

*Export of generic medicines to developing countries*  
**Amendment to Patent Act must benefit as many as possible,  
urge Canadian organizations**



TORONTO, September 26 – The Canadian HIV/AIDS Legal Network welcomed today the federal government's announcement that it will amend the Patent Act to allow exports of lower-cost generic medicines to developing countries, and called on all parties in the House of Commons to support this measure. But the Network also cautioned that the government must not restrict the amendment in ways that would limit its real benefit to patients needing medicines.

"We congratulate the government for heeding the call to action," said Richard Elliott, the Network's Director of Policy & Research. "This is an opportunity for Canada to act on its stated commitment to international human rights, and respond in a concrete and immediate fashion to the health challenges facing developing countries. We urge all political parties to ensure speedy passage of this amendment. Thousands are dying by the day."

The Legal Network called on the government to follow through with legislation that will translate into concrete benefits for as many people as possible, and to resist any calls to water down the amendment, highlighting three concerns:

- "We are concerned by any suggestion that this amendment will only allow generic exports to countries facing health 'emergencies,'" said Elliott. "There is no justification for restricting Canada's response in this fashion. How many people would have to be sick or die before something is considered an 'emergency'? Waiting for things to become a crisis before getting medicines to people would be bad medicine and bad public policy." He also noted that, despite inaccurate interpretations often reported in the media, WTO rules and agreements do not say that countries can only limit patent rights in emergency situations.
- Elliott also warned against any attempt to limit the amendment to just providing generic drugs for specific diseases. "Are we going to say that someone in a developing country should be able to get less expensive drugs if they have HIV or tuberculosis, but they should just die if they have cancer or diabetes or asthma?"
- Finally, the Legal Network called on the government to not limit, by Canadian law, the countries to which generic medicines could be exported. Elliott explained, "It is up to other sovereign countries to decide how to respond to the health needs of their people. If a drug is not patented in a country, or a compulsory license has been issued there to allow the import of generic drugs in accordance with that country's laws, there is no reason why Canadian law should stand in the way of generics being exported to that country."

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Before the government's announcement, the Legal Network and other organizations wrote this week to the Minister of Industry putting forward a proposed amendment and requesting a meeting to discuss the details. "We look forward to hearing from the Minister soon about our request," said Elliott. "It is important that it not just be government and industry involved in this. Civil society groups with expertise in this area and who are responding on the ground need to be part of the discussions."

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**Media Contact:** Jean Dussault, (514) 708-0128

#### **Additional information**

Joint NGO letter to Hon. Allan Rock, Minister of Industry, 23 September 2003, from Canadian HIV/AIDS Legal Network, Médecins Sans Frontières Canada, Oxfam Canada and the Interagency Coalition on AIDS and Development:  
[http://www.aidslaw.ca/Maincontent/issues/cts/Generic\\_exports\\_letter\\_23Sept2003.pdf](http://www.aidslaw.ca/Maincontent/issues/cts/Generic_exports_letter_23Sept2003.pdf)

"Patents, International Trade Law and Access to Essential Medicines", a joint publication of the Canadian HIV/AIDS Legal Network and Médecins Sans Frontières Canada:  
<http://www.aidslaw.ca/Maincontent/issues/cts/Patents-international-trade-law-and-access.pdf>

Additional resources and documentation on the issue of global access to treatment can be found at:  
<http://www.aidslaw.ca/Maincontent/issues/care-treatment.htm#B2>

#### **About the Canadian HIV/AIDS Legal Network**

The Canadian HIV/AIDS Legal Network is a national organization engaged in education, legal and ethical analysis, and policy development, with over 250 organizational and individual members across Canada. The Legal Network is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Our work has received national and international recognition: among other things, the United Nations Joint Programme on HIV/AIDS (UNAIDS) included our activities in its collection of "best practices." Information about our activities and copies of our publications are available at [www.aidslaw.ca](http://www.aidslaw.ca).