



Affordable medicines for developing countries:
**Generic drugs bill still not in force one year later;
coalition calls on all parties in the House of Commons
to cooperate on final procedural hurdle**

TORONTO, 4 May 2005 – A broad coalition of groups released an “open letter” today to the Leader of each political party in the House of Commons, calling on them to avoid any procedural wrangling that could further delay implementation of a law passed last year that aims to ease access to lower-cost generic medicines for developing countries.

“It was a year ago today that the House of Commons passed the *Jean Chrétien Pledge to Africa Act*, and it passed through the Senate shortly afterward,” said Richard Elliott, Director of Legal Research and Policy with the Canadian HIV/AIDS Legal Network, one of the groups signing the letter. “Every Member of Parliament voted in favour of this law, the first of its kind in the world. Yet it is still not in force a year later. And now procedural delays over a minor amendment to correct a technical error threaten to keep it from coming into force any time soon if this Parliament is dissolved for an election without dealing with this matter.”

Last year’s *Jean Chrétien Pledge to Africa Act* amended the *Patent Act* and the *Food and Drugs Act* to facilitate the export of lower-cost generic medicines to developing countries confronting public health problems but lacking their own capacity to manufacture pharmaceutical products. The Act received Royal Assent on 14 May 2004. The accompanying regulations have been finalized. But neither the Act nor the regulations have yet been proclaimed into force, because a minor technical amendment to the Act is working its way through Parliament.

Elliott called on all parties in the House to set aside any partisan procedural wrangling long enough to deal with Bill C-29, which is delaying the implementation of the *Jean Chrétien Pledge to Africa Act*. “These technical changes are not controversial. They could be dealt with quickly if the parties in the House would just agree to address this bit of legislative house-keeping before this Parliament dissolves.”

When the *Jean Chrétien Pledge to Africa Act* was passing through Parliament last year, the government committed to making a minor amendment. In February of this year, the House of Commons passed the bill with this amendment (Bill C-29) and sent it to the Senate. The government then realized that the original Act had failed to expressly incorporate some of its key operative elements into the *Patent Act* as required, so the Senate made an additional change to the bill to correct this oversight. This means the House of Commons must now reconsider Bill C-29 and accept this additional change. Without this step, the *Jean Chrétien Pledge to Africa Act* will remain inactive.

Along with the other signatories to the open letter released today, the Legal Network called on the parties’ House Leaders to overcome the procedural hurdle. “This is the government’s initiative,” he said. “If it wants the Act ever to come into force, then the government House Leader needs to talk to his counterparts in the opposition parties, and they need to co-operate in addressing this item without further delay. It would be tragically absurd if this ground-breaking legislation were to be lost or delayed because Parliament could not take the final procedural step to correct an error in legislation that enjoys unanimous support.”

An Open Letter to all Parties in the House of Commons

3 May 2005

Hon. Tony Valeri, M.P.
Leader of the Government in the House of Commons
14 Metcalfe Street, 4th Floor
Ottawa, ON K1A 0A3

Mr. Jay Hill, M.P.
House Leader of the Conservative Party
House of Commons
Ottawa, ON
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Ms. Libby Davies, M.P.
House Leader of the New Democratic Party
House of Commons
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Mr. Michel Gauthier, M.P.
House Leader of the Bloc Québécois
House of Commons
Ottawa, ON
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Dear Sirs and Madam:

Re: Urgent action required by House Leaders to pass Bill C-29 (An act to amend the Patent Act) to permit proclamation into force of the *Jean Chrétien Pledge to Africa Act*

We write to you because an important legislative initiative, endorsed by all Members of Parliament and Senators, is at risk of being derailed simply by procedural delays in the House of Commons. These could quickly be overcome by cooperation among all your caucuses.

Last year, in an encouraging display of non-partisanship, Members of Parliament and Senators unanimously voted to enact the *Jean Chrétien Pledge to Africa Act* (Bill C-9 in the 37th Parliament, 3rd session). The Act amended the *Patent Act* and the *Food and Drugs Act* to facilitate the export of lower-cost generic medicines to developing countries confronting public health problems but lacking their own capacity to manufacture pharmaceutical products. The Act received Royal Assent on 14 May 2004. However, almost one year later, the Act has still not been proclaimed into force, even though the necessary accompanying regulations have been finalized.

The hurdle to bringing the Act into force appears to be final passage of Bill C-29, which passed third reading in the House of Commons in February of this year and proceeded to the Senate. While the bill was under consideration by the Senate, it was discovered that the original *Jean Chrétien Pledge to Africa Act* had failed to expressly incorporate the attached schedules into the *Patent Act* as required, although this was clearly the intent of all parties when the bill was originally passed.



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A minor technical amendment to Bill C-29 was adopted in the Senate to correct this oversight, without which change it seems the *Act* will be unable to implement in practice. As a result of this Senate amendment to Bill C-29, the House must now read the bill a second time and concur with the amendment. Without this step, the *Jean Chrétien Pledge to Africa Act* will remain on the books but inactive.

We understand that Bill C-29 is on the House agenda this week. But, as speculation mounts about the possible dissolution of Parliament in the near future, we are concerned that political manoeuvring and procedural wrangling could prevent the House from attending to the simple matter of concurring with the Senate amendment to Bill C-29. This is a matter which could be dealt with quickly, without debate, if there is agreement among your caucuses to adjust the House agenda accordingly. Such agreement should be simple to reach, given that all parties unanimously supported the *Jean Chrétien Pledge to Africa Act* a year ago.

Last week, numerous civil society groups wrote to the Prime Minister urging his government to move quickly to bring the *Jean Chrétien Pledge to Africa Act* and accompanying regulations into force. (We attach a copy of that letter.) In order for this to happen, Bill C-29, as amended by the Senate, must finally pass in the House of Commons. We therefore urge you to pass Bill C-29 as quickly as possible.

The need for lower-cost generic medicines in developing countries remains as desperate as ever. Yet it has been almost one year since this precedent-setting legislation was adopted and it still has not been brought into force. As long as this situation persists, Canada's initiative cannot lead to life-saving medicines for those in need.

We look forward to hearing from you at your earliest convenience about this matter, and to seeing, in the very near future, the announcement that the *Jean Chrétien Pledge to Africa Act* will finally come into force.

Sincerely,



On behalf of the following:

Joanne Csete, Executive Director, Canadian HIV/AIDS Legal Network
David Morley, Executive Director, Médecins Sans Frontières Canada
Blaise Salmon, Executive Director, RESULTS Canada
Dave Toycen, President, World Vision Canada
Gerry Barr, President-CEO, Canadian Council for International Co-operation
Michael O'Connor, Executive Director, Interagency Coalition on AIDS and Development
Kenneth V. Georgetti, President, Canadian Labour Congress
Justin Noble, Executive Board Member, Students Against Global AIDS
Kevin Perkins, Executive Director, Canadian African Partnership on AIDS
Rieky Stuart, Executive Director, Oxfam Canada
Roy Culpeper, President, North-South Institute
Nancy Gordon, Senior Vice-President, CARE Canada
Omega Bula, Justice, Global and Ecumenical Relations, The United Church of Canada
Doug Olthuis, Executive Director, Steelworkers Humanity Fund
Janet Hatcher-Roberts, Executive Director, Canadian Society for International Health

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