

**COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS
32ND SESSION**

**Trade- Related Intellectual Property Rights, Access to Medicines and
the Right to Health in Ecuador**

Oral Statement by 3D → Trade - Human Rights – Equitable Economy

Monday 26th April 2004

Madam Chair,
Distinguished members of the Committee,
Ladies and Gentlemen,

We are concerned by the lack of access to affordable, life-saving, medicines in Ecuador.

The people most affected by the inability to afford treatment are vulnerable groups, of which the most exposed are women, children, the elderly, minorities and indigenous peoples.

We are also alarmed at the fact that trade rules being negotiated at the moment risk undermining Ecuador's ability to take measures to increase access to affordable medicines.

Access to affordable medicines is an inherent part of the obligation to ensure the right to the highest attainable standard of health under article 12 of the Covenant, as interpreted by General Comment No. 14.

In view of this obligation, the government of Ecuador has taken some notable steps to respect, protect and fulfil this right.

- In 2000 it passed a Law on Generic Medicines which obliges public health institutions to use cheaper generic drugs that are equivalent to more expensive patented drugs.
- In June 2003 it achieved price reductions for antiretroviral drugs used to treat HIV/AIDS, following regional negotiations with mainly generic drug producers.

However, these important steps towards making medicines more affordable risk being undermined by strict intellectual property rules in regional free trade agreements.

Ecuador is party to the negotiations for a Free Trade Agreement of the Americas and is scheduled to participate in the US-Andean Free Trade Agreement later this year.

Based on provisions in other Latin American free trade agreements, the intellectual property clauses proposed could dramatically limit Ecuador's policy flexibility to manufacture or import cheap medicines permitted by the WTO intellectual property agreement (TRIPS Agreement) and the WTO Doha Declaration on TRIPS and Public Health (Doha Declaration).

Madam Chair,

We are concerned that Ecuador is negotiating trade agreements that could affect the right to health of millions of people, without undertaking any assessment of the impact of the proposed intellectual property rules on access to affordable medicines.

We are also deeply concerned that these negotiations on intellectual property rules are being conducted without publicly informing or consulting with vulnerable groups whose right to health will be affected.

We therefore urge Ecuador to conduct an impact assessment of the effect of trade rules on the right to health and consult widely with vulnerable groups before negotiating free trade agreements.

We also recommend that Ecuador take measures to protect the policy flexibilities permitted by the WTO TRIPS Agreement and Doha Declaration from being eroded by free trade agreements.

For information on 3D's work in general, or on 3D's project on the impact of trade-related intellectual property rules on access to affordable medicines and human rights, please visit: www.3dthree.org or contact:

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