

Bill C-56 on medicines for developing countries is flawed House of Commons should amend bill and get it right



TORONTO – The Canadian HIV/AIDS Legal Network called today on all parties in the House of Commons to ensure that Bill C-56 is amended before it is passed. The Network said that, if necessary, this means they should take additional time to address the serious flaws in the bill, rather than making mistakes by acting too hastily.

The bill is intended to amend the Patent Act by allowing generic pharmaceutical companies to make lower-cost medicines for export to developing countries to deal with their public health problems. But as currently drafted, Bill C-56 provides that a

brand-name pharmaceutical company has the right to take over a contract that a generic manufacturer has negotiated with a developing country. If they do so, the generic manufacturer cannot get a licence to make the medicine and export it.

"This leaves generic companies unable to fulfil contracts they negotiate with developing countries, and removes any incentive for them to even bother negotiating contracts in the first place," said Richard Elliott, Director, Legal Research & Policy. "As a result, developing countries cannot effectively give licences to generic manufacturers to make their cheaper medicines. This means we won't actually end up seeing lower prices, from either generic companies or brand-name companies. Developing countries won't see the benefit that this bill is supposed to deliver."

The Legal Network also rejected as inaccurate any claim that WTO rules require this approach that is currently found in Bill C-56. In a decision reached at the end of August, all WTO member countries agreed to relax patent rules so that "compulsory licences" could be issued to generic companies, allowing them to make lower-cost medicines for developing countries. "The WTO rules do not impose this as a requirement for this type of legislation," said Elliott. "What WTO rules require is that the brand-name company holding the patent gets to either negotiate the terms of a voluntary licence that it gives to a generic company, or the Commissioner of Patents can issue a compulsory licence to the generic company and fix the terms. Under WTO rules, Canada is not required to give brand-name companies this extra opportunity block any licence for a generic company at all."

"The government has taken the important step of introducing this bill," said Richard Elliott, Director of Legal Research & Policy. "We fully support this initiative, and have been calling on the government to take this sort of step for years. But the legislation as drafted is seriously flawed, and the government risks undermining its own very worthy initiative."