

Affordable drugs for developing countries

In November 2002, the Common Market for Eastern and Southern Africa (COMESA), Africa's major free trade bloc, applied to the World Trade Organization (WTO) for the right to manufacture low-cost drugs to treat AIDS. The Secretary General of the Organization Erastus Mwencha, in announcing this move, said that drugs must be cheaper as the world could not continue to see people dying for the sake of profits of the drug companies. The COMESA has applied for licensing from the WTO to allow them to manufacture drugs for AIDS, beginning in December 2002. Specifically, COMESA wanted the WTO to treat the area as one region so that drugs produced in one country could be sold in all other member states.¹

According to the recently released *Report on the global HIV/AIDS epidemic*² presented at the XIV International Conference on AIDS, held in Barcelona in 2002, it is estimated that there are now 40 million people living with HIV/AIDS in the world, of whom 37.1 million are adults, 3 million are children younger than 15 years old, and 18.5 million are women. The number of AIDS deaths in 2001 was approximately 3 million.²

In line with many other infectious diseases, AIDS is closely related to poverty. This is evident not only in many parts of Sub-Saharan Africa and Southern Asia, but also in some richer countries. The United Nations Development Programme (UNDP) has clearly stated that it recognised "the strong correlation between HIV/AIDS and poverty", and called for a holistic response to the problem.³ According to the World Health Organization (WHO), most of the infectious diseases in the world occur in the poorest countries and, within countries, it is the poorest populations that suffer. For example, malaria is named by the WHO as a disease of poverty: impoverished countries suffer the most from malaria, and malaria is a contributing cause of their poverty.⁴ "People before profit" is the slogan Oxfam International put forward to call for a cut in the price of drugs to save lives. Oxfam International's information shows that, every year, 15 million people die from infectious diseases. Forty million people live with HIV/AIDS and the numbers are increasing. Most people with infectious diseases live in developing countries, many of them are children, and women are often hardest hit. It is evident that much of this mortality and morbidity could be prevented if poor people had access to affordable medicines. Currently, however, one third of the world's population does not have regular access to affordable medicines, and only a small percentage have access to HIV/AIDS medicines (see www.oxfaminternational.org).

One year ago, Oxfam launched the *Cut the cost* campaign to call on the pharmaceutical industry to stop obstructing access to medicines in South Africa, in particular, urging

the drug companies to unconditionally drop their legal challenge to a South African law that aimed at improving access to medicines. The result was encouraging. Under the pressure of world public opinion, the Pharmaceutical Manufacturers' Association (PMA) of South Africa, representing 39 leading drug companies, dropped their court case against the South African government's 1997 Medicines Act, as a result of which the country is allowed to import cheap alternatives to branded medicines. This should have a huge impact on the cost of life-saving medicines—as an example, treatment of AIDS with imported drugs from India costs approximately US\$350 a year, compared with more than US\$1200 charged by drug companies. Yet, the success for South Africa does not mean that the problem has been solved. In many parts of the world, high drug prices are still preventing people's access to medical care. After a long process of discussion and negotiation between non-governmental organisations (NGOs), different state parties to the WTO, and the WTO itself at various levels, the WTO Doha Declaration, released in November 2001, formally addresses this issue, shedding light on future developments in a worldwide context. Paragraph 6 of the Doha Declaration on the TRIPS (trade related intellectual property) Agreement and Public Health instructed the council for TRIPS to find a 'solution' to difficulties in using compulsory licenses when countries have insufficient or no manufacturing capacity.⁵

As pointed out in a joint letter by several NGOs to the WTO TRIPS council, the Doha Declaration on TRIPS contains both a promise and an obligation to interpret and implement the TRIPS Agreement in a manner supportive of WTO members' right to protect public health and promote access to medicines for all. Now that the Doha meeting has been concluded, it is the duty of the TRIPS council to implement the entire Doha Declaration in good faith, ensuring that the safeguards of TRIPS work for both rich and poor countries, for countries with large or small domestic markets, and for countries with different levels of technological development.⁶

Not all developments are as encouraging as the case of South Africa, however. Indeed, the campaign to cut drug prices in order to save lives meets with many challenges. Despite the fact that country members of the WTO agreed in the Doha Declaration that people's health was more important than global patent rules, no significant progress has been made 1 year on. Oxfam International has witnessed that, in the past year, the number of complaints made by the pharmaceutical industry against developing countries on patents and medicines remains the same. Even worse, the United States is continuing to pressure developing countries into even tougher standards of patent protection on medicines. Countries targeted include

India, Brazil, and Argentina, who are key producers of low-cost generic copies of the big patented brands. This pressure might eventually kill off the capacity in India and elsewhere to produce low-cost medicines. As a result, there will simply be no way for the poorest countries to buy low-cost generic drugs. At a recent trade ministers' meeting held in Sydney from 14 to 15 November 2002, no consensus was reached on medicine prices. Oxfam International contends that this failure is due to the entrenched attitude of several developed countries such as the US, Canada, Switzerland, and the European Union, who continue to defend the profits of their pharmaceutical giants to the detriment of the right to health of the world's poorest people. The developed countries proposed that a company supplying cheap generic copies of drugs against AIDS, tuberculosis, pneumonia, and many other killer diseases would have to ask the government of its own country to override the relevant patent before any export can take place. Oxfam International has noted a major problem with this proposal in that it makes the needy importing country unacceptably dependent on the political will of another government, thereby increasing the administrative burden.

The battle is tough, but there is no other choice than to put the life of people before profits. World opinion is on the side of justice.

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