

Federal Councillor Guy Parmelin (Economic Affairs)  
Federal Councillor Elisabeth Baume-Schneider (Health)  
Federal Councillor Ignazio Cassis (Foreign Affairs)  
State Secretary Helene Budliger Artieda (SECO)

3003 Berne - Switzerland

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## Switzerland puts corporate profits over human rights

Dear Federal Councillor Parmelin,  
Dear Federal Councillor Baume-Schneider,  
Dear Federal Councillor Cassis,  
Dear State Secretary Budliger Artieda,

According to recent reports and statements by Federal Councillor Guy Parmelin, Switzerland together with European Free Trade Association (EFTA) partners are in the final stages of concluding a free trade agreement with India.

Public Eye is deeply concerned that the agreement contains more restrictive and damaging Swiss demands on intellectual property that go beyond what is required by the World Trade Organization (WTO) agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS).

There is convincing evidence that so-called TRIPS plus provisions such as a data exclusivity regime of at least 6 years were tabled by Switzerland and EFTA partners in the current closed-door negotiations, according to a [leak made public on the 12<sup>th</sup> of February](#). Furthermore, we have concerns that additional TRIPS plus provisions may have been pushed for, and possibly tabled, by Switzerland, according to a [previously leaked Swiss note to the Indian Minister of Commerce & Industry](#). These may undermine patent oppositions, lower patentability standards, and/or offer additional litigation avenues for Swiss Big Pharma to further delay the entry of generics.

The TRIPS agreement allows WTO member states to draft their national intellectual property law within the general framework of binding international requirements. India has the sovereign right to do it and its patent law is TRIPS-compliant. None of these restrictive TRIPS plus provisions are required under the WTO agreement, and this is reaffirmed by the November 2001 Doha Declaration on TRIPS and Public Health. However, these TRIPS plus provisions would have a devastating impact on early access to lower-cost versions of newer medicines for people in India as well as in many other low and middle-income countries (LMIC) who rely on the supply of more affordable quality-assured generic medicines produced in India.

Whereas EFTA/Switzerland has not formally done such an analysis, the European Union (EU) has requested a Trade Sustainability Impact Assessment to be made in relation to the Free Trade Agreement and Investment Protection Agreement under negotiations between the EU and India. [The study report \(Oct 2023\) clearly stipulates](#) that: “*In order to ensure access to medicines for patients in developing countries, the current IP Chapter [containing provisions regarding patent term extension and data exclusivity] should be modified to not go beyond the minimum standards of IP protection under the WTO TRIPS Agreement.*” (p. 99-100).

The Swiss government and SECO have long been (over)protecting the interests of its pharmaceutical corporations, as witnessed in the past by interventions over threats of compulsory licenses on Roche and Novartis drugs in [Thailand](#) and [Colombia](#). At the same time, Swiss pharmaceutical companies have also been putting pressure on India with respect to its patentability criteria and the examination of patent claims (Novartis) or in relation with the registration of biosimilars (Roche).

Whereas India represents less than 1% of the total Swiss pharmaceutical product exports, Switzerland's persistent demands for more restrictive intellectual property rules unduly strengthen the monopoly rights of the Swiss pharmaceutical industry at the expense of patients in India and beyond. This puts corporate profits over human rights and public health and undermines a [sustainable Swiss foreign economic policy](#).

Public Eye therefore demands that Switzerland immediately drops all TRIPS plus provisions still included in the EFTA free trade agreement negotiations with India.

Yours sincerely,



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Health Policy Expert



Christa Luginbühl  
Joint Managing Director