



Canadian Council
for International
Co-operation



November 6, 2001

The Rt. Honourable Jean Chrétien
Prime Minister of Canada
Office of the Prime Minister
Ottawa ON
K1A 0A2

Re: Our meeting on Nov. 5, 2001 and the WTO Ministerial Declaration on Public Health

Dear Prime Minister,

Thank you very much for making it possible to meet with you yesterday. It was a great pleasure for us to have the opportunity to discuss our hopes and concerns regarding Canada's position on TRIPS and public health at the WTO Ministerial Council starting this week. We also had the opportunity to meet briefly with your colleague, Hon. Pierre Pettigrew, Minister for International Trade.

We hope to see coherence in Canada's approach on this matter and its international stances on human rights, public health, sustainable development and international cooperation. We wish to see our country contribute *significantly* to saving the lives of millions of fellow human beings around the world. This is possible through a *strong pro-public health* WTO Ministerial Declaration, as initiated by the Africa Group and supported by a first group of 60 developing countries, then by Norway, China, the Group of 77 and the ACP-EU joint parliamentary assembly.ⁱ

- The Declaration should not narrow the existing text of the Agreement by referring only to access to medicines but should allow for the pursuit of public health objectives more broadly and for an achievable balance between private patent rights and public health obligations – in light of countries' level of development and their health needs. The text of the Agreement refers already to "a balance of rights and obligations" (Art. 7) and to "public health" (Art 8).
- The Declaration should not narrow what is permissible under TRIPS but should ensure maximum flexibility to developing countries in limiting or counter-balancing patent rights (i.e. not just when there is a "crisis"; not just for "pandemics" or for specific diseases; not just for specific regions of the developing world).
- The Declaration should address the need for compulsory licenses that would allow exports of generic drugs to poor countries without their own generic drug production capacity. Populations in these countries cannot wait for the results of a study by the Council for TRIPS to be completed

at the end of 2002, followed by further delays before any action is taken. Communicable diseases that could be treated currently result in 14 million deaths annually and without access now to affordable medicines, this number will continue to rise. At our meeting yesterday, Minister Pettigrew agreed that Canada must consider ensuring that generic medicines could be produced under compulsory licenses in one country for export to developing countries.

- Canada must not allow the private sector's investments in R&D to justify the denial of health exceptions in TRIPS. There is no evidence that strong intellectual property protection boosts R&D for drugs to treat diseases that mainly affect people in poor nations. On the contrary, experience has shown that these will not increase no matter how stringently patents are protected. This is because the people suffering from these diseases do not represent lucrative enough a market to drive research. For example, while Africa and Asia represent 72.3% of the world population, they only represent 10.6% of the world drug market (IMS-Health 1999 and UNDP 1998). Less than 5% of current health R&D global investment (estimated at US\$ 60-70 billion in 2001) is allocated to developing treatments for diseases predominant in developing countries.

Honourable Prime Minister, we are not opposed to patents. True innovation deserves to be recognised and protected. But human lives must take priority over profits and patents. Patents are not an end in themselves. Rather, they constitute *public policy tools* with which to achieve benefits for society as a whole: *a patent is a contract between public and private interests*. When a patent monopoly is against the public interest, governments have the right, and the obligation, to free themselves from that monopoly.

In the coming days, before and during the WTO Ministerial Conference in Doha, Canada can make a positive contribution to ensuring that strict patent rules do not prevent developing countries from protecting public health, which must include access to affordable medicines.

Again, thank you very much for your compassionate attention to this urgent matter. We trust that you will answer the concerns of thousands of Canadians that recently wrote to you about this issue in a manner that will make them proud.

Yours, faithfully

Sherri Kelly

Marie-Hélène Bonin

Richard Elliott

On behalf of:

Médecins Sans Frontières / Doctors Without Borders Canada
Canadian HIV/AIDS Legal Network
Oxfam Canada
Canadian Council for International Cooperation
Interagency Coalition on AIDS and Development
Canadian Treatment Action Council

c.c. Honourable Pierre Pettigrew, Minister for International Trade
Honourable Jean Augustine, Member of Parliament
Honourable Bill Graham, Member of Parliament
Honourable Francine Lalonde, Member of Parliament
Honourable Svend Robinson, Member of Parliament
Honourable Bill Casey, Member of Parliament

ⁱ The ACP-EU joint parliamentary assembly took place last week in Brussels. A resolution on AIDS, stating "nothing in the TRIPS agreement must be used to prevent WTO members from taking measures to protect public health" and a resolution on WTO negotiations were passed.