

June 20, 2023

Dr. Guillermo Alfonso Jaramillo
Minister of Health
Republic of Colombia

Dear Minister Jaramillo,

We are representatives of organizations worldwide that support access to medicines, as well as experts, activists, lawyers and academics in the fields of intellectual property and public health. We commend your decision to expand affordable access to HIV treatment, stand for health justice and evaluate a public interest declaration to license dolutegravir patents. A declaration leading to compulsory licenses can facilitate generic competition, reducing prices and increasing access to medicine. We urge the Ministry of Health and the Superintendency of Industry and Commerce to proceed with the declaration.

The high prices of patented medicines impose a major burden on health systems, leading to rationing of treatment and other health services. In the case of HIV/AIDS, high prices impede the goal of an AIDS-free generation and contribute to preventable suffering and death. From 2018 to 2022, the number of new HIV cases in Colombia increased by 31 percent.¹ Over 126,000 people, or 74 percent of those living with HIV use anti-retroviral therapy.² WHO recommends dolutegravir as part of a first-line treatment regimen against HIV. Because of fewer adverse effects, improved effectiveness and safety, and a lower likelihood of resistance development, dolutegravir-based regimens have demonstrated higher adherence.³ According to Resolution 881/23, generic competition for dolutegravir may allow for cost reductions of more than 90%.

International law and policy support Colombia's right to issue compulsory licenses to promote the public interest, especially the right to health, which includes access to affordable medicines. Article 31 of the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) allows all WTO members, including Colombia, to issue compulsory licenses at any time for reasons of their choosing. In compulsory licensing cases, the only compensation due to patent holders is a reasonable royalty, which governments can determine at their discretion.

The WTO Declaration on the TRIPS Agreement and Public Health reaffirms this interpretation in Article 31 and its importance for health. The "Doha Declaration" explicitly recognizes the impact of intellectual

¹ Colombia Ministry of Health and Social Protection Resolution 881 of 2023

² <https://cfs.hivci.org/index.html>

³ https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2023/june/20230612_colombia-hiv-treatment

property on drug prices and states that countries' patent obligations under WTO rules "should be interpreted and applied in a manner that supports the right of WTO Members to protect public health and, in particular, to promote access to medicines for all."

Issuing a compulsory license for dolutegravir is entirely consistent with the terms of Colombia's trade and investment agreements. For example, the U.S. - Colombia Trade Promotion Agreement expressly incorporates certain public health safeguards into the treaty and preserves Colombia's right to license patented inventions. Licenses do not "expropriate" the property of patent owners. Furthermore, licenses do not prevent patent holders from continuing to sell their products, prohibit unlicensed uses of the invention, or prohibit unlicensed parties from using the invention.

This letter should put to rest any concerns regarding the international legitimacy of compulsory licensing. We commend Colombia's efforts to ensure access to medicines for all.

Sincerely,

Latin American organizations

Acción Internacional por la Salud AIS Perú

AGANIM

AIDS Healthcare Foundation Colombia

ASOCIACIÓN CIVIL CAMBIO Y ACCIÓN

Asociación Construyendo Caminos de Esperanza frente a la Injusticia, el Rechazo y el Olvido (CCEFIRO Peru)

Asociación de Pacientes de Alto Costo

Asociación Por la Vida (ASOVIDA)

AVISA (Associação Vida e Saúde)

Cátedra Cultura de Paz / Universidad de Los Andes

Corresponsales Clave

Foro de la Sociedad Civil en Salud de la Región Callao. FOROSALUD CALLAO

Fundación Acción Positiva por la Vida

Fundación Amigos por la Vida

Fundación Ecuatoriana Equidad

Fundación Grupo Efecto Positivo

Fundación IFARMA

Fundación Procrear

GHP Corp

Grupo de Resistência Asa Branca - GRAB

Grupo de Trabalho sobre Propriedade Intelectual (Brasil)

Internacional de servicios publicos Inter-Americas (ISP-IA)

International Treatment Preparedness Coalition Latin American and Caribbean

Laboratorio de Datos GT
Medical Impact
Misión Salud
Movimiento Mexicano de Ciudadanía Positiva, A.C.
Movimiento para la Salud de los Pueblos MSP
Plataforma VIH 2025
Red Juvenil Cultura de Paz y VIH
Red Latinoamericana por el Acceso a Medicamentos (RedLAM)
Rede Jovem Rio
Redlactrans
RENUPAZ
Rosas Mujeres De Lucha
RVG+Zulia
Trabajador de la Salud
Universidades Aliadas por los Medicamentos Esenciales (UAEM) Latinoamérica
Vacunas para la Gente PVA Latinoamérica

Global organizations

AIDS Healthcare Foundation
APCASO
Architectes de l'urgence
ARROW
AVAC
Campaign for Access to Medicines, Diagnosis and Devices (CAMD), India
Center for Policy Analysis on Trade & Health (CPATH)
Centre for Family Health Initiative (CFHI)
Child Way Uganda
DAWN (Development Alternatives with Women for a New Era)
DISABILITY PEOPLES FORUM UGANDA
Foundation for Integrative AIDS Research (FIAR)
Frontline AIDS
Gender Studies and Human Rights Documentation Centre
Geneva Graduate Institute
Global Fund Advocates Network (GFAN)
Global Justice Now
Health Action International (HAI)
Health Poverty Action
International Treatment Preparedness Coalition (ITPC)
International Treatment Preparedness Coalition Middle East and North Africa
Just Treatment
Kamukunji Paralegal Trust (KAPLET)
Masimanyane Women's Rights International
Medact
Médecins Sans Frontières (MSF) Access Campaign
National Commission for Human Rights
Nepal National Dalit Social Welfare Organization (NNDSWO)
NETWORK Lobby for Catholic Social Justice
OXFAM

Pakistan Fisherfolk Forum
Partners In Health
Peace and Development Organization
Penabulu Foundation
People's Health Movement
People's Vaccine Alliance (PVA)
People's Vaccine Alliance Africa
People's Vaccine Alliance Asia
PrEP4All
Public Citizen
Salud y Fármacos
Shirkat Gah
Sojourners
South Asia Alliance for Poverty Eradication (SAAPE)
STOPAIDS
Sub-Saharan African Programme on Access to Medicines and Diagnostic (SAPAM)
Sukaar Welfare Organization
Third World Network
Treatment Action Group
Women's Action Forum
Women's Christ Against Cancer in Malawi (WOCACA)
Women's Regional Network
Workers Education and Research Organization

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