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UN HIGH-LEVEL PANEL SAYS TRADE AGREEMENTS SUCH AS TPP THREATEN PUBLIC HEALTH AND HUMAN RIGHTS

New report calls for new global treaty on health research and development

TORONTO, September 14, 2016 — A high-level body of eminent persons advising UN Secretary-General Ban Ki-moon released its report today declaring that the Trans-Pacific Partnership (TPP), and similar agreements ratcheting up intellectual property protection and enforcement, endanger countries' efforts to ensure access to medicines and other health technologies and run counter to their human rights obligations.

"Today's report from the UN Secretary-General's High-Level Panel on Access to Medicines confirms yet again that Canada and other countries should not ratify the TPP as it stands, given the further erosion it represents of countries' ability to regulate to ensure equitable access to medicines," said Richard Elliott, Executive Director of the Canadian HIV/AIDS Legal Network. "Furthermore, the Panel notes that countries concluding such agreements are in dereliction of their human rights obligations by doing so before undertaking a transparent, public assessment of its impact on access to medicines and public health."

The [High-Level Panel on Access to Medicines](#) was tasked by the UN Secretary-General with recommending remedies for the "incoherence" between human rights and public health on the one hand, and on the other hand, rules on intellectual property (allowing and extending drug companies' patent and data monopolies). The Panel was co-chaired by the former presidents of Switzerland and Botswana and consists of numerous [eminent persons](#). It was guided by an [Expert Advisory Group](#).

Among other findings and recommendations, the High-Level Panel has called on countries to make full use of any "flexibilities" under international agreements such as the World Trade Organization's *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS) as part of fulfilling their human rights obligations to ensure access to medicines. This includes a specific recommendation to apply stricter standards for granting patents on pharmaceutical products in the first place, and to adopt laws that facilitate quick implementation of compulsory licenses on patented products to address public health needs – including compulsory licensing in order to export supplies of lower-cost, generic medicines to other countries.

The Panel specifically notes that [Canada's Access to Medicines Regime](#), which was created under WTO rules for this purpose, has been used but a single time and proved to be "complex and cumbersome;" the Panel calls on WTO member countries to revise the

existing mechanism to make it swift and expedient. (The Legal Network has produced a [Q&A document](#) explaining CAMR and what legislative reforms are needed to make it more functional – reforms that attracted widespread public support and across party lines, but which, following government opposition, were narrowly defeated in the House of Commons in 2012.)

Underscoring the importance of preserving what flexibilities exist under the WTO treaty to promote equitable access to affordable medicines, the High-Level Panel outlines its concern with pressure on countries to not use those flexibilities. It also takes issue with “the proliferation of free trade agreements containing expansive patent and test data protections on health technologies” that exceed the requirements of the WTO TRIPS Agreement – commonly referred to as “TRIPS-plus” provisions – and points to the TPP specifically as “emblematic” of such concerns.

The Panel’s report also examined the many ways in which the current intellectual property system leaves major gaps when it comes to stimulating innovation of health technologies where there is insufficient profit to be made by pharmaceutical companies. To address this market failure, the Panel recommends that the UN Secretary-General initiate a process for countries to negotiate a binding global convention on health R&D “that delinks the costs of research and development from end prices to promote access to good health for all.” In particular, the Panel recommends such a treaty should focus on public health needs, including neglected diseases and antimicrobial resistance.

This report comes just as Canada prepares to host the [5th Global Fund Replenishment Conference](#) in Montreal this week with the goal of mobilizing adequate funding to support the Global Fund to Fight AIDS, Tuberculosis and Malaria, the largest, most significant multilateral mechanism for scaling up prevention and treatment efforts for these three global pandemics.

In addition, the High-Level Panel’s report also comes as the backlash grows over trade agreements such as the TPP, which the international humanitarian organization Médecins Sans Frontières has described as the [“worst trade pact ever for access to medicines and biomedical research and development.”](#) [Canadian civil society organizations](#) have called on PM Trudeau and Minister Freeland to reject the TPP as long as it includes harmful provisions such as those that further extend pharmaceutical companies’ monopolies, and that further entrench dangerous and anti-democratic “investor-state” rules, which allow corporations to sue governments in special tribunals if they interfere with companies’ expected profits by regulating to protect the public interest.

The High-Level Panel’s report is online at www.politico.eu/wp-content/uploads/2016/09/HLP-Report-FINAL-Sept-2016.pdf and will be available at www.unsgaccessmeds.org.

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