

India raises concerns on proposed ACTA, TRIPS Plus measures at WTO forum

Saturday, June 12, 2010 08:00 IST

Joseph Alexander, New Delhi

Raising concerns over the efforts by the developed countries to introduce provisions into trade agreements that go beyond the TRIPS agreement, India has strongly raised objection to the proposed Anti-Counterfeiting Trade Agreement (ACTA) which can adversely affect Indian pharma business.

After raising the issue of seizure of generic drugs recently at the international forum, India has expressed reservation on the efforts on the TRIPS-Plus measures at the two-day meeting of the World Trade Organisation recently, along with some other prominent countries like China and forced a discussion on the agenda. It has pointed out the possible effect of a global enforcement push by the developed countries and the ACTA under negotiation.

“Risks associated with TRIPS-plus measures include the possible disturbance of the balance of rights and obligations enshrined in TRIPS, and the possible trade-distorting effects of those measures,” India said while citing concern that plurilateral IPR negotiations like ACTA are bypassing the existing multilateral processes.

Similarly, China also objected the ACTA and cautioned about the effects of TRIPS-Plus measures, saying that extensive protection also could lower the threshold for seizure of suspected pirated or counterfeit goods by custom authorities. It also noted that the “delicate balance” in TRIPS resulting from “long-term arduous negotiations” would be at risk.

On the other hand, ACTA negotiating parties said agreement would not conflict with TRIPS provisions, and no new trade barriers or change in the balance of rights and obligations would come from ACTA. The ACTA negotiating parties are: Australia, Canada, the European Union, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States.

According to sources, India was happy that it could put ACTA proponents on the defensive by forcing a detailed discussion on the topic and elaborating the concerns it shared with a number of developing countries. As India could not oppose the ACTA till it is framed, India was keen to have a discussion on the topic at the meeting and it could succeed.

Based on the concerns by India and others, the meeting decided to hold a one-day extended session during the next TRIPS council in October for a detailed review of the

Paragraph 6, dealing with the 2001 WTO Doha Declaration on TRIPS and public health. The paragraph a waiver allowing countries to avoid a WTO obligation stated in TRIPS Article 31(f) – reserving production of drugs under compulsory licensing to be predominantly for the domestic market – to facilitate access to cheaper generic medicines for countries without pharmaceutical production capacities.