

AMNESTY INTERNATIONAL

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Amnesty International urges WTO members to respect human rights obligations in trade negotiations in Hong Kong

As officials of 148 governments prepare to gather in Hong Kong for the Sixth Ministerial Conference of the World Trade Organization (WTO), Amnesty International is concerned that negotiations over proposed trade agreements appear to ignore member states' duty to respect human rights.

While trade agreements have created new opportunities for some and can have a positive human rights impact, they have also at times been associated with patterns of growing inequality and deteriorating social conditions, including denial of human rights for the poorest and most marginalised sectors of the population.

Assessments of the effects of trade liberalisation have generally concentrated on how they affect countries' overall economic growth. Very little, if any, work has been carried out by governments to assess the potential human rights impact of trade liberalization and in particular to outline what complementary measures are needed to ensure that all sectors of society, including the marginalised, the poor and those who experience systemic discrimination, can benefit from trade agreements.

All members of the United Nations have pledged under the UN Charter to take both joint and separate action to achieve universal respect for, and observance of, human rights for all without distinction. All governments have a duty to ensure that their actions do not result in the abuse, violation or denial of human rights, including the rights of people in other countries where this is within their sphere of influence. AI believes that, in order to comply with this obligation, all states should undertake comprehensive human rights impact assessments prior to concluding any new trade agreements. Moreover, with regard to all concluded agreements, governments should closely monitor their impact, taking necessary measures to ensure that no-one is unable, for reasons of the impact of trade agreements, to realise their human rights.

These assessments should be undertaken in a manner which recognises the right of the population to participate in the conduct of public affairs, in particular the right of those who are most likely to be affected, the most marginalised. Assessments should be carried out in a manner that ensures that sound empirical evidence is drawn from public, independent and transparent evaluation, based on information gathered through a participatory and consultative process with concerned individuals and including women, minorities, indigenous peoples and other groups facing discrimination.

An example of particular concern to Amnesty International is that of stringent trade-related intellectual property rules. The strict enforcement of rules on pharmaceutical patents can and often do hinder access to essential medicines for all. Where trade agreements result in a retrogression in access to essential medicines, governments which implement these agreements risk violating the right to the highest

attainable standard of health.

The WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) remains problematic in practice for many developing countries despite the adoption of the Doha Declaration on TRIPS and Public Health which reaffirms a state's ability to use all the flexibilities in TRIPS in order to reduce the cost of medicines.

The 30 August 2003 General Council decision to implement paragraph 6 of the Doha Declaration on the TRIPS Agreement, aimed at enabling countries without pharmaceutical manufacturing capacity to obtain generic medicines under compulsory license, is viewed by many experts as too cumbersome to adequately resolve the problem of access to medicines for the poor.

Now that the Least Developed Countries (LDCs) have been granted a seven-year extension to implement TRIPS, it is essential they make full use of the extension by undertaking effective assessments of the impact of proposed intellectual property rules on the enjoyment of human rights and taking necessary legal and other measures to make full use of the agreement's flexibilities.

Amnesty International would urge all leaders of the 148 governments to ensure that human rights obligations are a central consideration during the forthcoming WTO meeting.

In this respect Amnesty International urges all the 148 governments to:

- Ensure LDCs make full use of the seven years extension for the compliance of the TRIPS obligations. Developed countries should cooperate with at least one LDC by helping them to develop their technological base and to conduct, in conjunction with other relevant agencies, a human rights impact assessment to ensure their compliance with the TRIPS obligations will not negatively affect the human rights of their populations.

- Commit to carrying out participatory human rights impact assessment before concluding any new trade agreements, or making revisions to existing ones.

- Ensure that decisions made are informed and complemented by exchanges with governmental bodies responsible for ensuring compliance with human rights obligations. The governments may, for example, consider including at least one human rights expert in their delegations.

- Offer political support to ensure that relevant UN agencies and organizations build on existing expertise and best practice worldwide in order to identify an effective model of human rights impact assessment, which will include the development of appropriate methodology and human rights indicators and benchmarks.