

INTERNATIONAL TRADE COMMISSION PROBE

Indian Patent Laws Sound, Unchallenged: Drug Cos tell US Panel

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The World Health Organization (WHO) has strongly endorsed India's patent laws and no country, including the United States, has challenged these laws at the WTO claiming that these infringe trade-related intellectual property rights, Indian drugmakers have told the US International Trade Commission.

The commission, a quasi-judicial body set up by the US Congress, is investigating whether Indian policies discriminate against American manufacturers and is due to submit its views later this year.

The Indian Pharma Alliance, a grouping of leading domestic drugmakers, presented its views in a submission late last month when the commission heard various stakeholders including academics, industry representatives and NGOs.

The alliance said that if the commission wants to assess whether India is biased against US companies and their innovations, it should probe whether India complies with its global obligations under TRIPS (trade related intellectual property rights) and not measure the gap between the patent regimes in the US and India.

India and the US have vastly different "economic realities", the Indian lobby group told the commission, pointing out that, for instance, the \$11 per day per capita income of the so-called middle class in India is even lower than the poverty line of \$13 per person per day in the US. Even the top 10% of India's income group, which accounts for 30% of the country's income, has a per capita income of \$13,700 after factoring in purchasing power parity, the alliance said in a submission from its secretary general, DG Shah, to the commission, asserting that even the majority of India's affluent class cannot afford the latest patented drugs at the prices they were launched.

As many as 11 of the 12 new treatments approved by the US drug regulator in 2012 to treat cancer are priced at over \$100,000 per treatment per year, which is exorbitant even

Views of Indian Drugmakers

WHO endorses India's patent laws

No country has disputed India's IP regime

US, India's different economic realities

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Latest patented drugs beyond reach of many affluent Indians

for most "well-off Indians", the alliance said. That partially explains "why India can only contribute to a tiny sliver of the (global) revenues to innovator pharmaceutical companies for their patented drugs", it added.

Innovator pharmaceutical firms make decisions on investing in development of new drugs on the basis of the developed markets, the alliance said, recalling that in 2005, when India implemented the TRIPS agreement, three regions (Japan, Europe and North America) with just 18% of the world population accounted for 89% of global pharmaceutical sales revenues.

The alliance also sought to impress upon the commission that those who are claiming that merely not manufacturing the product locally can lead to a 'compulsory licensing' in India have either misunderstood the policy in the country or are misleading the commission.

A section of US Congressmen had, in August 2013, sought a probe by the commission on the perception of US firms on the changes in India's trade and investment policies in select sectors and their impact on the strategies of US firms in India.

"In preparing the report, we do not expect the commission to make findings regarding the legal merits of any Indian laws or policies," the letter from the US senate committee on finance said.

Regulatory