

Malaysia – Attorney-General Defends Generic Medicines Before UN Rights Body

Information Note Number 6, February 2007

Geneva, 5 February 2007 -- Malaysia's Attorney-General Tan Sri ABDUL GANI has publicly stated his country's stand "that generic drugs should not be restricted in any manner," as generics are cheaper than patented medicines.

He made this statement before the UN Committee on the Rights of the Child, whose session concluded in Geneva last week.

ABDUL GANI noted that Malaysia has issued a compulsory license, in accordance with World Trade Organization (WTO) rules. He specified that bilateral "Free Trade Agreements (FTAs) are TRIPS-plus" and that Malaysia has not yet agreed to any bilateral trade agreement with the U.S. Implying that a U.S.-Malaysia FTA could result in more expensive drugs, Attorney-General ABDUL GANI said that Malaysia is not going to negotiate on this issue, and added "we are providing the drugs for free."

He was speaking in response to pointed questions from the Committee's Chair, Jacob E. Doek, who asked Malaysian governmental representatives how they can ensure that trade agreements do not affect provision of generic medicines, particularly for the treatment of HIV/AIDS.

This discussion took place during the Committee on the Rights of the Child's periodic review of the status of children's rights in Malaysia.¹ The Committee had before it a note from non-governmental sources, circulated by 3D, that described the adverse impacts on children's rights of the FTA Malaysia is currently negotiating with the U.S.

The Committee on the Rights of the Child is composed of 18 independent experts of high moral character and recognized competence in the field of human rights, is an independent body that oversees the situation of children in the 193 countries that have agreed to be bound by the Convention on the Rights of the Child. The Committee usually raises questions relating to the treatment of HIV/AIDS with the countries they review.

The Committee has played a key role in holding government trade and Intellectual Property negotiators accountable to their obligation to uphold human rights. The Committee has for instance recommended to the Peruvian government that it "always take its human rights obligations into account when negotiating Trade Agreements, in particular as to the possible impact of commercial agreements on the full enjoyment of the right to health."

¹ For official records of the meeting, and background about the Committee on the Rights of the Child, see <www.ohchr.org/english/bodies/crc/crcs44.htm>

The Committee recently urged the Thai government to “ensure that regional and other free trade agreements do not have a negative impact on the enjoyment of the right to health by children [and specifically,] ensure that such agreements will not negatively impact the availability of drugs and medicines for children.”

The Child Rights Committee has made similar recommendations to the governments of Botswana, Ecuador, El Salvador, Nicaragua and the Philippines.² These Committee recommendations have been used by groups around the world working to ensure that trade rules do not undermine access to affordable medicines

3D -> Trade - Human Rights - Equitable Economy (3D) is a non-profit organization based in Geneva, Switzerland, working to ensure that trade rules are developed and applied in ways that promote an equitable economy. We believe that human rights mechanisms such as the Committee on the Rights of the Child can help attain this objective by reminding States that international trade rules cannot justify non-compliance with human rights obligations.

² For full details of these recommendations, see 3D → T HR EE, *UN Human Rights Treaty Monitoring Bodies Review of State Implementation of International Conventions (ICESCR, ICCPR and CRC) References to Intellectual Property and Human Rights*, 2006 <www.3dthree.org/pdf_3D/TreatyBodyIPrefs_en.pdf>