

**OPEN LETTER TO THE CO-CHAIRS OF THE UNITED NATIONS SECRETARY-
GENERAL'S HIGH-LEVEL PANEL ON ACCESS TO MEDICINES**

Presented by the Colombian civil society organizations: CIMUN, Ifarma Foundation, and
Misión Salud

Bogotá, Colombia 30th June, 2016

Dear Co-Chairs

Ruth Dreifuss
Festus Gontebanye Mogae



MINISTERIO DE SALUD Y PROTECCION SOCIAL
Radicado No: 201642301325702
DEST: 4240 G. ATENCIÓN AL REM: GERMAN HOLGU
2016-07-06 12:45 Fol: 2 Anex: Desc Anex:
Consulte su trámite en <http://www.minsalud.gov.co> Cód verif: 10702

We extend our best wishes to all members of the United Nations Secretary-General's High-Level Panel (HLP) on Access to Medicines, and to the international community actively engaged in the process, for the success of the ongoing efforts aimed at finalizing the HLP report. We would appreciate if this letter could be shared with all the High-Level Panel members.

We acknowledge the importance of the mandate of the HLP and hope the report will recognize and address the well-known failures of the current biomedical R&D model based on monopoly high prices. This current system has failed to deliver affordable and urgently needed innovation, and has caused incalculable harm on people's health and wellbeing around the world.

It is important for us to offer for your consideration, and for the consideration of the UN Secretary-General and UN Member States, a brief report on the specific situation we are currently facing in Colombia with regard to access to affordable medicines. This situation reflects both the urgent need for global governmental action that favors the human right to health as well as the need for strategies to address the pressure interests preventing governments and civil society from increasing access to affordable medicines using well-recognized and established legal flexibilities.

Imatinib is a life-saving leukemia drug on the World Health Organization's Essential Medicines List. The drug is marketed by Novartis in Colombia, under the name Glivec®, at a price roughly double the average citizen's income per year. Given the high price of the drug and the immense burdens the price places on the health system, in November 2014 the undersigned organizations requested that the Ministry of Health (MOH) of Colombia issue a compulsory licence on imatinib in order to facilitate the entry of affordable generic alternatives into the market and reduce the price of Glivec®. After 15 months of a laborious process, the MOH acknowledged, in Resolution 2475 of 2016, that affordable access to imatinib is a matter of public interest in Colombia — a procedural pathway to proceed to a compulsory license.

Nevertheless, there has been and still remains enormous pressure from several developed countries, from multinational pharmaceutical companies and even from Colombian trade

authorities trying to block the public interest declaration and the issuance of the compulsory license. During the process leading to the public interest declaration, the Ministry of Health of Colombia received communications from the State Secretariat for Economic Affairs (SECO) of the Swiss Confederation, from officials of Colombian embassy in United States after meetings with U.S. Senate staff and the United States Trade Representative, from officials from the Colombian Patent Office, from Novartis Colombia and from Novartis International A.G., attempting to both misinform and dissuade the Government of Colombia from granting a compulsory license. The pressure included factual inaccuracies, distortions of international trade and intellectual property rules, threats of dispute settlement claims and even implied or perhaps explicit threats to suspend promised United States funding for the Colombian peace process via the "Paz Colombia" initiative if the compulsory license process were to proceed, as was widely reported following the leak of several memos from officials of the Colombian Embassy in the United States.

We are now waiting and hoping for Resolution 2475 to enter into force in order to proceed with the compulsory license procedure before the Patent Office of Colombia. Nonetheless, there are strong reasons to fear that at the end of this long road, a compulsory license in Colombia will be obstructed by the same type of pressure that has characterized the journey thus far.

2

We are aware of efforts in various fora to formalize the primacy of health needs over commercial interests, and of the rhetorical support to the right to use of TRIPS flexibilities. In the footnotes below, please find links to seven letters submitted to the MOH during this process of deliberation, providing vital technical and political support of a decision favoring access to affordable medicines: (1) Letter submitted by Dr. Marie-Paule Kieny, Assistant Director-General, Health Systems and Innovation, World Health Organization¹; (2) Letter submitted by 121 global experts on public health and intellectual property²; (3) Letter addressed to the United States Trade Representative by 15 members of the Congress of United States³; (4) Letter from Senators Brown and Sanders to the United States Trade Representative⁴; (5) Letter from 28 international NGOs addressed to the President of United States⁵; (6) Open letter to the Swiss Government signed by 17 NGOs and a past president of the Union for International Cancer Control (UICC)⁶; and, (7) Response of the Swiss Government to the open letter⁷, which specifically states: "*Switzerland fully recognises that WTO members have all freedom to utilise the flexibilities of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the area of Public Health and of the Doha Declaration on TRIPS and Public Health*".

Nonetheless, we feel that there is an urgent need to more effectively support governments and civil society in their efforts to use TRIPS flexibilities in practice. We must move from

¹ <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/MET/wha69p-e3020-carta-oms.pdf>

² <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/MET/carta-presidencia-imatnib.pdf>

³ <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/MET/Pronunciamiento-congreso-estados-unidos.pdf>

⁴ <http://keionline.org/sites/default/files/Senate-Colombian-Compulsory-License-May-26-2016.pdf>

⁵ <http://keionline.org/sites/default/files/5-27-2016-civil-society-letter-obama-colombia.pdf>

⁶ <https://www.minsalud.gov.co/sites/rid/Lists/BibliotecaDigital/RIDE/VS/MET/open-letter-to-the-swiss-governement.pdf>

⁷ Please find in annex 3 of this link the "Unofficial copy & translation of the original letter in French"

https://www.ladb.ch/fileadmin/files/documents/Gesundheit/BD_Letter-MoH-Colombia_DPI_Glvec_20151210.pdf

letters and statements into political action and processes that fully protect governments and civil society trying to increase access to affordable medicines, and that buttress those efforts against undue pressure and influence.


We hope that sharing this information with you will encourage a favorable outcome at the HLP for patients that need access to affordable cancer treatments and for the sustainability of our National Health System. We cannot afford to continue to favor trade and commercial interests over human life and the right to health.

Please feel free to share this letter in the manner you consider appropriate.

Sincerely,


GERMÁN HOLGUÍN ZAMORANO
Misión Salud


FRANCISCO ROSSI BUENAVENTURA
Fundación Ifarma


JOSÉ JULIÁN LÓPEZ GUTIÉRREZ
Centro de Información de Medicamentos de la Universidad Nacional de Colombia – CIMUN

CC:

- Juan Manuel Santos Calderón, President of the Republic of Colombia
- Alejandro Gaviria Uribe, Minister of Health and Social Protection of Colombia
- María Ángela Holguín Cuéllar, Minister of Foreign Affairs of Colombia
- Associação Brasileira Interdisciplinar de Aids (ABIA - Brasil)
- Asociación civil Acción Internacional para la Salud Latinoamérica y el Caribe (AIS LAC - based in Perú)
- Alianza LAC-Global por el Acceso a Medicamentos (regional collective of NGOs)
- Comisión Colombiana de Juristas (Colombia)
- Comité de Veeduría y Cooperación en Salud - CVCS - (Colombian collective of NGOs)
- Conferencia Episcopal de Colombia (Colombia)

- Consejo Episcopal Latinoamericano (CELAM - Departamento de Justicia y Solidaridad del CELAM)
- Berne Declaration (Switzerland)
- Dejusticia (Colombia)
- Doctors Without Borders (United States)
- Farmamundi (Spain)
- Federación Médica Colombiana (Colombia)
- Fundación Grupo Efecto Positivo (Argentina)
- Health Action International (The Netherlands)
- International Treatment Preparedness Coalition Latin American and Caribbean (ITPC-LATCA)
- Knowledge Ecology International (United States and Europe)
- Oxfam America (United States)
- Políticas Farmacéuticas (Chile)
- Public Citizen (United States)
- Red Peruana por una Globalización con Equidad (Perú)
- Salud y Fármacos (United States)