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**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Access to medication in the context of  
pandemics such as HIV/AIDS**

**Report of the Secretary-General\***

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\* In accordance with General Assembly resolution 53/208B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

### Executive summary

Around the world, some 42 million people are now living with HIV/AIDS. Important advances have been made in the availability of diagnostic tests and effective treatments to help prevent, or significantly delay, the onset of AIDS and to improve the quality of life of those affected. In particular, since 1996 anti-retroviral treatment has significantly reduced AIDS-related death rates in high-income countries. Despite significant developments in recent years, however, including major price decreases for anti-retroviral drugs, the vast majority of people living with HIV/AIDS in low- and middle-income countries do not have access to basic medications for treating HIV-related illnesses. Improving access to treatment and care, including medication, is essential to the response to the global HIV/AIDS pandemic and to ensuring respect for the human rights of those affected.

The General Assembly Declaration of Commitment on HIV/AIDS of June 2001 affirms that access to medication in the context of pandemics such as HIV/AIDS is fundamental to realizing the right to health. It recognizes that prevention, care, support and treatment are mutually reinforcing elements of an effective response, and that effective prevention, care and treatment strategies will require increased availability of, and non-discriminatory access to, medication. In its resolution 2002/32, the Commission on Human Rights affirmed that access to medication is fundamental to achieving the right to health. This report summarizes contributions received from States and intergovernmental and non-governmental organizations on the steps they have taken to improve access to medication in the context of HIV/AIDS.

Governments in some countries have succeeded in slowing the spread of HIV/AIDS through comprehensive approaches to prevention, treatment, care and support, including universal access to medication; strong civil society participation; universal primary health care; poverty reduction strategies; and a commitment to combating AIDS-related stigma and discrimination. Steps have been taken at the international level to ensure international cooperation and assistance to developing countries through bilateral donations, debt relief, poverty reduction strategies and the Global Fund to Fight AIDS, Tuberculosis and Malaria. In some cases Governments have revised duties and customs laws in an effort to maximize access to HIV/AIDS-related medicines. Efforts have been made to ensure equal access to pharmaceuticals to those in need through differential pricing of medicines, greater generic competition and regional cooperation. Programmes are in place in some areas for the prevention of mother-to-child transmission, including voluntary counselling and testing, and access to medication for pregnant women.

However, still more needs to be done to ensure the realization of the right to the highest attainable standard of health for people living with and affected by HIV/AIDS. Efforts to ensure universal access to medication within a comprehensive approach to prevention, treatment, care and support must be scaled up. Steps must also be taken to address the factors that hinder the equal access of vulnerable groups to treatment as well as prevention, in particular by combating gender inequalities and reducing poverty. Resources such as the *International Guidelines on HIV/AIDS and Human Rights* (including revised guideline 6) and the ILO code of practice on HIV/AIDS and the world of work should be used as tools to assist all actors concerned in achieving the goals reflected in the Declaration of Commitment on HIV/AIDS.

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## I. INTRODUCTION

1. Improving access to treatment and care, including medication, is essential to the response to the global HIV/AIDS pandemic and to ensuring respect for the human rights of those affected. Significant advances have been made in the availability of diagnostic tests and effective treatments to help prevent, or significantly delay, the onset of AIDS and to improve the quality of life of those affected. In particular, since 1996 anti-retroviral treatment has significantly reduced AIDS-related death rates in high-income countries. At the end of 2002, however, the vast majority of people living with HIV/AIDS in low- and middle-income countries did not have access to basic medications for treating HIV-related illnesses.

2. In its resolution 2002/32, the Commission on Human Rights recognized that access to medication in the context of pandemics such as HIV/AIDS is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Commission requested the Secretary-General to seek the views of Governments and intergovernmental and non-governmental organizations (NGOs) on the steps they have taken to promote and implement, where appropriate, the resolution. Information was received from the Governments of Argentina, Canada, Cuba, Denmark, Finland, Jamaica, the Republic of Mauritius, Mexico, Nepal, the Netherlands, Nicaragua, Portugal, Switzerland, Syria and Tunisia. Information was also received from the International Labour Organization (ILO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the World Health Organization (WHO). Contributions were received from the following NGOs: AIDS Information Switzerland, the Canadian HIV/AIDS Legal Network, the International Council of Nurses and the International Federation of Pharmaceutical Manufacturers Associations. The present report summarizes the contributions received and provides an overview of developments and activities at the national and international levels. Complete replies are available for consultation with the secretariat.

## II. CONTRIBUTIONS FROM STATES

3. The Government of Argentina reported that it had declared a national health emergency until 31 December 2002 through the adoption of Decree No. 486, which is grounded in the notion that the population should have access to basic health-related goods and services. To this end, the Government also adopted resolution 326 which permits the prescription of generic medication in order to encourage price flexibility. In addition to these initiatives, the Government has developed a programme under the Ministry of Health to assist people living in poverty who do not benefit from social security. This programme seeks to guarantee access to primary health care and, in particular, the free distribution of medication in the context of the current social and health emergency. The Minister of Health is also supporting the adoption of a law that would exempt the payment of duties levied on health products related to the diagnosis and treatment of health conditions. With regard to HIV/AIDS, the Minister of Health applies the provisions of National Law 23798 related to vaccines and medication. The Government ensures free access to anti-retrovirals for people living with HIV/AIDS, as well as free HIV testing services, for those who are not covered by social security. The price of medication has been lowered and donated medication, in particular from Brazil, has been distributed according to

existing rules and regulations. With the assistance of the World Bank, the Minister of Health has developed a project for the period 1998–2002 to combat HIV/AIDS and to strengthen the public health sector. Funds have been used for the training of public health officials, research in diagnostics and treatment, surveillance for the prevention of vertical transmission, strategic information, planning and education.

4. The Government of Canada reported on the Canadian Strategy on HIV/AIDS (CSHA), the main goals of which are to prevent the spread of HIV infection in Canada; to develop a cure, and find and provide effective vaccines, drugs and therapies; and to ensure care, treatment and support for Canadians living with HIV/AIDS, their families, friends and caregivers. The Government noted the need for a strategic approach to ensure that people living with HIV/AIDS have equal access to care, treatment and support. It highlighted the central importance of people living with HIV/AIDS to the work of CSHA and to national planning, including with respect to access to medication. The Government reported on a policy and technical analysis completed by the Federal/Provincial/Territorial Advisory Committee on AIDS on the issue of access to HIV medicines, which included an investigation of patients' access to insurance or other coverage for HIV therapies and, in a second phase, a health economics, vocational rehabilitation and legal and ethical policy analysis. It drew attention to other ongoing policy analyses and assessments in the areas of clinical trials, access to medication for parolees, care and treatment issues in relation to injection drug use and research priorities.

5. The Government reiterated its support, at the international level, for resolutions of the Commission on Human Rights and the World Health Assembly on access to HIV/AIDS treatment and care. The Government underscored its role in raising awareness and building the capacity of NGOs based in Canada to engage in the global response to HIV/AIDS and provided detailed information on capacity-building events it supports. The Government drew attention to initiatives, including the development of a resource on corporate social responsibility and the role of the private sector. It reported on Canada's efforts to facilitate access to medication in developing countries and countries with economies in transition, including through its support to the Global Fund to Fight AIDS, Tuberculosis and Malaria, Stop TB and the Global Drug Facility, and the International AIDS Vaccine Initiative. The Government reported on the development by the Canadian International Development Agency of a policy framework for a comprehensive approach to the provision of care, treatment and support for HIV/AIDS in resource-limited settings based on the WHO guidelines for *Scaling Up Antiretroviral Therapy in Resource Limited Settings*. The Government underscored its support for United Nations organizations, such as UNAIDS, the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP) and WHO, whose work contributes to facilitating access to pharmaceuticals to treat HIV/AIDS and opportunistic infections.

6. The Government of Cuba reiterated that the enjoyment of the highest attainable standard of physical and mental health is a fundamental human right and expressed its support for efforts to ensure that every person affected by HIV/AIDS receives treatment and has access without discrimination to necessary medicines and medical technology. Cuba has established a programme to contain the epidemic that ensures comprehensive care for people living with HIV/AIDS, free treatment, including anti-retroviral drugs for those in need, centres with

specialized medical care for those who need it and efforts to ensure the fullest possible social integration of people living with HIV/AIDS. Access to treatment is guaranteed through the production of generic medicines. Comprehensive care has been provided for all HIV-positive individuals since 1986, including psychological care; education, social and employment benefits; and free specialized medical assistance, including anti-retroviral treatment and treatment for opportunistic diseases. Steps have been taken to prevent mother-to-child transmission, including the availability of voluntary testing for all pregnant women and anti-retroviral treatment. According to the Government, Cuban legislation prohibits discrimination against people living with HIV/AIDS and guarantees the right, inter alia, to free medical care, including anti-retroviral treatment.

7. The Government noted that combating HIV/AIDS also requires commitment and political will from transnational corporations which produce HIV/AIDS-related medicines and medical equipment. It expressed the view that an effective international strategy against HIV/AIDS must include a strategy to ensure that access to medication is not limited by patents, that foreign debt of the poorest countries should be written off and that rich countries should allocate more resources to the Global Fund to Fight AIDS, Tuberculosis and Malaria. With regard to international cooperation, the Government reported that Cuba has been developing medical assistance programmes for poor countries and has offered to provide doctors and health workers to create the infrastructure for the distribution of medicines and support prevention campaigns; diagnostic equipment and kits necessary for basic prevention programmes; and anti-retroviral treatment for 30,000 patients.

8. The Government of Denmark reported that, according to government policy, everyone has access to medical examination and treatment without discrimination. Health services and hospital treatment for HIV/AIDS and other diseases are provided free of charge.

9. The Government of Finland reported that ensuring equal access to health care and services, including sexual and reproductive health, is vital to HIV/AIDS prevention. Under Finnish legislation, HIV/AIDS is regarded as an infectious disease and treatment for people living with HIV/AIDS is provided free of charge.

10. The Government of Jamaica reported on the priorities for its National Strategic Plan on HIV/AIDS prevention, care, treatment and support. It noted that in February 2002, the Government, in collaboration with the United Nations system, NGOs and the private sector, developed a strategy to accelerate and expand access to comprehensive care and support for people living with HIV/AIDS in Jamaica. The Strategy seeks to build capacity at all levels for improved comprehensive HIV/AIDS care; to increase access to anti-retroviral medication; and to strengthen advocacy and resource mobilization efforts that will ensure universal access to anti-retroviral medication. The Government has negotiated an 85-92 per cent reduction in the price of anti-retroviral drugs with five major pharmaceutical companies. It has expanded a programme for the prevention of mother-to-child transmission, including voluntary counselling and testing for pregnant women at antenatal care visits. Anti-retroviral treatment is provided to HIV-positive mothers, along with infant formula for six months free of charge. With funding from the World Bank, the Government has planned for five years of activities related to prevention, care, treatment and support for vulnerable populations.

11. The Government of Mauritius reported that, as of April 2002, anti-retroviral treatment is given free of charge to those in need. Treatment of the most common opportunistic infections is accessible to people living with HIV/AIDS.

12. The Government of Mexico reported that 85 per cent of the people living with HIV/AIDS registered in the National Register at the end of 2001 were receiving anti-retroviral therapy, with funding from the federal Government and State health services. The Government indicated that it has engaged in negotiations with pharmaceutical companies to secure reductions in the prices of anti-retrovirals, and noted that it provides resources to ensure that those in need have access to anti-retroviral treatment. National guidelines on the use of anti-retroviral medication have been developed, as well as a patient and medicine monitoring system (SICOME) to improve supply and distribution. The Government has established a Comprehensive Care Committee to set standards for and monitor the proper use of anti-retrovirals, and training is provided to doctors with a view to ensuring comprehensive high-quality care to HIV/AIDS patients across the country.

13. Nepal noted that there is a need for reliable HIV/AIDS testing and counselling facilities, as well as for the provision of medication, in particular to health workers and pregnant women affected by HIV/AIDS. Nepal suggested that developed countries should provide economic and technical assistance in order to ensure the supply of medicines to those in need, as well as capacity-building and training.

14. The Government of the Netherlands provided detailed information on a proposed development cooperation policy on HIV/AIDS for 2002-2004, which seeks to prevent the spread of HIV/AIDS and mitigate its impact on individuals, families, communities and national development. The proposed policy recognizes the need to support the implementation of programmes and activities aimed at care, treatment and support of people living with HIV/AIDS and their families. It encourages the scaling up of vaccine research and development, and of the development of prevention methods which give women more control over sexual health, including microbicides. The Government supports research and the formulation of guidelines on the prevention of mother-to-child transmission, as well as on the use of anti-retrovirals in resource-poor settings. Priorities include working within the framework of the 2001 Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and Public Health towards trade agreements that guarantee optimum access to medicines in developing countries; supporting the integration of HIV/AIDS into poverty reduction strategies in recipient countries; encouraging partnerships with local and international NGOs on issues related to HIV/AIDS prevention, care and treatment; protecting the public health interests of developing countries, including access to effective and affordable medicines, within the World Trade Organization (WTO); and implementing the General Assembly Declaration of Commitment on HIV/AIDS.

15. The Government of Nicaragua provided detailed information on treatment and care for people living with HIV/AIDS. It noted that the Ministry of Health is exploring ways of ensuring full access to medication through local and overseas funding for projects, including through the Inter-American Development Bank; the Global Fund to Fight AIDS, Tuberculosis and Malaria; and WHO.

16. The Government of Portugal reported that all medication necessary to treat HIV/AIDS is provided free of charge through the National Health Service. Medical services are free for people living with HIV/AIDS, upon production of a medical certificate.

17. The Government of Switzerland noted that its national HIV/AIDS programme aims to ensure access without discrimination to medication and treatment of HIV/AIDS. The Government provides access to pharmaceutical products and medical technologies used to treat HIV/AIDS or the most common opportunistic infections that accompany them. The production, quality and market control of therapeutic products is monitored according to federal legislation which came into effect in January 2002. The legislation contains several provisions to facilitate access to medication, including the possibility, under certain conditions, of making available medications which have not yet been approved for market consumption. Financing is available for medication and treatment of HIV/AIDS through the system of mandatory health insurance.

18. The Government reported that a federal commission advises the Public Health Office on issues related to HIV and AIDS, including developments in prevention and treatment. Research and development of new HIV/AIDS medication is a priority for the National Fund for Scientific Research, and is also supported through the work of various commissions and projects at the national level. With regard to international cooperation, the Government participates in ongoing efforts to support countries without sufficient production capacity, or which do not have effective recourse to compulsory licensing. The fight against diseases of the poor, including HIV/AIDS, is a priority for the Swiss Department of Development and Cooperation. At the multilateral level, Switzerland supports WHO and UNAIDS, as well as the Global Fund to Fight AIDS, Tuberculosis and Malaria.

19. The Government of Syria reported that drugs used for treating HIV/AIDS are available through the National AIDS Control Programme run by the Directorate of Environmental and Chronic Diseases of the Ministry of Health. The Government noted that the Ministry of Health is making efforts to ensure that the drugs used to treat AIDS-related opportunistic infections are made available through Syria's Public Institute for Pharmaceuticals Trade. The Government, through the Ministry of Health, urged the United Nations to support endeavours to guarantee that drugs for the treatment of AIDS-related opportunistic infections are offered at reduced prices.

20. The Government of Tunisia reported that access to care for all people living with HIV/AIDS is fully ensured. Legislation is regularly reviewed in order to guarantee the right of all Tunisians to health and to ensure respect for rules of medical ethics. Act 91-63, for example, states that "everyone has the right to protection of his or her health under the best possible conditions", and Act 92-71 on communicable diseases states that "no one may be subjected to discrimination in connection with the prevention or treatment of a transmissible disease". The Government has established a national programme to address priority health issues and has invested in providing medical care in remote parts of the country. Free medical coverage is provided in all public health structures, including HIV screening through a nationwide network of laboratories, as well as ambulatory and in-patient hospital treatment for HIV/AIDS and opportunistic infections. Medical treatment for HIV/AIDS patients is dispensed in four university centres to guarantee the best quality of coverage and medication.

## II. CONTRIBUTIONS FROM UNITED NATIONS BODIES

### A. ILO

21. ILO recalled a resolution adopted by the International Labour Conference concerning HIV/AIDS and the world of work, which recognizes that the non-availability and limited access to HIV-related drugs and treatments at affordable costs in developing countries has furthered the spread of the disease in those countries. It noted that one of the key principles of the ILO code of practice on HIV/AIDS and the world of work is care and support of persons infected with or affected by HIV/AIDS. The code promotes confidential counselling and health services in the workplace; access without discrimination to benefits under national laws; adaptation of existing mechanisms to the special needs of infected workers, employees and family assistance programmes; and examination of the sustainability of new benefits addressing AIDS. According to the code, health-care services at the workplace should include the provision of anti-retroviral drugs; treatment for the relief of HIV-related symptoms; nutritional counselling and supplements; stress reduction; and treatment for opportunistic infections. Where these services are not possible, workers should be informed about the location of available services outside. The code also provides that Governments should strive to ensure access to treatment and, where appropriate, to work, in partnership with employers and workers' organizations. They should encourage initiatives to support international campaigns to reduce the cost of, and improve access to, anti-retroviral drugs.

22. ILO is undertaking a number of country-level activities, focusing on workplace policies, including the responsibilities of employers to provide care and support for their workers affected by HIV and AIDS. ILO has organized national, regional and subregional meetings for employers to raise awareness about their responsibilities and guide them in the formulation of workplace policies. ILO works in close collaboration with WHO and other UNAIDS co-sponsors with a view to optimizing linkages and ensuring cost-effective provision of care and support in the workplace.

### B. OHCHR

23. OHCHR draws attention to the growing commitment to addressing HIV/AIDS-related prevention, treatment, care and support as a matter of human rights. The Office's policies and activities on access to HIV/AIDS-related medication are grounded in the human right to health, which is understood as "a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health", including with regard to the prevention, treatment and control of epidemic diseases.<sup>1</sup> In 2002, OHCHR and UNAIDS undertook a revision of the *International Guidelines on HIV/AIDS and Human Rights* on the issue of access to prevention, treatment, care and support. Revised guideline 6, the outcome of the third international expert consultation on HIV/AIDS and human rights held in Geneva on 25 and 26 July 2002, is based on human rights law and principles and is anchored within political commitments by States, including the General Assembly Declaration

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 14 "The right to the highest attainable standard of health" (art. 12), May 2000.

of Commitment on HIV/AIDS. It is based on the premise that access to HIV/AIDS-related treatment is fundamental to realizing the right to health; that prevention, treatment, care and support are a continuum; that access to medication is one element of comprehensive treatment, care and support; and that international cooperation is vital to realizing equitable access to care, treatment and support. Together with the existing Guidelines, revised guideline 6 provides a framework for States to orient and design their policies, programmes and practice to ensure respect for human rights. In 2003, OHCHR will work closely with UNAIDS to promote the further understanding and implementation of human rights in the context of HIV/AIDS, including by effective dissemination of the Guidelines, including revised guideline 6.

### C. UNAIDS

24. The framework for the UNAIDS work on access to care, treatment and support centres on promotion and follow-up of the United Nations General Assembly Declaration of Commitment on HIV/AIDS. UNAIDS has taken steps in collaboration with WHO to promote access to medication through advocacy for scaling up access to HIV treatment, in particular support for greater affordability of HIV medicine through the Accelerating Access Initiative and other advocacy mechanisms. While in the past year prices have continued to decrease, the present cost of the least expensive anti-retroviral medicines continues to exceed the annual per capita gross domestic product of many least developed countries. WHO and UNAIDS have continued to advocate for greater affordability through differential pricing of medicines and greater generic competition, and have supported measures to achieve greater economies of scale through regional approaches to procurement. UNAIDS promotes broad partnerships to support treatment access, including through its participation in the new International HIV Treatment Access Coalition. Together with WHO, UNAIDS supports partnerships with the research-based pharmaceutical industry and has established a structured dialogue with the generics industry. With support from ILO and the Global Business Coalition on HIV/AIDS, private sector business enterprises in developing countries have begun to offer HIV treatment through workplace medical services or otherwise improve HIV treatment access to their employees.

25. UNAIDS co-sponsors and secretariat have continued to develop and disseminate policy and technical guidance and strategic information to support the scaling up of HIV treatment access, including the WHO Essential Medicines List, which provides a global model widely used by national authorities in determining their national list of essential medicines. With support from UNICEF and the UNAIDS secretariat, WHO has undertaken a quality assessment project to evaluate the quality of HIV medicines and issues a publicly available list of producers and products that meet the recommended standards. The *Sources and prices of selected drugs and diagnostics for people living with HIV/AIDS* developed, published and disseminated by WHO, UNICEF, the UNAIDS secretariat and Médecins sans frontières (MSF) was updated in 2002. WHO and the UNAIDS secretariat have provided strategic information and guidance to WTO meetings on the need for international trade and intellectual property rules to support public health and access to medicines in the context of AIDS and other epidemics.

26. UNAIDS has promoted financial resource mobilization to support countries in scaling up access to treatment. UNAIDS actively supported the establishment of the Global Fund to Fight AIDS, Tuberculosis and Malaria, and has worked closely with countries to help them access the

Fund's resources since the first call for proposals was issued by the Fund in February 2002. UNAIDS has had a key role in supporting the establishment of Country Coordinating Mechanisms (CCMs) and has assisted CCMs to identify gaps in funding and to prepare HIV/AIDS proposals which are consistent with their national strategies. In April 2002, the Global Fund approved its first grants, amounting to US\$ 616 million over two years, supporting programmes to address HIV/AIDS, tuberculosis and malaria in 40 countries. Approximately one third of this total funding is intended to support the purchase of medicines and drugs, including those for HIV/AIDS. UNAIDS noted that additional bilateral donors have pledged to support HIV treatment access within the context of comprehensive HIV/AIDS programming. Developing countries have moved to support treatment access through domestic budgetary sources and debt relief proceeds. The World Bank Multi-country HIV/AIDS Programme for the Africa region has also provided resources to support procurement of treatment commodities.

#### D. WHO

27. WHO provided detailed information on its initiatives to promote access to essential HIV pharmaceuticals and medical technologies, particularly for resource-poor settings, through advocacy, normative, technical, research and information-sharing activities. These include the Global Health Sector Strategy on HIV/AIDS and Sexually Transmitted Infections (STIs), which aims to prevent transmission of HIV and STIs, reduce morbidity and mortality related to HIV/AIDS and STIs, and minimize the personal and societal impact of HIV and STIs by developing and strengthening the capacity of the health system to provide prevention, health promotion, treatment and care services. WHO is focusing on the achievement of goals including, by 2005, providing anti-retroviral therapy to 3 million people; reducing the proportion of infants with HIV by 20 per cent; and ensuring access to HIV testing and counselling to 60 per cent of the population. WHO is developing an International Plan of Action, with strategies to support countries scaling up national treatment programmes. WHO is an active member of the recently-launched International Treatment Access Campaign, a coalition of NGOs, donors and Governments, people living with HIV/AIDS and their advocates, the private sector, academic and research institutions and international organizations working to overcome the challenges of expanding access to anti-retrovirals.

28. In April 2002, WHO released *Scaling Up Antiretroviral Therapy in Resource Limited Settings: Guidelines for a Public Health Approach*, which establishes a standardization of drugs and simplified regimens to facilitate their use and simplify monitoring. WHO has also published *Community Home-Based Care in Resource-Limited Settings: a Framework for Action*, which provides a systematic framework for establishing and maintaining community home-based care in resource-limited settings for people with HIV/AIDS and those with other chronic or disabling conditions. The *WHO Model List of Essential Drugs* is designed to encourage Governments to include anti-retroviral drugs in their own essential medicines lists, reimburse the cost of drugs through health insurance and simplify the registration process. WHO is working with partners to make existing drug price information more widely available, including publication, in collaboration with UNAIDS, UNICEF and MSF, of the *Source and Prices of Selected Drugs and Diagnostics for People Living with HIV/AIDS*. A *WHO Model Formulary* provides information on the recommended use, dosage, adverse effects, contra-indications and warnings for all medicines on the essential medicines list, including anti-retrovirals.

29. WHO is focusing on expanding programmes for the prevention of mother-to-child transmission. A set of *Clinical Guidelines for the Management of Pregnant Women with HIV Infection* has been developed, which cover antenatal care, voluntary counselling and testing, labour and delivery and post-pregnancy care. Other projects include working with Family Health International to develop guidelines on key elements of a comprehensive approach to care, treatment and support for HIV-positive women and their infants. WHO has developed a research protocol to assess the safety and effectiveness of combination highly active anti-retroviral therapy in preventing HIV transmission in late pregnancy, during delivery and during breastfeeding, as well as to assess the overall impact of this intervention on the health of the mother.

30. A key focus of the work of WHO is strengthening surveillance systems that measure epidemiological and behavioural trends at country level. Significant support is also being given to monitoring and evaluating the effectiveness of programmes and key interventions, which can be used to reveal inequities in distribution. WHO continues to provide global leadership in the development of HIV/AIDS vaccines.

31. WHO also continues to provide independent data and technical assistance to countries so that they can develop informed approaches to dealing with the health implications of international trade agreements. WHO has provided policy and technical support to member States through regional briefings and direct country support. A network for monitoring the impact of globalization and TRIPS on access to essential medicines formulated draft model indicators for use in studies measuring the impact of globalization and TRIPS on access to essential drugs, by addressing changes in pricing, generic competition, investment in research and development, and technology transfer.

#### IV. NON-GOVERNMENTAL ORGANIZATIONS

32. The International Council of AIDS Service Organizations (ICASO) underscored the importance of access to treatment and care in the fight against HIV/AIDS. It stressed that access to basic primary care should be guaranteed at the local level and that medicines should be made both affordable and available. To this end, ICASO noted that taxes on essential drugs should be eliminated, options for lowering the price of drugs should be explored, and guidelines should be developed to ensure reliable and effective distribution mechanisms. ICASO drew attention to revised guideline 6 of the International Guidelines on HIV/AIDS and Human Rights, and stressed the need for the broad dissemination, implementation and monitoring of the Guidelines and revised guideline 6.

33. ICASO reported that it advocates expanding the definition of infrastructure to include concepts related to human resources, commodities and supplies, systems and facilities and policy and law. It underscored the need to advance the discussion on infrastructure issues related to HIV/AIDS care and treatment, and to strengthen community-based responses. It noted that while policy and programmatic discussions about access to treatment and care have expanded, access to anti-retroviral treatment remains marginal even where prices have been reduced. ICASO stressed that barriers, including political uncertainties and inadequate infrastructure, must be addressed. A recent ICASO report, entitled *Assessment of national responses in improving access to HIV/AIDS treatment within the framework of the International Guidelines*

on *HIV/AIDS and Human Rights and the role played by the community sector*, highlights the need to look beyond the cost of treatment when determining accessibility, and notes that inadequacies in health-care infrastructure play a key role in determining whether treatment is accessible or merely available. In 2002, ICASO designed a project to explore the barriers to accessing anti-retroviral treatments for people living with HIV/AIDS in resource-poor settings and to assess how people are overcoming these barriers.

34. The Canadian HIV/AIDS Legal Network reported that it provided technical support to UNAIDS and OHCHR for the process of revising guideline 6 of the International Guidelines on HIV/AIDS and Human Rights. The Network plays a leading role in the Global Treatment Access Group (GTAG), an affiliation of Canadian civil society organizations working jointly on policy issues in Canada related to access to treatment and health care in developing countries. The Legal Network and GTAG have held meetings and other discussions with Canadian government officials responsible for health and international trade policy to discuss Canadian government policy at WTO regarding mitigating the adverse impact of strict intellectual property provisions in international trade agreements on access to affordable medicines.

35. The Legal Network and GTAG have collaborated in campaigning for increased financial commitments by Canada to the Global Fund to Fight AIDS, Tuberculosis and Malaria and to official development assistance. The Legal Network has published papers on human rights law and access to HIV/AIDS treatment as a resource for advocates in other countries. The Network has collaborated with Médecins sans frontières, Canada, to update and disseminate a publication on "Patents, International Trade Law and Access to Medicines". The Legal Network is preparing a briefing document for distribution to all members of Canada's Parliament regarding Canada's international trade policy and access to essential medicines in developing countries. Its ongoing activities include publication of articles in the *Canadian HIV/AIDS Policy and Law Review* on the issue of global access to treatment and giving presentations to law schools on international law, trade and access to essential medicines.

36. The International Federation of Pharmaceutical Manufacturers Associations (IFPMA) emphasized the commitment of the global research-based pharmaceutical industry to improving access to needed medicines around the world, including in developing countries affected by pandemics such as HIV/AIDS. IFPMA provided a list of initiatives undertaken by companies and/or in the context of wider public/private partnerships to improve access to medicines worldwide. It noted that these initiatives have shown that a functional health-care system and political will to promote national health care are essential to improving access to medication. IFPMA expressed its support for the emphasis in Commission resolution 2002/32 on the importance of quality and appropriate use of pharmaceuticals and emphasized that quality of drugs is supported by the effective use of intellectual property rights, in accordance with international agreements. It noted that the application of intellectual property rights does not necessarily represent a "limitation by third party" on access to pharmaceuticals or medical technologies, and that many of the initiatives are improving access to medication while respecting the intellectual property rights of the patent-holders. IFPMA expressed its support for national actions to promote the development of new and more effective pharmaceuticals, and noted that strong intellectual property rights have proven the most effective measures to promote the development of innovative new pharmaceuticals for the betterment of health around the world.

## VII. CONCLUSIONS

37. **Much more needs to be done to ensure the realization of the right to the highest attainable standard of health for people living with and affected by HIV/AIDS, including through greater access to medication, within a comprehensive approach to prevention, treatment, care and support. This includes prevention initiatives such as access to condoms; diagnostics for the care of HIV/AIDS and related infections; food and nutrition; clean drinking water and sanitation; and social and psychological support. Steps must also be taken to address the factors that hinder the equal access of vulnerable groups to treatment as well as prevention, in particular by combating gender inequalities and reducing poverty. The heightened vulnerability of women due to HIV/AIDS and other pre-existing socio-economic conditions must be addressed as a matter of priority, including through legislative reform in the areas of marital and inheritance laws; access to education, health care and employment; credit schemes; and agricultural support programmes. Resources such as the *International Guidelines on HIV/AIDS and Human Rights* (including revised guideline 6) and the ILO code of practice on HIV/AIDS and the world of work should be used as tools to assist all actors concerned - Governments and NGOs, the United Nations system and other international and regional organizations - in scaling up the response to HIV/AIDS and achieving the goals reflected in the Declaration of Commitment on HIV/AIDS.**

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