US blocks cheap drugs for undeveloped world

Barry Mason
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World Trade Organization (WTO) talks on the provision of generic drugs to underdeveloped countries broke down as the United States, on behalf of the major pharmaceutical companies, blocked agreement at the last minute.

The deadline for an accord was supposed to be December 21, 2002—one year after the WTO Ministerial Conference meeting at Doha, Qatar had issued its "Declaration on Trade-Related Intellectual Property (TRIPS) and Public Health".

To facilitate further trade talks, ministers representing 144 countries at the 2001 conference had struck a compromise recognising that developing countries, where some 13,000 people a day die from AIDS, malaria, or tuberculosis, were a special case.

Paragraph four of the Doha Declaration included the proviso that the TRIPS agreement "can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all." In principle this meant developing countries should have the right to have access to cheap generic drugs. For example, triple AIDS therapies cost $300 per patient per year if exported as generic drugs from India or Thailand but 10 times that amount if purchased in the West from the major drug corporations.

The recent breakdown of talks, however, showed that the pharmaceutical companies, represented by Western governments and particularly the Bush administration with its close connections to the industry, are determined to maintain their profits. The largest US drug companies made $37 billion in profits last year, a rate of return for shareholders of 39 percent. Although less than 20 percent of these profits are made from the 80 percent of the world's population in the developing world, they are not prepared to allow cheap drug production to continue.

Campaign organisations such as Medecin sans Frontiere (MSF) and Oxfam say that even before the US blocked any agreement, the restrictions being enforced against access to cheap drugs on behalf of the major pharmaceutical companies—backed by the European Union and Japan as well as the US—show the Doha accord to have had no real substance.

Doha was welcomed by campaigners as it appeared to follow on from climb-downs by the big drug companies made in 2001. In April of that year an action brought by 39 drug companies against the South African government was withdrawn. The companies brought the case against a paragraph in the South African 1997 Medicines Act that gives the health minister powers to override patent laws in a health emergency.

A South African protest group, the Treatment Action Campaign (TAC), made nonsense of the drug companies' claim that their high drug prices reflect the cost of research and development. TAC showed that the research behind most of the anti-AIDS drugs was carried out either by universities or the publicly financed US National Institute for Health.

Rather than challenge TAC's research costing figures, the companies withdrew the action. Initially the South African government had agreed with the pharmaceuticals in opposing TAC taking part in the case. But TAC's campaign, taken up by charities like Oxfam and MSF, swayed public opinion worldwide and prevented the government from making a deal before the case came to court.

In June 2001 the American government withdrew a complaint it had filed with the WTO in February of that year against Brazil producing cheaper generic anti-AIDS drugs. To media acclaim, the Bush administration announced withdrawal of the action at the three-day special United Nations session on AIDS.

Over the last year the pharmaceutical corporations have been making sure they reverse any setbacks they incurred. In a briefing paper entitled "US bullying on

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drug patents: one year after Doha" http://www.oxfam.org.uk/policy/papers/33bullying/33bullying.html, Oxfam show that whilst America has reduced the number of complaints under its "Special 301" trade regulations against countries using the WTO arrangements to obtain generic drugs in public health emergencies, it has continued to make even more complaints against developing countries (20 in 2002 compared to 18 in 2001). Oxfam explain that many of these complaints go beyond the TRIPS agreement and are directed against the "key generic producers, such as India, Brazil, Argentina, Thailand, and Columbia."

This attempt to stop the main generic producers is central to the strategy of the drug corporations. Rather than attracting adverse publicity from attacking the very poorest underdeveloped countries, or those with large AIDS epidemics, the aim is to halt all competition from generic drug production, much of which occurs in the "developing" countries, i.e., those not in the lowest economic categories.

MSF pointed this out in an open letter to WTO delegates—written with other Non Governmental Organisations (NGOs)—before the US pulled out. They explain that the US and the major western countries "have been relentless in excluding the middle-income countries as importers, in order to protect this market for the European and North America big pharma countries."

The WTO negotiations were aiming to place very stringent conditions on generic drug exporting—clearly designed to strangle the generic drugs industry.

Commenting on the breakdown of talks in its January 3 editorial, the *Financial Times* sided with this hypocritical campaign by the major drug companies against the tiny generic producers. Brazil and India, they protested, want the "right to override patents extended to such non-infectious diseases as obesity and asthma" and "they appear motivated more by hopes of commercial gain than by compassion."

This attempt to restrict the range of diseases that developing countries can claim are part of a public health problem was introduced into the WTO negotiations by the US, supported by Japan. Amazingly it is argued that diseases such as cancer, heart complaints or asthma are not a public health problem in third world countries.

Aside from drugs for AIDS, tuberculosis and malaria, the US only agreed to consider cheap drugs for tropical diseases that affect the poorest countries. They also demanded that medicines only were considered so that vaccines, diagnostic tests and monitoring tests could not be provided cheaply under WTO rules. Clearly, however, the companies producing generic drugs could not survive if their profits were to be made only on drugs for diseases mainly affecting the poorest countries.

The argument for the drug companies was put in the crudest terms by the Office of the United States Trade Representative: "Some WTO members and advocacy organisations sought to expand the targeted 'poor country epidemic' focus of Doha to allow much wealthier countries to override a wide range of drug patents, for example, Viagra. This approach could seriously undermine the WTO rules on patents that provide incentives for development of new pharmaceutical products, including those to treat diseases of a non-epidemic nature."

At present only a small proportion of the millions of people affected by HIV/AIDS, malaria and tuberculosis have access to drug treatment. Although the WTO round of talks is set to continue this year the United States made clear by openly dashing all expectations hanging on the Doha Declaration that it will allow no improvement on this appalling situation.

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