

SOUTH AFRICAN STATEMENT

ACCESS TO ESSENTIAL MEDICINES

Chair, the recent leak by the multinational pharmaceutical industry of the strategy written by Public Affairs Engagement to undermine South Africa's efforts to reform its Intellectual Property policies is unfortunate. One of the objectives of this policy is to contribute towards the protection and promotion of public health, and access to medicines in particular.

This is not the first time that South Africa has been under such an attack, even in the face of the most devastating HIV/AIDS and TB co-morbidities. In 2000, the cost of combination antiretroviral therapy per person per annum was US\$10 000. In 2010, ten years later these costs had been reduced to US\$1 000 per person per annum. We have further reduced these costs by 50%. This would not have been possible without generic competition. This explains why today South Africa has been able to put 2,4 million people on treatment.

However, around 4% of South Africans are on second line antiretroviral therapy. This must be increased to 14% for those who have been on ART for more than 5 years. We know the long-term problems of managing a life-long chronic disease and the challenges of patients who fail first line therapy and who must be put on second line and salvage therapy. We need to avoid virological failures and achieve good clinical and immunological outcomes. This will not be possible at current costs which are 2,5 times the costs of 1st-line therapy.

Similar arguments can be made regarding XDR-TB which is a killer and can be aggressively confronted with newer therapies, i.e. only if they are affordable. We have to put people on treatment that is affordable. EB134/12 refers to the MDR-TB crisis, having patients put on a waiting list. This should be avoided - and can be avoided.

Generic competition has been the main driver of affordable medicines through early generic entry, normally referred to as Bolar Provision. We have learnt from ^{the} experience of Canada. This is one of the safeguards contained in the TRIPS Agreement. There are still other barriers to access, that require attention in South Africa. This new IP Policy that is under discussion will promote competition and ensure the leveling of the playing field. Patent examination is amongst these policy reforms, and has been an important measure as reported in various reports by WIPO and WTO in partnership with WHO.

Consistent with practices in developed and developing countries, the IP reforms include patent examination. It is common practice in Europe, US, India and Brazil. In all these countries poor quality patents are rejected. For instance both the US and European Patent Office had 40% rejection of these applications for which 100% approval was granted by South Africa.

DG, we welcome WHO technical support in providing comments on policy reforms proposals in defence of public health. The guidance is consistent with what is provided for in the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property. WHO's comment to SA on this draft IP Policy is that, I quote, "WHO encourages and supports IP policies that maximize health-related innovations and promote access to medicines for all and commit to provide assistance consistent with GSPOA".

Various resolutions have been passed in support of the use of the safeguards in the TRIPS Agreement, e.g. UNGA 65/1. WHA61.21 came about as a result of collaboration by the Member States. This has been a landmark event termed in the IGWG "the spirit of Geneva".

DG, you have understood the plight of SA and WHO Member States have witnessed solidarity. We have witnessed this in the fight against HIV/AIDS and its contribution to increase life expectancy. We cannot be side-tracked or derailed in our course of action of defending public health and right to life.