



KEI Comments Item 11.6 Global Strategy and Plan of Action on Public Health, Innovation, and
Intellectual Property
HHS Listening Session - May 11, 2018

My name is Claire Cassedy and I work with Knowledge Ecology International, a nonprofit non-governmental organization that focuses on access to medicines as it relates to intellectual property rights.

At the upcoming WHA, we urge the United States to reaffirm the rights of Member States to exercise the legal actions afforded to them by the Trade-related Aspects of Intellectual Property Rights (TRIPS) Agreement to increase access to medicines in their country, and for the US to act in accordance with this reaffirmation.

The Global Strategy states that, “Intellectual property rights do not and should not prevent Member States from taking measures to protect public health.” This principle is echoed and buoyed by Element 5 of the GSPoA, wherein it states its explicit support for the right of countries to use the space in the WTO TRIPS Agreement for limitations and exceptions to intellectual property rights.

In theory, the US, as a member of the WHO and a party to the TRIPS Agreement, must abide by and respect these rights and the resultant actions of other sovereign nations. In practice, the US repeats these phrases as a sort of reflex before administering rebukes and threats to nations that dare to take legal steps to increase access to medicines within their own borders.

For example, the annual Special 301 Report issued by the Office of the US Trade Representative explicitly states the US’s support for the TRIPS Agreement and the Doha Declaration on the TRIPS Agreement and Public Health, but then faults countries for considering compulsory licenses on life-saving medicines. The USTR has also applied other pressures on countries that are considering compulsory licenses on medicines, one of the most egregious examples being Colombia. In recent years, Colombia has sought to increase access to medicines through TRIPS-afforded measures, and yet the United States, via the USTR, has threatened to withdraw critical funding for a peace deal, and more recently, sought to block Colombia’s accession to the OECD.

As you work with Member States at the upcoming WHA, we urge you to support global efforts to increase access to medicines, both in words and actions.

If the United States wants foreign countries to do more to support R&D for new drugs, don’t ask them to raise drug prices. Instead, work for new global norms to increase public sector support and subsidies for biomedical research, to match the extensive efforts the U.S. funds through the NIH and other agencies.

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