



“DELAYS = DEATH” MEMORANDUM

TO BE DELIVERED TO ACTING DDG OF ITED MR MOOSA EBRAHIM OF THE DEPARTMENT OF TRADE AND INDUSTRY (ON BEHALF OF MINISTER ROB DAVIES) AT A DEMONSTRATION ON 27th SEPTEMBER 2016.

WE DEMAND THAT THE DEPARTMENT OF TRADE AND INDUSTRY URGENTLY TAKE STEPS TO REFORM SOUTH AFRICA'S PATENT LAWS TO ENSURE EVERYONE HAS ACCESS TO THE MEDICINES THEY NEED.

People across South Africa are suffering and/or dying because medicines for various cancers, hepatitis B and C, tuberculosis, mental health and many other diseases are too expensive. While we won the fight for first line HIV medicines, we are losing the battle for many other medicines.

There are solutions available to us. However, South Africa is failing to use these solutions. This failure literally determines whether some people live or die. Almost 15 years after the signing of a critical international agreement – the Doha Declaration on Public Health – that gave countries the ability to change their laws to incorporate public health safeguards, South Africa has yet to write these safeguards into our national laws. By contrast to the disgraceful delays in South Africa, countries like Argentina, Brazil and India have actively used these World Trade Organisation-sanctioned health safeguards to protect the health of their citizens and access lifesaving medicines.

In addition, a major United Nations report published two weeks ago strongly recommended that countries make full use of these health safeguards available under international law. Why is the South African government not listening?

Given South Africa's high burden of both communicable and non-communicable diseases, and the continuing rise in healthcare costs, there is a pressing need to take urgent steps to address access to many important medicines. Without these reforms, South Africa will continue to face excessively high medicine prices that are costing the government billions and increasing South Africa's pharmaceutical trade deficit. It is unsustainable.

Delays = Death

The Fix the Patent Laws campaign is a coalition of 31 organisations representing people with a wide range of diseases and conditions. We are all deeply concerned by the three years of delay since the release of the draft National Policy on Intellectual Property. Based on published research we estimate that in these three years over 5,000 patents have been granted on medicines, of which 80% should not have been granted. We are paying the price for these delays with our health and the health of our friends and families.

In 2014 the Mail & Guardian newspaper uncovered the 'Pharmagate' scandal. The aim of the pharmagate plot was to delay our law reforms. The fact of the matter is that the plot succeeded. The plotters had their way – the people of South Africa did not.

The government has a moral, legal and Constitutional obligation to ensure that everyone can access the medicines they need – yet 15 years after the Doha Declaration and our government is still putting the profits of industry before the lives of the people and flouting its Constitutional obligations.

We demand that the Department of Trade and Industry urgently finalises the Intellectual Property Consultative Framework and tables a bill in parliament reforming the Patents Act. We demand a process that leads to urgent law reform in line with the government's Constitutional obligation to take legislative and other measures to realise the right to health – as well as international human rights law.

SIGNED:

1. FIX THE PATENT LAWS CAMPAIGN

WITNESS

2. DEPARTMENT OF TRADE AND INDUSTRY

WITNESS

The Fix the Patent Laws is a joint coalition 31 patient groups, including: Advocates for Breast Cancer, AmaBele Belles' Project Flamingo, Breast Course 4 Nurses, Breast Health Foundation, Can-Sir, Cancer Association of South Africa (CANSa), Cape Mental Health (CMH), Childhood Cancer Foundation of South Africa (CHOC), DiabetesSA, Doctors without Borders (MSF), EpilepsySA, Hospice Palliative Care Association (HPCA), Igazi Foundation, Look Good Feel Better, Marie Stopes South Africa, National Council Against Smoking, Oncology Nursing Association of SA, Pancreatic Cancer Network of SA, People Living With Cancer (PLWC), Pink Trees, Reach for Recovery, Schizophrenia and Bipolar Disorders Alliance (SABDA), SECTION27, South African Depression and Anxiety Group (SADAG), South African Federation of Mental Health (SAFMH), South African Non-Communicable Diseases Alliance (SANCD Alliance), Stop Stock Outs Project (SSP), The Sunflower Fund, Treatment Action Campaign, Vrede Foundation, and Wings of Hope.

