

## **UN Special Rapporteur: Intellectual Property (IP) In Health Helping Those With Most Means, Less Need**

Nearly two billion people lack access to the medical care they need, and in the developing world those who do manage to have access are overwhelmingly paying out-of-pocket, often triggering a fall into poverty. The monopoly-making power of patents to drive the cost of medicines beyond affordability is a significant contributor to this disturbing trend, says a report of the United Nations rapporteur on the right to health presented at last week's Human Rights Council.

The ultimate goal of developed countries "was and is the universal harmonisation of IP laws according to their standards," the report asserts. They have tried to push such harmonisation through the World Trade Organization Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement as well as through free trade agreements. While flexibilities in TRIPS exist, developing nations often lack the capacity to or are the subject of political pressure not to use them. "From a right to health perspective," it adds, "developing countries and LDCs" need to use flexibilities that remain in the TRIPS agreement, in particular to create exceptions to patent rights, issue compulsory licences, and facilitate parallel importation.

Developing countries need to be particularly careful when negotiating free trade agreements on a bilateral or regional basis, the report says. Such agreements “have extensive implications for pharmaceutical patent protection” and “are usually negotiated with little transparency or participation from the public, and often establish TRIPS-plus provisions [that] undermine the safeguards and flexibilities that developing countries sought to preserve under TRIPS.”

TRIPS-plus measures include extension of patentability terms, the introduction of exclusivity of use on data gleaned from clinical trials, the linking of a patent status with a drug registration and approval (so generic versions of drugs under patent cannot be approved for market), and the creation of new enforcement mechanisms.(...)

The article:

<http://www.ip-watch.org/weblog/2009/06/16/un-special-rapporteur-ip-in-health-helping-those-with-most-means-less-need/>

The Report of the United Nations Rapporteur on the right to health:

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.12\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.12_en.pdf)

