

Affordable generic medicines for developing countries:
Promise in Speech from Throne, but true commitment requires effective bill



TORONTO – The Canadian HIV/AIDS Legal Network welcomed the Government’s commitment in today’s Speech from the Throne to proceed with legislation that would help get generic drugs to developing countries. But it cautioned that the draft bill put before Parliament last year will not achieve this objective unless several flaws are addressed in the new legislation to be introduced.

“We congratulate the Prime Minister and the government for their commitment to proceed with legislation,” said Richard Elliott, Director of Legal Research and Policy. “But the legislation will not get medicines to the world’s poor unless the fundamental flaws seen in the last version are fixed. We have pointed out several problems that will make the initiative meaningless. The true test of commitment to the health of people in developing countries is whether the government will fix the problems we saw in the last bill.”

Last November, the government tabled a bill (Bill C-56) to amend the Patent Act so as to allow generic pharmaceutical companies to make lower-cost medicines and export them to developing countries to deal with their public health problems. The Legal Network and numerous other civil society organizations welcomed the introduction of legislation, but criticized it as containing several serious flaws.

A major concern was the section in the bill that would give a brand-name pharmaceutical company the “right” to take over a contract that a generic manufacturer has negotiated with a purchaser in a developing country. Under the bill, this would block the generic manufacturer from getting a licence to make the medicine for export.

"This would leave generic companies unable to fulfil contracts they negotiate with purchasers in developing countries, removing any incentive to even bother negotiating contracts in the first place," said Elliott. "If developing countries cannot effectively give licences to generic manufactures to make cheaper medicines, there will be no pressure to push prices of medicines down. Without this competition, developing countries won't see the benefit that this bill is supposed to deliver."

The Legal Network vowed that it would push for any such problems in the new legislation to be fixed before it is passed. Elliott noted that a wide variety of civil society groups – including the Legal Network, the Canadian Council for International Co-operation, Médecins Sans Frontières, Oxfam, the Canadian Labour Congress, CARE Canada, and others – have all recently reiterated their concerns with the bill in a joint letter to Martin in January.

He noted that the bill is receiving global attention from UN agencies such as UNICEF, human rights groups such as the International Commission of Jurists and Human Rights Watch, and a wide range of grassroots organizations on every continent active in efforts to get medicines for people in developing countries. “Ordinary Canadians are also calling us and writing to the Prime Minister, saying they don’t understand why the government would hamstring its own legislation. We urge the Government to listen to these concerns.”