

# **Assessment by the Chairman of the Health Issue Group/Access to Medicines**

January 16, 2001

## **I. Background**

The setting up of the Issue Group was a result of the debates before and during the Seattle WTO Ministerial.ties involved.

The Trade Commissioner addressed the issues of development and trade related to access to health in an Information Note to the College of Commissioners in April 2000. This was the basis for the discussion with the civil society.

## **II. Number of meetings**

The Group has met on five occasions (one meeting in July 2000, two meetings in September 2000, one meeting in November 2000 and finally one meeting in mid-January 2001). The first meeting stretched over a full day while the others covered half a day. It seems that the time allocated had been sufficient. However, many issues require further analysis and consensus building.

## **III. Participation**

a) The research based industry ( EFPIA, Glaxo, BSM, Merck etc) has participated in all meetings. The generic industry has been represented at the majority of meetings by their representative organisation EGA.

b) The number of NGO's (MSF, HAI, ACT-UP, OXFAM, WEMOS, AIM and others) that have attended regularly has been impressive.

c) The difficulties in securing attendance of experts from other Commission Services have been obvious, a fact that was highlighted in a negative manner by some NGOs.

## **IV. Issues discussed**

a) During the first two meetings the industry and the NGO's introduced their organisations, work and positions. It was educational. Dialogue between the industry and certain NGO's was not always easy.

b) On research the Commission services made detailed presentations as to new objectives and funds. From the debate we take it that the topic was well chosen and that the information was well received.

c) On TRIPs and IPRs we started off with quite divergent opinions regarding effects and possibilities for developing countries. Also, there were organisations arguing that patents made medicines out of reach price-wise for poor people.

The Commission services were asked to form opinions on, in particular, ARTs 31 and 39 of TRIPs. This has been done and the resulting papers will soon be made official. That compulsory licensing is part of the flexibility provided for in the TRIPs is a fact. The Commission services expressed the view that no TRIPs plus should be requested. However, the need for IPR is indispensable to encourage investment in research for new medicines. At our last meeting the issue of patent term extensions as incentives to encourage research was discussed without any agreement being reached. On these IPR issues we welcome all interested participants to the new Issue Group to convene for the first time in March, 2001.

d) Pricing of pharmaceuticals has been an intensely debated issue with many aspects and arguments. Firstly, transparency into pricing policies and calculations has been made a key issue by MSF but the debate did not lead to concrete results. Similarly, analysis of impact of additional costs such as tariffs, taxes and fees in the importing countries have been addressed but failed mainly due to relevant statistics being unavailable. On the concept of tiered pricing it is a common view of the group that the industry policies have shown positive results and should be continued. The main objection seems to be the slowness of the arrangements presently applied under the Accelerating Access Initiative. The discussions on tiered pricing have shown that joint willingness to develop and improve this system for the benefits of the poorest exist. The difficulties connected to the avoidance of re-exportation from recipient countries

and the need for measures (different labelling, commercial practices and contractual obligations, possibilities to request importing countries to issue export prohibitions etc) to ensure that the products are not traded to highly priced markets are recognised by all parties. The attempts to create understandings (or even international arrangements or agreements) on tiered pricing will continue.

e) In the context of local production of essential pharmaceuticals, views were originally diverse. It seems that there is now a common view that local production in itself does not necessarily make prices more affordable. On the other hand, will local production contribute to development in general and is it therefore desirable? To enable local production of patented medicines it is clear that the researched based industry will have to issue licenses. The debate on voluntary licensing has been very useful and has provided information regarding business practices of the industry. There is consensus within the group that support for feasibility studies and support for existing local production to conform to GMP-WHO standards would be useful.

f) Access to medicines and access to health in relation to existing WTO Agreements is a topic that has been raised by MSF, HAI and others. An initial overview of positions seems to be that the current agreements neither provide problems nor solutions to the issue. It should further be looked into whether access to health and medicines could be fruitfully discussed and addressed within existing WTO structures or whether a separate forum needs to be proposed. This is definitely a topic that has not been finalised within the group and on which discussions should continue. There are also questions raised by NGOs regarding health/medicines in relation to other international organisations which merit further analysis.

## **V. Conclusions**

The discussions and views of the Group has certainly assisted the Commission services in progressing on a number of important issues including

- the Communication on Communicable diseases in September 2000
- the approach to discuss health problems in the context of G8 in Okinawa and the EU-US Summit
- the current work of drafting the Programme for Action that is scheduled to be adopted by the College of Commissioners in February.