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11 February 2009

Delivered by hand to:

Dumisa Jele

Chief of Staff

Ministry of Finance

On behalf of the Minister of Finance, Trevor Manuel.

Minister Manuel,

RE: MORATORIUM ON ART SCALE-UP IN FREE STATE PROVINCE

Today we are protesting against the unnecessary and avoidable suffering in the Free State caused by the current moratorium on the province's antiretroviral treatment (ART) scale-up. We are protesting against inadequate budgetary planning and poor fiscal management that have put so many lives needlessly at risk. The decision of the Free State government to scale back essential healthcare services has led to thousands of patients in immediate need of care being turned away from Free State clinics since 1 November 2008. Most of these patients have been on waiting lists for treatment for many months because, prior to the moratorium, Free State health officials were unable to enrol new patients onto ART efficiently and timeously. The ongoing delays in treatment initiation have increased suffering and morbidity, and have likely caused avoidable deaths.

On 5 February 2009, the Programme Implementation Committee (PIC) of the South African National AIDS Council (SANAC) recommended that the Free State moratorium on access to ART for new patients be immediately lifted. Thami Mseleku, the Director General of Health, has promised to produce a plan for resolving the situation caused by drastic cost curtailment measures in the Free State by 9 February 2009. TAC and our partner the AIDS Law Project (ALP) echo the call of SANAC's PIC. We demand an **immediate** end to the current moratorium on the ART roll-out in the Free State as well as an independent investigation into the financial crisis which led to the moratorium.

We demand that the Ministry of Finance aid Director General Mseleku to ensure that sufficient funds are made available for the progressive scaling-up of access to ART in the Free State. We call on you to use your powers under the Public Finance Management Act to ensure proper needs-based budgeting and sound financial systems throughout the health system. We ask that in future National Treasury work more closely with Provincial governments to collectively ensure that sufficient resources are devoted to the health services in order to fulfil the state's legal and constitutional duties including the realisation of the targets laid out in the *HIV & AIDS and STI Strategic Plan for South Africa, 2007-2011* (the 'NSP').

We welcome the promise made by Health Minister Hogan at the UNAIDS meeting in Khayelitsha on 10 February that a team of 20 budgeting experts will be deployed to every province to ensure that financial crises do not continue to violate the health and human rights of South Africans. Civil society will continue to monitor the situation in the Free State closely, and to gather precise information about delays in the waiting list and the failure to meet ART protocols should these arise. Minister Hogan also promised that more funds would be made immediately available in less than a week to begin initiating new patients on ART in the Free State. Civil society welcome this renewed commitment, but

we will monitor the situation closely to ensure that the promises of an end to the ART moratorium are in fact followed through.

Government is constitutionally obliged to use its available resources to ensure that the right to health is protected, promoted and fulfilled, and that, over time, universal access to quality and comprehensive healthcare is achieved. TAC and the ALP therefore consider the situation in the Free State unconstitutional, and demand that the reasons for the budgeting shortfall in the Free State be clarified and that those responsible be held accountable in terms of the PFMA. We call on the Ministry of Finance to commit to the ANC's Polokwane resolution on healthcare investment; to endorse the ANC's 10 point programme on health care; and to fulfill the ANC's election promises to increase health expenditures towards the 15%, in accordance with Abuja declaration of African states.

Civil society will mobilise to monitor the upcoming health budget allocations and expenditure so that they will reflect the state's constitutional and legal obligations, and will hold the ruling party accountable.

**We demand health budgets and financial systems that advance
the right to health for everyone in South Africa!**

Yours Sincerely,

Vuyiseka Dubula

General Secretary

TAC