

*Affordable generic medicines for developing countries:*  
Prime Minister's commitment is welcome, but bill is flawed and must be fixed



**TORONTO – The Canadian HIV/AIDS Legal Network reacted cautiously today to Prime Minister Paul Martin's comments on access to medicines for developing countries at the World Economic Forum in Davos, Switzerland. The Network welcomed the Prime Minister's commitment to passing legislation that would allow cheaper, generic medicines to be made in Canada and supplied to countries in need. But it said the draft bill put before Parliament last year contains serious flaws that undermine its very objective, and called on Martin to fix the bill immediately.**

“We are pleased the Prime Minister has highlighted his commitment to re-introduce this legislation when Parliament begins in February,” said Richard Elliott, Director of Legal Research and Policy. “But his concern for ensuring that medicines reach the world's poor will come to very little if he and his government do not fix the serious flaws currently found in this bill. What we need is a real commitment, not vague rhetoric that obscures the details that could render this legislation useless.”

In November 2003, the government tabled a bill (Bill C-56) 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. The Legal Network and numerous other civil society organizations welcomed the introduction of legislation, but criticized it as seriously flawed.

A major concern is 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, thereby blocking 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 manufacturers 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.”

Bill C-56 did not pass before Parliament ended in November. Civil society organizations expect Martin to re-introduce the bill but vow they will campaign for the necessary changes before it is passed. Elliott pointed out 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 sent to Martin last week.

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.”

Elliott also wondered why Martin, in his remarks in Davos, only referred to HIV/AIDS drugs for African countries. “This is not just about AIDS in Africa, although clearly that is a terrible crisis. The legislation that has been put before Parliament is not limited to any specific diseases, or to just African countries. It would be unacceptable to see backtracking on this point from the government now. Mr. Martin himself rejects the need for a new debate in the case of every new disease, so we trust that he will follow through with unrestricted legislation.”