

## **Access to Affordable Drugs: a Right No FTA Can Ignore**

### **UN Committee Warns Ecuador that US-Andean FTA Must Not Undermine Human Rights**

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Ecuador was warned by an independent UN Committee, in a document made publicly available today that the up-coming US-Andean Free Trade Agreement (FTA) must not undermine Ecuador's human rights obligations.

The warning stresses that Ecuador must take into account its human rights obligations "in all aspects of its negotiations."

Furthermore, it strongly urges Ecuador to "conduct an impact assessment of the effect of international trade rules on the right to health" and "make extensive use of the flexibility clauses permitted by the WTO TRIPS agreement in order to ensure access to generic medicine."

These explicit recommendations come just as negotiations begin today for a US-Andean FTA that will span Colombia, Ecuador, Peru and most probably Bolivia.

The recommendation came from the UN Committee on Economic, Social and Cultural Rights, an independent organ which supervises the implementation of a legally binding human rights treaty ratified by 148 States.

As a party to this treaty, Ecuador is obliged to take steps to ensure that the right to health, of which access to affordable drugs is a fundamental element, is implemented.

This means that Ecuador must not adopt measures that make it harder for its people, especially the poorest and most marginalised, to access affordable drugs.

However, there is a strong risk that Ecuador will be coerced into signing an FTA with intellectual property rules that go beyond CAFTA or the US-Morocco FTA, and way beyond WTO TRIPS obligations. This will dramatically limit its ability to obtain cheaper generic drugs for the most needy.

It would be wrong under international law – and morally unacceptable – for the US to force Ecuador into a position where it could no longer fulfil its human rights obligations to its people.

Since trade rules do not supersede human rights, the UN Committee's recommendations could support Ecuador's hand in the negotiations by providing it with strong legal and moral arguments to counter US pressures.

The same reasoning applies for the other Andean countries participating in the FTA negotiations: as parties to human rights treaties, they cannot ignore their international human rights obligations when negotiating trade agreements.

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