, stronger IPR to stop generics, keep med prices high

But while Delhi must hold firm here, it has plenty of work to do elsewhere. The issue is about more than just generics; it is about poor quality control by Indian pharmas and spurious medicines originating from the country. In the recent past, the US Food and Drug Administration (FDA) has banned four Indian plants — two belonging to Wockhardt Ltd and two to Ranbaxy — from selling drugs in the US. Factor in the WHO's estimation that one in five drugs made in India are fakes and a 2010 survey of New Delhi pharmacies which found that 12 per cent of sampled drugs were spurious, and the magnitude of the problem becomes apparent. The agreement last month between the FDA and its Indian counterpart to coordinate in this area is a step forward, but given the lack of manpower and the issue of political appointments on the Indian side, more will need to be done.

Miscellaneous.