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Driving a decade of change: HIV/AIDS, patents and access to medicines for all

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Abstract

Since 2000, access to antiretroviral drugs to treat HIV infection has dramatically increased to reach more than five million people in developing countries. Essential to this achievement was the dramatic reduction in antiretroviral prices, a result of global political mobilization that cleared the way for competitive production of generic versions of widely patented medicines. Global trade rules agreed upon in 1994 required many developing countries to begin offering patents on medicines for the first time. Government and civil society reaction to expected increases in drug prices precipitated a series of events challenging these rules, culminating in the 2001 World Trade Organization's Doha Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights and Public Health. The Declaration affirmed that patent rules should be interpreted and implemented to protect public health and to promote access to medicines for all. Since Doha, more than 60 low- and middle-income countries have procured generic versions of patented medicines on a large scale. Despite these changes, however, a "treatment timebomb" awaits. First, increasing numbers of people need access to newer antiretrovirals, but treatment costs are rising since new ARVs are likely to be more widely patented in developing countries. Second, policy space to produce or import generic versions of patented medicines is shrinking in some developing countries. Third, funding for medicines is falling far short of needs. Expanded use of the existing flexibilities in patent law and new models to address the second wave of the access to medicines crisis are required. One promising new mechanism is the UNITAID-supported Medicines Patent Pool, which seeks to facilitate access to patents to enable competitive generic medicines production and the development of improved products. Such innovative approaches are possible today due to the previous decade of AIDS activism. However, the Pool is just one of a broad set of policies needed to ensure access to medicines for all; other key measures include sufficient and reliable financing, research and development of new products targeted for use in resource-poor settings, and use of patent law flexibilities. Governments must live up to their obligations to protect access to medicines as a fundamental component of the human right to health.

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