**<Statement>**

**Stop the India-EU FTA Negotiations, Decimator of the 'Pharmacy of the World'!**

**Dismiss the Novartis' case!**

**Abolish the KORUS FTA right now!**

US and EU are threatening lives of people living with disease now. The India-EU FTA is an agreement which risk patients' health none the more than the KORUS FTA. Especially, the India-EU FTA endangers lives of people living with disease all over the world. We urge the Lee Myoung-bak government to abolish KORUS FTA immediately as well as the India government to stop the India-EU FTA negotiation. We also call for the India Supreme Court to dismiss Swiss pharmaceutical company, Novartis' case toward India's progressive patent law.

India is called 'Pharmacy of the World', because India supplies inexpensive generics for many patients of low and middle-income countries. India provides world's half of AIDS medicines, especially 90 percent of AIDS medicines supplied to more than 120 developing countries is Indian generics. Moreover, India manufactures 20% of generic medicines in the world including antibiotics, anti cancer medicines, antihypertensive drugs and antidiabetics. There are Two significant cases pending in India which could destroy the future of 'Phamacy of the World'. Those are negotiation of India-EU FTA and Novartis' case toward India patent law.

The last hearing of Novartis vs Union of India case in Supreme Court regarding interpretation on Section- 3(d) will be held on 29 November 2011. India patent law prohibits ‘evergreening’ – the practice of multinational pharmaceutical companies to extend their patent terms by making small, trivial changes to existing medicines and thereby preventing access to affordable generics and maintaining their medicine price high(Section- 3(d)). It is progressive law under which patent is granted only when the pharmaceutical company demonstrates significant increase in efficacy rather than when the medicine is more efficacious than flour. Due to this clause, it's been possible to save lives of people living with disease all over the world by producing generics under the cost less than 1/10 of transnational pharmaceutical company's 'fake patent drugs'.

In 2006, the Chennai Patent office, in a landmark decision, refused to grant Novartis' patent on Glivec which is a medicine for leukemia and stomach cancer(GIST). The decision was on the grounds that Glivec was merely transformation for pre-existing imatinib. On this behalf, Novartis raised a series of lawsuits contending that 'section 3(d)' violated the equality provision (Article 14) of the Indian Constitution as well as the TRIPS Agreement. There only remains supreme court's ruling. If India Supreme Court decide in Novartis' favour, it will be possible to grant patent on "fake patent medicine" so that inexpensive generics cannot be produced as now. It is not only the matter of Glivec but those of people living with disease around the world.

Added to this, India patent law has to be totally changed due to the India-EU FTA. The India-EU FTA negotiation agenda which has been discussed since 2007, includes medicine data exclusivity, IP enforcement measure and etc. Although the India-EU FTA was to be concluded earlier this year, it has been delayed because of the world wide protests by international NGOs and people living with disease. EU still force India government to finalize negotiation as it was, though EU once stated that data exclusivity and IP enforcement measures could be excluded from the agenda, before the India-EU summit scheduled in the February 2012. Next round of negotiations on IP chapter is scheduled for 5-9 December 2011 in New Delhi.

Once Data Exclusivity is granted, it is impossible to produce generic pharmaceutical products whether they have no patent or patents expired as well as ensure the public use of patent right, like compulsory licensing. In August 2011, Natco Pharma, Indian pharmaceutical company, claimed compulsory licensing based on public purposes for anticancer drug, Nexavar to Bayer that has patent right to it. The compulsory licensing is recorded the first one to produce and use affordable generic medicines in India. For the newest AIDS medicines, the demand for compulsory licensing is in course of preparation. However, India-EU FTA will paralyze all these efforts. Enforcement clauses of Intellectual Property Rights provide a pretext to transnational pharmaceutical companies so that they could legitimately file a lawsuit on civil and criminal law basis with respect to Indian judicial procedure by taking advantage of infringement of Intellectual Property Rights as a reason and easily gain excessive compensation. Furthermore, the clauses define generic medicines as a forgery and thus allow the pharmaceutical companies to confiscate the generic medicines. Thus the clauses of Intellectual Property Rights interrupt the import and export of generic medicines via India.

In 2001, leukemia patients in S. Korea were pressed to pay more than 3,000USD per month for purchasing Glivec by Norvartis because of Glivec patent. Instead of fighting against their diease and taking care of themselves, they had to fight against Norvartis, demanding a decrease of Glivec price and an enlargement of insurance coverage on the street for more than a year and half. However, Korean government decided the price of Glivec at a level of over 2,700USD per month as per Norvartis’s request, and the Korean Intellectual Property Office dismissed compulsory licensing claim by the patients. Some patients then could not have other choices but buying Veenat, generic medicine of Glivec at 130USD per month which accounts for less than one twentieth of Glivec, from Natco, Indian pharmaceutical company. Moreover, Roche, Swiss pharmaceutical company, has not declined to provide Fuzeon, AIDS medicine to S. Korea through national health insurance of S. Korea since 2004 simply on the grounds that Roche is not satisfied with the Pharmaceutical Pricing of S. Korea. The Korean Intellectual Property Office also dismissed compulsory licensing claim against Fuzeon. S. Korea has already compelling Patent protection like the US.

Under these circumstances, Korean National Assembly rushed through the ratification of KORUS FTA on Nov 22. KORUS FTA contains not only Approval-Patent linkage, Data Exclusivity, and investor-state dispute, but also clauses ensuring establishment of a medicines & medical devices committee and independent review body that enable the US to Korean pharmaceutical pricing system and Korean policy on pharmaceutical products. KORUS FTA that will bring a huge increase of the price of pharmaceutical products and the extension of monopoly period in medical product will be recorded among the most horrible and worst medicine and medical supplies-related agreement.

We demand immediate nullification of KORUS ratification. Life of patients across more than 120 countries depends on whether or not Indian government protects ‘Pharmacy of the World’. Indian government must instantly stop India-EU FTA and dismiss the litigation of Norvartis.

Nov 28, 2011

**Solidarity for HIV/AIDS Human Rights Nanuri+**[ Korean Pharmacists for Democratic Society/ Korean Gay Men’s Human Rights Group/ Public Pharmaceutical Center/ Solidarity for Lesbian Gay Bisexual Transgender Human Rights of Korea]

**Korean Federation of Medical Groups for Health Rights**[ Association of Korea Doctors for Health Rights/ Association of Physicians for Humanism/ Korea Dentists Association for Health Society/ Korea Health and Medical Workers Union/ Korean Pharmacists for Democratic Society]

Korean Organization for Patient Group

Korea HIV/AIDS Network of Solidarity

People living with HIV/AIDS community KunGangNanuri

Korea Leukemia Patients Group

Korea Kidney Cancer Association

Korean GIST Patients Group

Health Right Network

Make of Pharmacist's Future

Korean Progressive Network Jinbonet

Intellectual Property Left

Cultural Action

Dary

Democratic Labor Party Sexual Minor Committee

New Progressive Party Youth/student committee Department of Women

WanByun

Giant Girls

People’s Solidarity for Social Progress

Democratic Legal Studies Association

Solidarity Against Disability Discrimination

Korean House for International Solidarity

All Together

Korean Pubic Service Workers' Union

Korean Health Care Workers' Trade Union

Trade & Democracy Institute

Korea Progressive Academy Council

Progressive Strategy Council

**For more information Contact**

Name: Jaecheon Kim

Position: Director of international solidarity

Organization: Nanuri+-Solidarity for HIV/AIDS Human Rights

Contact Address: 110-370, 3F Myodong Building, Myo-Dong 183, Jongro-gu, Seoul, Korea

Telephone number: 82-2-745-7942

Fax number: 82-2-744-7916

Email address: jaekim@gmail.com

Cellphone: 82-10-8238-9057