

EU intellectual property offensive in the global south

Wednesday 2 May 2018, by [NEW William](#) (Date first published: 16 April 2018).

A wide-ranging list of international nongovernmental organisations have written to European Trade Commissioner Cecilia Malmström opposing a proposal to establish a “watch list” of countries deemed failing to protect European intellectual property. The list would violate World Trade Organization rules on intellectual property, have a chilling effect on developing countries’ public health initiatives, and lead to expanded and untenable levels of intellectual property enforcement.

At issue is a 12 March announcement by the European Commission of its intent to create a “Counterfeiting and Piracy Watch-List” to target non-EU countries that are believed to be inadequately protecting European intellectual property (IP) rights. This model appears to closely follow a longstanding practice of the Office of the United States Trade Representative (USTR). The EU announcement stressed that China remains the chief concern in the report.

A key concern of the NGOs [1] is that a 21 February “Commission IPR report” on which the watch list initiative is based “conflates counterfeiting and piracy with the legitimate use of the flexibilities of the World Trade Organization’s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).” The 1994 TRIPS agreement established standards for WTO members to protect IP rights, but built in flexibility for developing nations to be able to ensure they can act in the public interest, such as the ability to issue compulsory licences to make available needed medicines that are under patent and unaffordable.

The letter lists the countries that are named in the EU IPR report for enacting policies on issues such as strict patentability criteria, local working provisions, and compulsory licensing, as well as for providing insufficient regulatory data protection for pharmaceuticals.

The NGOs argue that such a watch list would run against the EU’s statements, pledges and commitments to support developing countries’ right to use the TRIPS flexibilities and follow other international agreements.

“[T]he EU Watch-List will chill third countries’ efforts to protect public health and to promote access to medicines...,” the letter states. “The creation of a Watch-List would undermine the objectives of the TRIPS Agreement which speak to a “balance of rights and obligations” and the fundamental principles which provide countries the policy space to “adopt measures necessary to protect public health” and undertake appropriate measures to “prevent the abuse of intellectual property rights.”

“The Commission’s Strategy for the Enforcement of Intellectual Property Rights in Third Countries is in dire need of course correction,” the letter concludes. “We urge you to stop targeting the legitimate use of public health-sensitive TRIPS flexibilities in your objective to create a Counterfeiting and Piracy Watch List.”

The signatory NGOs include several global groups from Europe such as Knowledge Ecology

International Europe, Health Action International, Universities Allied for Essential Medicines and Oxfam, but stretch to India, Thailand, Brazil, Colombia, Chile, Argentina and elsewhere.

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P.S.

Original title:

Dozens of NGOs oppose proposed EU watch list on IP rights

Source: Intellectual Property Watch

<http://www.ip-watch.org/2018/04/16/dozens-ngos-oppose-proposed-eu-watch-list-ip-rights/>

The 16 April NGO letter is [available here](#) [pdf].

Footnotes

[1] <http://media.ip-watch.org/weblog/wp-content/uploads/2018/04/EU-Watch-List-Open-Letter-to-Malmstr%C3%B6m.pdf?a1fc53>