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MOTION FOR A RESOLUTION

further to the Commission statement

pursuant to Rule 37(2) of the Rules of Procedure

by Joaquim Miranda, Yasmine Boudjenah, Michel-Ange Scarbonchi, Luigi Vinci and Gérard Caudron

on behalf of the GUE/NGL Group

on access to medicines and paragraph 6 of the Doha Declaration on TRIPs and Public Health

B5-0123/2003

European Parliament resolution on access to medicines and paragraph 6 of the Doha Declaration on TRIPs and Public Health

The European Parliament,

– having regard to the Doha WTO Ministerial Declaration on the TRIPs Agreement and Public Health, adopted on 14 November 2001, and in particular paragraph 6 thereof,

– having regard to its previous resolutions and those of the ACP-EU Assembly on AIDS, the WTO, and access to medicines for AIDS patients in the Third World (notably ACP-EU 3305/01/fin., ACP-EU 3315/01/fin., A5-0331/2001, B5-0691, B5-0692 and B5-0693/2001),

– having regard to the report on the proposed Parliament and Council regulation on aid for poverty-related diseases (Wijkman A5-0394/2002),

A. whereas the separate Declaration on TRIPs and Public Health negotiated during the 2001 WTO Ministerial in Doha represented a minimum outcome arrived at in order to respond to the urgent concerns of the developing and least developed countries on such a crucial issue, including, in particular, the need to promote access to medicines for all and to put people before patents where appropriate,

B. whereas paragraph 4 of the Doha Declaration states that '… the TRIPs agreement does not and should not prevent members from taking measures to protect public health'. The same paragraph states 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',

C. whereas paragraph 5(b) of the Doha Declaration reaffirms the right of countries to grant compulsory licences and the freedom to determine grounds upon which such licences are granted, and whereas paragraph 6(c) reaffirms that each member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency,

D. whereas WTO members which have sufficient domestic manufacturing capacity are not limited in any way as to the use of the compulsory license and do not need to refer to the WTO to use their rights under TRIPs, but, as recognised by paragraph 6, members with insufficient or no manufacturing capacity in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPs Agreement,

E. whereas the WTO TRIPs Council was therefore mandated to find an expeditious solution to this problem and to report to the General Council before the end of 2002,

F. whereas this mandate clearly intended that those countries which lack such capacity should not be put at a disadvantage by discriminatory restrictions and that the solution

sought should be workable, automatic and economically viable,

G. whereas the deadline was not met, primarily owing to the insistence of some pharmaceutical companies and the United States government that there needed to be further restrictive definitions of public health crises, together with a specified list of diseases to which the provisions applied,

H. whereas the Commission has proposed that the advice of the World Health Organisation could be sought in the event of a dispute, but that such advice would be non-binding,

I. whereas the TRIPs Council is to reconsider the matter at its forthcoming session,

1. Strongly condemns the position taken by the United States, motivated by the interests of some pharmaceutical companies, in blocking the adoption by the TRIPs WTO Council of an expeditious solution to the problem of access to medicine for developing countries before the end of 2002, as agreed in Doha;

2. Asks the Commission and the Members States to assume a stronger position in the TRIPs WTO negotiations in order to ensure that priority is always given to public health and not to commercial considerations, patents and the profits of pharmaceutical companies;

3. Considers that the language of the Doha Declaration is clear and unambiguous and the question of what does or does not constitute grounds for the issue of compulsory licences does not require further interpretation, either by means of an 'approved list' or of any external approval mechanism. Any allegations of abuse of the provisions of TRIPs should be dealt with through the relevant disputes procedure;

4. Insists that the Commission must therefore respect the clarifications provided in the Doha Declaration and reject any position that would result in limitations regarding the scope of diseases or the countries that could make use of an effective solution to the problem defined in paragraph 6;

5. Believes that the ongoing negotiations in the WTO on a solution to the problem of paragraph 6 of the Doha Declaration should aim at placing WTO members without sufficient manufacturing capacity in the same position as WTO members who do have manufacturing capacity;

6. Calls on the Commission to find an equitable solution to the problem stated in paragraph 6 of the Doha Declaration, and insists that this should not result in discrimination between WTO members with differing capacities to respond to public health crises;

7. Insists that neither the countries with insufficient manufacturing capacities nor the countries that will utilise the mechanism to produce for export should be subject to any conditions, notification procedures or any other procedural mechanism more onerous than the ones already provided for under WTO rules;

8. Recognises that the WTO is not the appropriate body to arbitrate or make rules on questions of public health or access to essential medicines and that, in this regard, the

TRIPs Agreement has to be subservient to other values and authorities, as is implicit in the Doha Declaration;

9. Agrees with the Commission that the World Health Organisation could play an important role, but warns that the autonomy and authority of the WHO should not be compromised; in this context encourages the Commission to consider the WHO's proposal for a solution to paragraph 6, presented to the TRIPs Council on 17 September 2002;

10. Considers that when conflicts arise, as they certainly will in this case, between intellectual property rights and public policy questions, they should always be resolved for the benefit of people and not patents. Further, underlines that there is a timetable laid down in the TRIPs Agreement for overall review of its workings, which has not been met, and notes that this process is also stalled in Geneva;

11. Asks the Commission and the Member States to support a broader discussion under the auspices of the WHO on how the TRIPs agreement affects the availability of affordable generic medicines;

12. Asks the Commission also to investigate alternative strategies for addressing the issue of the lack of product development for neglected diseases and to support the WHO in including this issue on its agenda;

13. Instructs its President to forward this resolution to the Council, the Commission, the Member States, the WTO, the WHO and the UN Secretary-General.