

News Release

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Canada proceeds with Bill C-9 on cheaper medicine exports: NGOs say initiative is important, and urge other countries to avoid the flaws in the Canadian model



The long-awaited bill to amend the Patent Act will be brought to Parliament for third and final reading this week, ending nearly a year of wrangling over a piece of legislation aimed at allowing the export of desperately needed cheaper, generic medicines to developing countries. A coalition of non-governmental organizations welcomed this last step toward making the legislation a reality, while urging other countries to do better.

"In a world where 14 million people die each year from preventable diseases for lack of affordable medicine, Canada has pursued an important initiative, becoming the first country to allow the export of affordable drugs to the world's poor," says CCIC's President and CEO Gerry Barr. "However, as other WTO countries look to follow suit, we hope they avoid the flaws in the Canadian example."

Bill C-9 will amend patent laws so that Canadian generic pharmaceutical manufacturers can obtain the licenses needed to make cheaper versions of patented medicines and supply them to developing countries lacking their own manufacturing capacity. The bill aims to implement a World Trade Organization decision from last August relaxing patent rules to allow this kind of initiative.

Yet Bill C-9 creates restrictions that are not contained in the WTO decision. Contrary to the consensus achieved after lengthy and bitter negotiations at the WTO, Canada will maintain a list of defined pharmaceutical products eligible for export under the bill.

"We are pleased the government has brought the legislation this far," said Christie Neufeldt, development secretary at the United Church of Canada. "However, we remain critical of the list of medicines. Maintaining a list ultimately threatens the ease of access to medicines, and undermines the proper authority of developing countries to determine their own health needs." The NGOs also noted that the government has not clarified whether it will allow the export of generic "fixed-dose combination" products, such as those anti-HIV medicines recommended by the World Health Organization as critical to the global effort to scale up access to AIDS treatment.

The bill was also weakened by last-minute amendments. For example, the Government had accepted arguments that non-governmental organizations (NGOs) are often vital to delivering health care in developing countries and should, therefore, be able to contract directly with Canadian generic producers to obtain needed medicines. Recognizing this, the Government proposed an amendment to Bill C-9 to address this concern. But it allowed last-minute changes that largely gutted its own amendment. NGOs called upon all parties to support a motion to remedy this flaw.

"The real test will be how well this legislation meets the urgent need of those in high prevalence countries," said World Vision president Dave Toyce. "We will monitor whether affordable medicines actually get to the poor."

"We hope other governments follow Canada's demonstrated will to act", said Richard Elliott, Director of Legal Research and Policy of the Canadian HIV/AIDS Legal Network. "But they must be careful to avoid replicating the weaknesses still found in this bill, such as a limited list of medicines eligible for export, vague conditions on countries importing medicines from generic suppliers, and provisions that give brand-name pharmaceutical companies privileges beyond anything negotiated at the WTO."

"A wide array of civil society groups has worked closely with officials and parliamentarians to contribute experience and expertise over the past six months," said Ken Georgetti, President of the Canadian Labour Congress. "The Canadian labour movement has joined these efforts in solidarity with our African partners, fighting for access to medicines and the right to health."

Civil society organizations are committed to bringing forward proposals to improve the law when it is reviewed by Parliament in 2 years. They also said they will be watching closely if pharmaceutical companies undermine efforts to use this legislation to get medicines to those in need.

Canadian civil society organizations involved in advocacy on Bill C-9 include: The Canadian HIV/AIDS Legal Network, the Canadian Council for International Co-operation, World Vision, the Interagency Coalition on AIDS and Development, United Church of Canada, the Canadian Labour Congress, RESULTS Canada, KAIROS: Canadian Ecumenical Justice Initiatives, McGill International Health Initiative, Students Against Global AIDS, CAP/AIDS Network Inc., Action Canada for Population and Development, The Canadian Council For Reform Judaism, and BC Persons With AIDS Society, among others.

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For additional background material on Bill C-9, see www.aidslaw.ca.
