

Medicines for All: Reforming the Costs of Drugs

The Fight for a Presidential Decree Declaring Atazanavir to be the Public Interest and Ordering the Issuance of a Compulsory License on this Important Medication

Universal access to essential medicines is a necessary condition for a robust realization of the right to health. This right has not only been promised to the Peruvian people by their government, but is also protected by the Peruvian constitution and various international agreements, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights.

In March 2014, various civil society organizations and professional unions warned the Peruvian government that they were overpaying for the acquisition of the 300 mg formulation of an important HIV/AIDS drug—atazanavir—by 21 million Peruvian dollars. An American company, Bristol-Myers Squibb, holds the relevant patent on atazanavir in Peru and markets this drug under the brand name Reyataz®. The amount the Peruvian government currently spends on atazanavir 300 mg represents 50% of the country's total budget for antiretroviral medications.

The lack of effective and fair decision-making with respect to atazanavir has led to an inefficient use of financial resources and has resulted in the Peruvian public healthcare system (MINSA y EsSalud) paying S/. 29.17 Peruvian soles per pill. This price is twenty times the cost of the generic version of atazanavir 300 mg—the version of atazanavir that the neighboring Bolivian government purchases. This discrepancy in price will cost Peru 26 million Peruvian dollars this year. In the next few years, until Bristol-Myers Squibb's patent on atazanavir expires in 2019, Peru will spend over 130 million Peruvian dollars more on atazanavir than it would if it purchased the generic version of the drug. If Peru begins to purchase the generic version of atazanavir in place of the patented drug, Peru could redirect the substantial healthcare saving towards healthcare coverage (only 34% of the Peruvian population currently has healthcare insurance), infrastructure projects, equipment purchases, and human resource.

A compulsory license is a legal mechanism established by both Peruvian and international law that would enable the Peruvian government to permit generic competition to enter the market for atazanavir. The issuance of a compulsory license would dramatically reduce the price of atazanavir by thwarting Bristol-Myers Squibb's abuse of its monopoly position in the market for atazanavir.

For these reasons, we the citizens request President Ollanta Humala Tasso to declare the use of the medication atazanavir to be in the public interest and to order the appropriate government body, the National Institute for the Defense of Competition and Protection of Intellectual Property (INDECOPI), to issue a compulsory license under the terms and conditions established by the relevant Peruvian laws.

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