

Access to Affordable Drugs: Victims of HIV/AIDS Should Not Suffer From Trade Rules

UN Committee Warns Botswana that Trade Agreement Should Not Undermine Access to HIV/AIDS Treatment

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Botswana was warned last week by a UN Committee that trade agreements should not undermine Botswana's ability to ensure access to affordable treatment for children or other people with HIV/AIDS.

The UN Committee on the Rights of the Child, in a document made public today, strongly recommended that Botswana ensure that "regional and other free trade agreements do not have a negative impact on the implementation of children's rights."

Most importantly, it warned Botswana that trade agreements should not "affect the possibility of providing children and other victims of HIV/AIDS with effective medicines for free or at the lowest price possible."

These recommendations follow the UN Committee on the Rights of the Child's consideration of the situation of children's rights in Botswana. In their discussion, Committee members expressed concern that strict intellectual property (IP) rules in proposed trade agreements could undermine Botswana's ability to fulfill its human rights obligations and meet the needs of the national HIV/AIDS treatment programme.

Botswana, as member of the Southern Africa Customs Union (SACU - Botswana, Lesotho, Namibia, South Africa and Swaziland), is currently negotiating a trade agreement (FTA) with the United States. Although US-SACU FTA negotiations were scheduled to conclude by the end of 2004, they are currently stalled due to strong disagreement over the strict IP rules and health-related services liberalization commitments requested by the US.

The UN Committee on the Rights of the Child (CRC) is an independent organ which supervises the implementation of the Convention on the Rights of the Child – the most widely applicable international human rights treaty, which all countries in the world except two have ratified.

As a party to this treaty, Botswana is obliged to take steps to ensure that the best interests of the child are taken into account at all levels of decision-making, and that it fulfills its human rights obligations, of which the obligation to ensure the child's right to an adequate standard of health.

It is therefore necessary to encourage Botswana, and other SACU countries, to further delay the US-SACU FTA negotiations until they have undertaken an impact assessment of the effect of proposed IP rules and services commitments on access to affordable drugs and health services.

Other countries around the world are also negotiating trade agreements with the US that could have similar impacts as the US-SACU FTA, and undermine access to medicines. Countries negotiating trade agreements with the US include Andean countries, Thailand and Panama.

3D therefore encourages Botswana, SACU countries and civil society groups in countries negotiating trade agreements with the US to use the CRC recommendation as a tool to ensure that trade agreements do not undermine access to affordable drugs and health services, particularly for the treatment of HIV/AIDS.

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