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ACCESS TO TREATMENT IN POOR COUNTRIES JEOPARDIZED AGAIN : THE NATIONAL AIDS COUNCIL ADVOCATES THE PRIMACY OF HEALTH RIGHTS

With the failure of WTO discussions on access to treatment in poor countries, the National AIDS Council once again sustains the primacy of health rights over intellectual property rights.

By acknowledging the use of compulsory licensing for health emergencies, the Doha Declaration of November 2001 did enable application of the TRIPS 1 agreement in the pharmaceutical field. The Council expressed satisfaction at this first step towards global access to anti HIV/AIDS treatment but calls for further action.

The following step was to be taken with the implementation, at the end of 2002, of paragraph 6 of the Declaration. Countries lacking production capacity would then have been able to import copies of medications.

But on December 20th 2002, protection of companies' interests led to a restrictive interpretation of the Declaration and prevented the implementation of a compromise that was not unfavourable to them. In order to provide their populations with affordable treatments, poor countries were to agree to tough procedures under the aegis of WTO. By demanding the definition of a list of the diseases involved, some developed countries and particularly the United States, deliberately caused the compromise to fail.

This new blow to health rights in developing countries raises several issues.

- WTO Member States are also members of the UN whose Charter and Universal Declaration of Human Rights put emphasis on the right to health care and well-being. When the survival of over 40 million people is at stake, Member states must abide by the agreements they sign.
- Pharmaceutical companies do have legitimate interests, but poor countries' access to treatment will not reduce their profits in the North. Markets in the rich countries will still enable to finance research as they always have done.
- WTO is an organization for trade where there is no place for discussions on public health, for they are dependent on trade issues. The extent of the HIV/AIDS epidemic and the overall health situation in poor countries require that WHO, supported by the international community, be granted preeminence in the management of world health issues.

The National AIDS Council hopes that in future discussions health rights will not be subordinated to company strategies. Countries must consider the Doha mandate as an ethical obligation. Because of the emergency, the Council calls for negotiations to resume very soon.