



**MINISTRY OF HEALTH
HEALTH SURVEILLANCE SECRETARIAT
NATIONAL STD AND AIDS PROGRAMME**

**ICTSD Policy Dialogue: *"Intellectual Property Rights:
Challenges for Development"***

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Room G
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13h00- 14h45

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Good Afternoon Ladies and Gentlemen,

1. First I would like to say how grateful I am for the invitation to participate in this round table whose theme "Intellectual property Rights and Development" has been the tonic of the global agenda when referring to access to medicines for HIV/AIDS.
2. In Brazil and certainly in innumerable other countries we hold the conviction that the protecting of intellectual property rights may be essential in promoting Health provided that it is interpreted and conducted on the basis of Human Rights Ethics. Intellectual property

rights must comply with their social function, with the promoting of Health, the well being of the citizen and development and with implications for the reduction of social/economic iniquities.

Thus it is up to the THRIIPS Agreement to support the implementation of the Resolution of the Human Rights Commission, of the ECOSOC of April 2001 which recognises that "access to medicines in the context of pandemics like that of HIV/Aids is a fundamental element for gradually attaining the complete fulfilment of the right of all to enjoy the highest standards of physical and mental Health".

3. The HIV/Aids epidemic has become one of Humanity's greatest problems and seemingly, no country is safe from its consequences and that due to their social/economic characteristics, the developing countries are most affected by it and have the greatest difficulty in producing effective responses. HIV/Aids have also become a serious problem for development as it has affected millions of people during the period of their lives when they are most productive with serious implications for the economic activities of several countries.

4. On the one hand, HIV has become a threat due to its capacity for transmission presently attaining a number of persons estimated at between 34 and 36 million worldwide and on the other hand, because of its versatility in adapting itself to new conditions making it very difficult for the appearance of any vaccine.

5. The present challenge faced by public health policies directed at the epidemic, is in the field of assistance and treatment for infected persons. The World health Organization has estimated that only 400 thousand people receive antiretroviral treatment in developing countries whilst 6 million will soon die for lack of these medicines. HIV/AIDS has now

become the main cause of death and the shortening of the productive life span of adults in the world. For this reason, the lack of antiretroviral medicines has turned into an urgent international emergency and is causing public health to pass through one of the most difficult moments in the history of humanity.

6. However, the adoption by Brazil of a public policy in relation to Aids has shown that the countries of the South are capable of controlling the epidemic provided that they are given access to resources, technology, and essential materials. Over the last few years thanks to a policy of universal access to antiretroviral drugs, we have managed to cut mortality by 50%, avoid 600 thousand new infections and avoid spending to the order of 2 billion US dollars with reductions in hospital admissions, in the consumption of medicines against opportunistic infections and in the payment of welfare benefits.

7. But the access of southern countries to aspects that are fundamental to an efficient response to the Aids epidemic especially to antiretroviral medicines, continues to be excessively restricted, particularly due to the monopoly on their production held by a few international laboratories. However, an important step was taken by the World Trade Organization when it concluded the TRIPS and Public Health Agreement in the city of Doha in 2001 where it recognised the gravity of the problems stemming from the Public Health sector due to Aids, Tuberculosis and Malaria as well as the impact which Intellectual Property Rights exercise on the price of medicines and other materials used in their treatment and diagnosis, complicating access to them for developing countries.

8. The principles of Doha are not merely a dream. Through a policy of incentives for the national production of antiretroviral drugs, the energetic use of legal instruments and the adoption of a strong line in negotiating prices with trans-national pharmaceutical manufacturers,

Brazil has made feasible, access to health for populations living with HIV and Aids. The negotiations with international laboratories reduced the prices of imported medicines by as much as 75%. However, Brazilian generic medicines came on to the market up to 87% cheaper than corresponding brand products. Another important consequence has been that although around 20 thousand people have started treatment and although the therapy has become more complex year by year, the policy of reducing prices has guaranteed the maintenance and the stability of the National Programme's expenditure on treatment, assistance and diagnosis. Overall costs have not increased significantly in Brazil in the last few years.

9. Nevertheless we must acknowledge that the Declaration of Doha has not yet opened the portals of universal access to antiretroviral drugs. The reason for this seems to lie chiefly in the fact that it is not applicable on its own account. It needs to pass through processes of effective action. The Declaration needs to be internationalised for each country so that their internal legislations adopt the mechanisms of flexibility foreseen in the terms of the agreement on TRIPS as for example, the possibility of using compulsory licensing and parallel importation including the importing of generic medicines which are, on average, 4 times cheaper than Brand products. In this sense, it is fundamental that those countries where the TRIPS agreement is in force adopt an agenda of legislative adjusting and implementation to assure that, should the need arise, the necessary internal legal mechanisms are capable of making trade feasible and of making possible access to and the application of, imported technology for the production of antiretroviral drugs.

10. Having recourse to compulsory licensing may be among those instruments foreseen by the TRIPS agreement, of supreme importance for widening access to medicines. Prices on the international market

have been dramatically reduced and triple therapies are being offered by the industry of India for US\$ 140 per patient per annum whilst in the developed countries the average cost per patient per year is US\$ 10 thousand. The use of compulsory licensing not only allows for a national production but also for importing from markets where the price is more attractive. The effects are obvious because they permit the purchasing of medicines in much greater quantities and the possibility of attaining universal treatment within a much shorter time. In this sense there is much to be praised in the role played by the Government of Malaya which recently emitted compulsory licenses so that a certain manufacture would supply it with antiretroviral drugs. In the case of an emergency involving public health such as the one we are now dealing with, the issuing of Compulsory Licenses should be the rule and not the exception as matters of public health must receive priority attention in public policy.

11. But if we can imagine the widening of access to medicines in developing countries happening on the basis of compulsory licensing, it is necessary that the countries of the South be included in the development and production of the technology referred to in Paragraph 7 of the Declaration of Doha. In this respect, the G8 countries should make greater efforts to support voluntary transfer of technology to other pharmaceutical manufacturers especially in those countries where production may have lower costs. In the same way, initiatives should be stimulated like that of Canada which adopted specific legislation with a view to exporting medicines at low cost to developing countries, whether in regular trade dealings or in emergency situations in the case of implementing compulsory licensing.

12. But, given that the countries of the South must take on the role of protagonists, we are hereby proposing the creation of an exchange network for the development and production of technology which will unite the efforts of seven countries: Brazil, India, China, Russia, South Africa, Nigeria and Thailand. A Charter of Commitment should be signed by these countries in July during the International Conference on Aids in Thailand

13. Furthermore, there is another aspect I would like to call attention to and which cannot be disdained, which is the importance of the transnational companies in promoting access to medicines. The argument that the high price of medicines in the southern countries is due to innovation is a fallacy. Our countries have never been important consumers of these medicines and so have never financed research and development. It is necessary that prices be differentiated among the countries according to their levels of wealth and purchasing power. And I would point out once more that with differentiated prices the widening of the market in the countries of the south and the consequent increase in gains will already be sufficient to widen the access of the population to medicines and to amplify resources for research and development.

14. Ladies and gentlemen, The Doha Declaration represents much more than a mark in international trade relations when it declares "The TRIPS agreement does not avoid, nor should it avoid, having its members take action to protect public health". This mark should therefore be inserted into each new international trade agreement instead of submitting to the present tendency which some regional and bilateral agreements are showing, such as the one the United States has been proposing to the Caribbean and Latin America which seeks to impose additional limitations to those agreed on in the WTO, calling them TRIPS-plus and

which may undermine and even annul the gains obtained with the declaration of Doha. At the present moment we must persist in marching ahead with the idea that health must play an important role in society keeping the economic system healthy with positive consequences for development.

15. I would like to finish my address by urging the UNCTAD as well as the WTO and the WPIO to undertake evaluation studies to measure the impact of the agreements on Intellectual Property on Public health especially in developing countries where their effects appear to be more far-reaching on access to medicines, health assistance and treatment.

Thank you very much.