

## **Canada's flirtation with international AIDS leadership**

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**By Dr. Gordon Guyatt**

**(Winnipeg Free Press Headline: Canada leads African AIDS war)**

Canada is finding its conscience -- maybe.

As individuals, we are capable of compassionate acts free of self-interest. But in recent years, as a society, we have accepted government cuts to both domestic social programs and aid to poor nations.

And, until recently, we have sided with large multinational companies in their battles with the world's poor countries.

But now, the federal government is acting to make inexpensive AIDS drugs available to African countries suffering from the most devastating epidemic of modern times.

The drama has involved a David and Goliath struggle. On one side is the multinational pharmaceutical industry, and the rich nations backing industry interests. On the other are African nations suffering from the AIDS epidemic, and the humanitarian organizations championing their cause.

The battle has played out in the World Trade Organization, which makes international trade rules. One of the key WTO agreements is trade-related intellectual property rights, or TRIPS.

TRIPS ensures worldwide patent protection for companies that produce new products. Until the patent runs out, the owner company has a monopoly on its product.

The multinational pharmaceutical industry has been TRIPS' biggest beneficiary. In the last decade, the industry has succeeded in producing a number of drugs that, when given together to AIDS patients, have turned a rapidly fatal disease into a chronic illness. A typical AIDS cocktail costs about \$10,000 a year.

Poor countries cannot afford that cost. As a result, only a tiny fraction of the 30 million Africans suffering from AIDS receives drug treatment.

In 1997 South African President Nelson Mandela launched the first attempt to change that situation. “Generic” drugs, produced by companies that do not own a patent, are much cheaper than brand name products. South Africa passed a law allowing importing and substitution of generic drugs for brand name products.

Seeing a threat to the system that guarantees their profits, 39 multinational drug companies challenged the law in South African courts. The case attracted international attention, and outrage from humanitarian organizations.

Though governments, including Canada’s, remained silent, intense adverse publicity eventually led the industry to withdraw its suit. After all, one could hardly have a more vivid illustration of industry putting profit ahead of human lives.

The South African lawsuit was just the start of the battle. TRIPS rules still prevented exports of generic drugs from industrialized countries to Africa. Intense lobbying from activists the world over led the TRIPS Council, in 2001, to declare that public health crises could take precedence over trade rules, opening the way for export of cheap drugs to Africa.

But that was just in theory. The pharmaceutical industry continued to lobby against changes in TRIPS rules that would threaten patent protection. While the international climate was shifting, it was not until September 2003 that the US joined the other 143 WTO member countries in another breakthrough agreement. WTO now officially allows exports of generic drugs for diseases for which developing countries lack access to adequate therapy.

Even that agreement would have little effect without further initiatives. While African countries can now import generic drugs, they need the producing companies to agree to export. Currently, Canadian patent legislation – like that of most industrialized countries – makes exporting generic versions of drugs under patent illegal.

Stephen Lewis, the UN special envoy for AIDS, urged the Liberal government to take the next step. In a move enthusiastically welcomed by international aid agencies such as the United Nations Children's Fund, the government promised to change the rules and allow export of cheap generic anti-AIDS drugs.

The legislation, introduced to be part of the Chretien legacy, was a rushed job. It isn't applicable to all developing countries, doesn't include all important AIDS drugs, and is now under review.

Nevertheless, Canada's resolve to allow export of generic drugs has already had an impact. On December 10, South Africa's AIDS-activist group Treatment Action Campaign signed a deal that will see two of the world's largest drug companies grant up to four different generic companies licences to make their patented AIDS drugs. TAC national secretary Mark Heywood has suggested that Canada's decision to allow generic drug export had an important influence on the drug companies' change of heart.

"I think the Canadian legislation definitely played a part. It's quite clear," Heywood has said.

Still, questions remain about whether Canada will continue to demonstrate leadership by increasing its contribution to the Global Fund to fight AIDS, and providing generic drugs for other major health problems including tuberculosis and malaria, in the world's impoverished countries.

In the long-haul battle to overcome drug industry resistance to humanitarian imperatives, Canada has taken an important step. The final shape of the legislation, and the Martin government's subsequent initiatives – or lack of them – will show whether we really have recovered our conscience.