

Essential AIDS medications in India

Ninety per cent of people with HIV in India have no access to modern pharmaceuticals, which can cost more than \$10,000 per year. A combination of denial, helplessness and complacency dominates the issue of access to treatment for people living with HIV/AIDS in the country.

Until recently, US drug trade policy was almost totally captive to the pharmaceutical industry which cares little about marketing drugs in developing countries such as India. They — and their proxies in India — ensured that generic versions of these medicines were not produced in India as that might weaken its intellectual-property protection in the US or other lucrative markets. Many Indian pharmaceutical companies do have the technical capacity to manufacture these drugs, which could sell for a tenth or less their current prices if it were not for patent restrictions. While not a complete solution to the problem of access to essential HIV medicines, this is certainly an area worth exploring.

Many developing countries are seriously exploring the possibility of dealing with policies related to drug sales and intellectual property rights within the legal framework of the World Trade Organisation. South Africa has taken a lead on this issue. These countries are at the receiving end of a trade war unleashed by United States trade representatives. Today, after a series of high-profile protests organised by AIDS activists, US trade representatives have moderated their aggressiveness against South Africa's efforts to expand access to HIV medicine to its citizens.

However, this change applies only to South Africa. Indian AIDS NGOs, community groups and policy makers have yet to take steps to facilitate local production of essential HIV medication in India.

The Global Agreement on Trade and Tariffs (GATT) treaty has now existed for about 50 years. However, the

creation of World Trade Organisation (WTO), an outcome of 'Uruguay Rounds' of global trade negotiations, demanded that all countries impose US/European style patents on pharmaceuticals. The result is that pharmaceutical executives no longer look the other way if anyone, anywhere, manufactures modern drugs without the permission of the patent holder. Industry pressures the US government to use its great power to force unworkable arrangements on poor countries, which cannot possibly afford US-priced medicine, making health solutions impossible and assuring millions of deaths.

But the WTO treaty does include some safeguards like "compulsory licensing" (which recognises the right of a sovereign government to license use of a patent within its borders, in certain situations such as a public health emergency or national security) or "parallel importing" (which allows the governments to shop around for cheaper medications). In the context of the HIV crisis in India the commerce ministry should explore the possibility of using 'compulsory licensing' of essential HIV medications.

Recently, at the opening of the 5th International conference of AIDS in Asia Pacific, the Malaysian prime minister openly called for greater political commitment from Asian leaders to address the issue of 'compulsory licensing of essential HIV medications in developing countries to expand access to treatment for people living with HIV/AIDS'.

Most protest on this issue has not been against the WTO, but against US policy, which has gone well beyond the WTO treaty in supporting the pharmaceutical industry's claim that its intellectual property interests come before anyone's health needs.

Another disturbing trend is the increasing influence of international pharmaceutical industry over international AIDS service organisations based in developed countries. The sponsorship they offer these organisations is part of their overall public relations efforts. Staff and leaders of these organisations have no

qualms about taking this 'blood money' as they and their loved ones get the best treatment — paid by their own governments or as 'compassionate' (a compassion restricted only for residents of developed countries!) effort from pharmaceutical companies.

I propose the following actions for the consideration of the Indian AIDS NGOs, PWA groups and policy makers:

- UNAIDS and NACO should set up a working group to address the issue of access to essential HIV medications in India.
- NACO should form a technical resource group to look at the issue of access to HIV medication for people living with HIV
- India should update the WHO's essential HIV medication list and make this list available to health care providers
- India should shortlist non-patented medications from the WHO essential HIV medications list for tax rebates
- The ministry of commerce should call for compulsory licensing of essential HIV medications in India
- The government of India should work with SAARC countries to develop a parallel importing strategy on essential HIV medications
- Indian AIDS activists and NGOs should develop an understanding of the issue of distribution patterns of essential HIV medications, and evaluate the efficacy of international AIDS agencies working India based on their commitment to the issue of access to essential HIV medications
- India should declare the HIV/AIDS crisis as public health emergency.

Those interested in following up these issues or in further technical briefing on issues related to how trade policies are affecting the cost of essential HIV medicines in developing countries, and details of the strategies and spoils of the global pharmaceutical industry, can contact me. You can also join the Global Treatment Access discussion forum (email treatment-access@hivnet.ch).

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