PATIENTS Cancer patients oppose Novartis' patent application for Gleevec, essential leukaemia medicine. Patent Controller of Chennai rules for the Cancer Patients Aid Association, turns down Novartis' application umder provisions in Indian patent law. Mashelkar is keynote speaker at Novartis corporate symposium **NOVARTIS INDIA** Novartis India MD Ranjit Shahani is Chairman of Interpat India **GOVT. OF INDIA** Ministry of Commerce & **NOVARTIS** INTERPAT Industry tasks Mashelkar INDIA Committee with the question: Is **SWITZERLAND** it TRIPs compatible to limit the grant of patents to new chemical entities or new One of 29 corporate medical entities involving one funders of INTERPAT or more inventive steps? **GOVT. OF INDIA MASHELKAR INTERPAT COMMITTEE** Novartis files writ petition against Govt., says strict Indian patent law is not TRIPs compatible. Mashelkar Committee is INTERPAT funds a lawyer to write appointed April 2005, submits a report on Indian patent law; that report in December 2006. report is concluded in November 2005 and published by the IP The report concludes that it is Institute (UK) in 2006. The report not TRIPs compatible to limit concludes that it is not TRIPs the grant of patents to new chemical entities. compatible to limit the grant of patents to new chemical entities. The Mashelkar report says.... The INTERPAT/ IPI report says.... 5.6 Granting patents only to NCEs or NMEs and thereby excluding II (A) 1. Limiting the grant of patents only to NCEs or NMEs and other categories of pharmaceutical inventions is likely to thereby excluding other categories of pharmaceutical inventions ('the proposed exclusion') is likely to contravene the mandate under Article 27 contravene the mandate under Article 27 to grant patents to all 'inventions'. Neither Articles 7 and 8 of the TRIPS Agreement nor to grant patents to all 'inventions'. Neither Articles 7 and 8 of the TRIPS Agreement nor the Doha Declaration on TRIPS Agreement and Public the Doha Declaration on TRIPS Agreement and Public Health can Health can be used to derogate from this specific mandate under Article be used to derogate from this specific mandate under Article 27. **5.9** If the aim of limiting patents to new chemical entities is to II (A) 3. If the aim of the *proposed exclusion* is to prevent a phenomenon prevent a phenomenon loosely referred to as 'ever-greening', this loosely referred to as 'ever-greening', this can be done by a proper can be done by a proper application of patentability criteria as application of patentability criteria as present in the current patent regime. present in the current patent regime. II (A) 4. Lastly, it is important to distinguish the phenomenon of 'ever-5.10 It is important to distinguish 'ever-greening' from what is greening' from what is commonly referred to as 'incremental innovation'. commonly referred to as 'incremental innovation'. While 'ever-While 'ever-greening' refers to an undue extension of a patent monopoly, greening' refers to an extension of a patent monopoly, achieved by achieved by executing trivial and insignificant changes to an already executing trivial and insignificant changes to an already existing existing patented product, 'incremental innovations' are sequential patented product, 'incremental innovations' are sequential developments that build on the original patented product and may be of developments that build on the original patented product and may tremendous value in a country like India. developments that build on the be of tremendous value in a country like India. original patented product and may be of tremendous value in a country like India