



Positive Malaysian Treatment Access
& Advocacy Group



Dr. Joerg Reinhardt
Präsident des Verwaltungsrates
Novartis AG
CH – 4002 Basel
Switzerland

1st March 2018

To Joerg Reinhardt, Chairman of Novartis Board of Directors

We are campaigning at the Novartis headquarters in the UK, South Africa and Malaysia to protest against Novartis' use of lies, threats and bribes to put their profits before public health. In particular, the pressure they put on developing countries to stop them from taking legal actions to make medicines affordable is unacceptable. The letter, leaked by Public Eye, from the previous CEO is a clear example of thisⁱ. We are calling on you to ensure the new CEO of Novartis, Mr. Vasant Narasimhan, does not repeat his predecessor's tactics of threatening and bullying countries to stop using their legal right under international trade rules.

Governments have the legal right to implement the flexibilities enshrined in the agreement on Trade Related Aspects on Intellectual Property Rights (TRIPS). Moreover the tactics Novartis have used violate the Doha Declaration. The declaration affirms that the Agreement should be "implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all..." and "...reaffirm[s] the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement, which provide flexibility for this purpose"ⁱⁱ. Yet countries that have tried to implement any flexibilities have faced enormous pressure by pharmaceutical companies, including Novartis, and some developed country governments to stop such use.

Novartis portrays itself as a socially responsible companyⁱⁱⁱ but in reality it has used its influence to threaten the Colombian government to stop them from practicing their right to declare the cost of imatinib a matter of public interest and consider a compulsory license or price controls to ensure the medicine is affordable to patients that need it, without putting at risk the sustainability of the entire Colombian health system.^{iv}

Novartis succeeded in soliciting the support of the United States^v, and Switzerland^{vii}, to add further pressure on the Colombian government. The Government of Colombia expressed concern to WIPO about this pressure and the constraints faced when making use of patent flexibilities for public health^{viii}.

This month the Pharmaceutical Research and Manufacturers of America (PhRMA), of which Novartis is a member, requested the United States Trade Representative (USTR) considers trade retaliations stating that “Medicines discovered and manufactured by PhRMA member companies are the constant target of compulsory licensing and other harmful practices that deny the most basic intellectual property protections”^{ix}. In doing so, PhRMA has increased its pressure on the governments of Malaysia, India, Indonesia, Thailand, Russia, Turkey, Chile and Colombia and others that have attempted to use TRIPS flexibilities.

The report of the United Nations Secretary General’s High Level Panel on Access to Medicines (HLP) drew attention to the serious pressure that countries face when implementing pro-health patentability criteria. The report specifically mentions the previous pressure from pharmaceutical companies to change Section 3(d) of India’s patent law as well as the ongoing pressure from other governments^x. Novartis was the main challenger to Indian legal rights^{xi}.

TRIPS has been portrayed as striking a balance between public and commercial interest. In fact, pharmaceutical companies, including Novartis, have been severely tipping that presumed balance to make TRIPS work only in favour of commercial interest even if this is done at the expense of people’s lives. This must not be allowed.

We are also aware of the allegations against Novartis for being involved in a corruption scandal in Greece including bribes to gain privileged access to the Greek market and to raise prices of medicines^{xii}. Such allegations propel the idea that Novartis prioritises profit over public health, putting Novartis’ overall reputation at risk. Particularly as Novartis has been fined for a number of documented cases of illegal kickbacks^{xiii,xiv,xv}.

We demand that you ensure Novartis takes these matters seriously and stops using underhanded tactics that put patients lives at risk. We look forward to hearing your response – please send any correspondence to Global Justice Now, 6 Offley Road, London, SW9 0LS, UK.

Yours sincerely,

Access to Medicines Ireland
Act Up London, UK
All-Ukrainian Network of people living with HIV/AIDS, Ukraine
Global Justice Now, UK
IFARMA, Colombia
Just Treatment, UK
Misión Salud, Colombia
Positive Malaysian Treatment Access and Advocacy Group, Malaysia
Public Citizen, USA
STOPAIDS, UK
Treatment Action Group, USA

ⁱ Glivec in Colombia: new leaked letter from Novartis attests to pressure at highest level
https://www.publiceye.ch/en/news/glivec_in_colombia_new_leaked_letter_from_novartis_attests_to_pressure_at_highest_level/

ⁱⁱ The Doha Declaration on the TRIPS Agreement and Public Health:
<http://www.who.int/medicines/areas/policy/tripshealth.pdf?ua=1>

ⁱⁱⁱ <https://www.novartis.com/our-company/corporate-responsibility/expanding-access-healthcare>

^{iv} Colombia plans to unilaterally lower the cost of a Novartis cancer drug
<https://www.statnews.com/pharmalot/2016/06/09/colombia-novartis-gleevec/>

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- ^v S - EUSWHT-16-870; Asunto: Glivec - Novartis <https://docs.google.com/viewerng/viewer?url=http://www.mision-salud.org/wp-content/uploads/2016/05/Carta-Ministerio-28April2016.pdf&hl=en>
- ^{vi} I-EUSWHT-16-867; Asunto: Glivec - Novartis <https://www.keionline.org/sites/default/files/Florez-27April2016.pdf>
- ^{vii} Patent of Imatinib I Glivec: Closing arguments <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/V/S/MET/patent-of-Imatinib-glivec-closing-arguments.pdf>
- ^{viii} WIPO SCP/27/6 http://www.wipo.int/edocs/mdocs/scp/en/scp_27/scp_27_6.pdf
- ^{ix} PhRMA Special 301 Submission 2018 https://www.keionline.org/wp-content/uploads/2018/02/PhRMA_2018_Special_301_Submission.pdf
- ^x UNSG High Level Panel on Access To Medicines Report: <https://static1.squarespace.com/static/562094dee4b0d00c1a3ef761/t/57d9c6ebf5e231b2f02cd3d4/1473890031320/UNSG+HLP+Report+FINAL+12+Sept+2016.pdf>
- ^{xi} Novartis challenges India's patent law <https://www.nature.com/news/novartis-challenges-india-s-patent-law-1.10262?referral=true>
- ^{xii} Greek MPs back call for probe into Novartis bribery accusations <https://www.ft.com/content/3aa58000-0fe7-11e8-940e-08320fc2a277>
- ^{xiii} Novartis Fined \$390 Million Over Pharmacy Kickbacks <http://www.industryweek.com/regulations/novartis-fined-390-million-over-pharmacy-kickbacks>
- ^{xiv} South Korea fines Novartis over kickbacks, suspends sales of some drugs <https://www.reuters.com/article/us-novartis-southkorea/south-korea-fines-novartis-over-kickbacks-suspends-sales-of-some-drugs-idUSKBN1690LK>
- ^{xv} Novartis Pharmaceuticals Corp. to Pay More Than \$420 Million to Resolve Off-label Promotion and Kickback Allegations <https://www.justice.gov/opa/pr/novartis-pharmaceuticals-corp-pay-more-420-million-resolve-label-promotion-and-kickback>