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## PANDEMIC TREATY

### EVERY COUNTRY SHOULD HAVE ACCESS TO MEDICINES

Member governments of the World Health Organisation (WHO) met in Geneva in February to debate a draft *Pandemic Treaty* with a view to developing better strategies for future pandemics than were used for COVID-19. The Treaty is to be finalised by 2034.

Leading organisations representing public health, fair trade, churches, human rights, aid and development had written to Ministers responsible for Health, Foreign Affairs and Trade urging them not to repeat the 'catastrophic moral failure' of inequitable global access to COVID vaccines, treatments and tests.

The organisations' submission noted that World Trade Organisation (WTO) rules protecting 20-year patents and other intellectual property rights on COVID-related products meant that most of the global production of vaccines, often produced with publicly-funded research, were sold at high prices to rich countries, with very low access for low-income countries. The COVAX scheme of vaccine donation did not reach its minimal target of 20 % vaccination rates in low-income countries by the end of 2021.

Because of delaying tactics by a few high-income countries, it took 20 months of negotiations for members of the WTO to agree in June 2022 to a limited change to patent rules for COVID vaccines only. During this time research suggests that over a million lives may have been lost through lack of access to vaccines. There has been even less access to treatments and tests; and the suspension of WTO rules restricting access to these is still delayed.

The organisations are pressing their governments to support the following proposals in the draft WHO Pandemic Treaty for:

- temporary suspension of WTO rules on patent and other intellectual property rights to enable global production of vaccines, treatments and tests at affordable prices for low-income countries;
- transfer of technology for the manufacturing of pandemic-related products in low and middle-income countries;
- public funding for research and development of pandemic-related products conditional on open licensing, sharing of intellectual property, technology and know-how, and relative pricing of products.

Associate Professor Deborah Gleeson, representing the Public Health Association of Australia writes: 'The yawning gap in access to vaccines, treatments and tests between rich and poor countries during the COVID-19 pandemic can't be allowed to happen again.'

Negotiation of the WHO Pandemic Treaty is an opportunity to do things differently in future pandemics. The Australian government should grasp this opportunity with both hands’.

Dr Patricia Ranald, Convener of the Australian Fair Trade and Investment Network (AFTINET) asserts in similar vein: ‘The WHO Pandemic Treaty is an opportunity to avoid the failures of the COVID-19 pandemic and put saving lives above pharmaceutical company profits in future pandemics. Patents and other monopolies on vaccines, treatments and tests must be suspended from the beginning of the pandemic to ensure that they can be produced at affordable prices and made available on an equitable basis to low-income countries’.

*Source: Media Release 27 February, 2023, Australian Fair Trade and Investment Network (AFTINET). (The Grail has been represented in the AFTINET Work Group since its inception over 20 years ago.) Submitted by Alison Healey.*

## **CAMPAIGN VICTORY CONTRADICTION RESOLVED IN EXCLUSION OF ISDS**

When Australia and the United Kingdom (UK) negotiated the bilateral Australia-UK free trade agreement this year, the right of foreign investors to sue a government, the *Investor - State Dispute Settlement* clause (ISDS), was excluded. ISDS enables foreign (but not local) investors to claim damages from governments if it can be argued that a change in law or policy reduces their future profits. This contentious clause was, however, already included in the 2018 Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), initially a trade agreement among 11 countries, including Australia. When the UK became a member of the CPTPP this year, Australia and the UK needed to resolve the contradiction between the two agreements in relation to the ISDS.

Negotiations have concluded with the decision that ‘the ISDS provisions will not be applied in matters arising in the CPTPP between our countries’.

The Australian Fair Trade and Investment Network (AFTINET) successfully campaigned for ‘side letters’ between Australia and the UK that would rule out ISDS cases between the two countries. (New Zealand is also included in this decision, because of a previous agreement with Australia.)

If ISDS had not been excluded, British companies would have been able to sue the Australian government over any law or policy changes, including regulation of carbon emissions and other environmental standards. There have been increasing numbers of cases brought to WTO tribunals by fossil fuel companies against government regulation of carbon emissions.

Since the late 1980s, British companies have lodged 90 claims against foreign governments using ISDS provisions. This is the third-highest number after USA and Dutch companies.

British oil and gas miner, Rockhopper Explorations, recently won £210 million plus interest (about A\$360 million) in compensation for lost future profits when Italy banned oil and gas drilling within its territorial seas in 2015. UK-based fossil-fuel investors in Australia include Anglo American, BP and Shell.

The present Labor government in Australia has reaffirmed its policy to exclude ISDS from new trade agreements and to review its inclusion in existing agreements. The uses of ISDS have blocked legislation and crushed initiatives aimed at benefitting not only human communities but our living planet. It is time now for all governments to act decisively and eliminate ISDS clauses from all international trade and investment agreements.

*Source: Trade Justice Bulletin, AFTINET, [www.aftinet.org.au](http://www.aftinet.org.au). Edited by Alison Healey.*

## **MEDICINES FOR AFRICA**

The quality of medicines and their accessibility in dispensaries, hospitals and pharmacies is a crucial issue causing major suffering for millions of Africans.

Trade in medicine is a huge, booming market and the lack of regulation at all levels - within the pharmaceutical industry, in financial markets, and by the governments of the world - allows for deep economic injustices and serious criminal activities at the expense of African populations. Action at all these levels is essential to ensure the quality of medicines, their price and their availability where they are needed.

A series of articles on these issues is planned. In this first article, we will focus on the issue of the quality of medicines threatened by falsified and sub-standard products.

**A falsified or counterfeit or fake medicine** is a product that is deliberately or fraudulently misleading as to its identity, composition or source; it lacks what characterises any quality medicine, that is, traceability and transparency. Fraud occurs at the time of manufacture and/or distribution. Falsified medicines are circulated through both formal and informal/illegal channels, eg. in markets and shops, by street vendors and increasingly on the internet. Falsifiers are concerned only with making money whatever the consequences for the health of consumers, which are many and dangerous: poisoning, intoxication, lack of efficacy, drug resistance, aggravation of the disease leading even to death. The falsified medicines in poorly regulated African countries can amount to 40% of the medicines on sale. Falsification is a matter for legal prosecution and the judiciary.

**A medicine is said to be sub-standard or of inferior quality** when defects appear through negligence during manufacture and/or distribution. The dosage may be too much or too little, unstable, unable to be physically absorbed by patients, contaminated, not sterile, degraded or mis-labelled. These medicines have been submitted to and approved by the National Regulatory Authority but have been wrongly granted an export permit or a Marketing Authorisation (MA) and, therefore, are given a label of quality. Mostly, the fault lies with the manufacturer, but it can also be poor storage conditions and the responsibility of drug suppliers, pharmacists and health personnel. As for negligence itself, it's a question whether it is deliberate or not.

The dangers in sub-standard medicines for patients are, in part, the same as those from falsified products. Sub-standard medicines often have minimal effect, but they may induce resistance as is the case with anti-malarials. Sub-standard medicines legally placed on the market are estimated to account for 10 -20% of medicines with a marketing authorisation. So long as the National Regulatory Authority lacks qualified personnel, adequate equipment and open to corruption, sub-standard medicines will continue to 'fall through the cracks'.

Combatting sub-standard medicines is the responsibility of the National Regulatory Authority and the Ministry of Health.

Source: *Christian Roberti*, 30 March 2023, *Africa-Europe Faith and Justice Network* (AEFJN), [aejnnews@aejn.org](mailto:aejnnews@aejn.org) Edited by A Healey.

## **‘WHOLLY INADEQUATE’ DECARBONISATION COMMITMENTS OF LEADING COMPANIES**

The New Climate Institute and Carbon Market Watch have released their latest report, *Corporate Climate Responsibility Monitor*. It is an investigation into the current performance of 24 corporations, considered to be ‘climate leaders’, in relation to the decarbonisation targets that they have announced. It warns that their present efforts to cut emissions substantially fail to support their long-term net-zero pledges.

They risk being accused of greenwashing<sup>1</sup> as, in fact, their decarbonization plans up to 2030 will go less than halfway to what is required to align with the 1.5C limit set in the Paris Agreement.

Only shipping company, Maersk, was praised for its investments in alternative fuels and vessels. And Google was noted for its generation of energy from renewables. American Airlines, JBS, Carrefour and Samsung Electronics were the worst-performing companies based on the report’s metrics. Other companies mentioned as achieving a barely passable level of integrity in their commitments are Apple, ArcelorMittal, H&M Group, Holcim, Microsoft, Stellantis and Thyssenkrupp.

### **Offsetting<sup>2</sup>**

More than 75% of the 24 companies studied in the report plan to ‘rely heavily on offsetting’. The report warns that if other businesses implemented similar plans, the scale of demand for carbon credits would require the resources of up to four planet Earths.

Source: *Matt Mace*, 12 February 2023, [www.edie.net](http://www.edie.net) (*business media promoting sustainability in UK*). Edited by A Healey.

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<sup>1</sup> See previous Bulletin (January 2023) for full explanation of ‘greenwashing’.

<sup>2</sup> Carbon offsetting is a way to compensate for your emissions by paying for the cost of an equivalent carbon dioxide saving elsewhere, eg, funding wind farms, solar energy, hydropower, forest conservation and regeneration.