

PRESS RELEASE

Subject: Essential Inventions files request for compulsory licenses to AIDS drugs in Cameroon. Seeks first TRIPS compliant compulsory licenses to AIDS drugs under revised Bangui Agreement.

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<-----Release in English----->

January 19, 2005. Washington, DC. Essential Inventions, Inc., an NGO that seeks to provide provide pharmaceuticals to underserved populations, announced today that it has petitioned the Cameroon government for issuance of compulsory licenses for ARV medicines. Cameroon is a member of the World Trade Organization (WTO), and is obligated under the WTO TRIPS Agreement on Intellectual Property to grant patents on pharmaceutical products.

If Cameroon approves the essential inventions request, it would be the first West African country to issue TRIPS compliant compulsory licenses for patents on AIDS drugs, and set an important precedent for the region.

Essential Inventions filed the compulsory license request with the Honorable Urbain Olanguena Awono, the Minister of Public Health of the Republic of Cameroon. The petition calls for the issuance of nonexclusive “open” non-voluntary licenses for all patents relevant importation, manufacture and sale of generic versions of nevirapine, lamivudine, and the fixed dose combination of lamivudine and zidovudine, medicines used in the treatment of HIV/AIDS. If approved, licenses would be available to any organization or business seeking to supply these AIDS medicines to patients in Cameroon.

Essential Inventions filed its request under the rules of the “Bangui Agreement,” which is the law governing industrial property rights in each of the 16 member states of the African Intellectual Property Organisation (OAPI). The OAPI is headquartered in Yaounde, Cameroon. The sixteen members of OAPI include Benin, Burkina Faso, Cameroon, Central Africa, Congo, Côte d’Ivoire, Gabon, Guinea, Guinea Bissau, Equatorial Guinea, Mali, Mauritania, Niger, Senegal, Chad, and Togo, with a population of more than 100 million inhabitants.

The Bangui Agreement was amended in 1999 to comply with the WTO TRIPS agreement. The revised Bangui Agreement has been criticized by public health groups for its limited use of TRIPS flexibilities for compulsory licensing.

Cameroon has a population of 15.5 million persons. In 2002, the per capita income for Cameroon was \$584 per year, according to the World Bank. Approximately 9,000 persons are currently receiving Highly Active Antiretroviral Therapy (HAART) treatment for AIDS in Cameroon -- approximately 1 percent of the 920 thousand persons estimated to be living with HIV. Public health groups are seeking a ten-fold increase in access to HAART treatment.

The Essential Inventions petition, signed by Essential Inventions CEO Terry Gardiner notes that "virtually all major donors for AIDS treatment have indicated they will support the purchase of generic medicines, so long as sales are consistent with global intellectual property rules, including rules for granting compulsory licenses for patents." Gardiner notes that the Essential Inventions petition seeks to establish transparent and sustainable policies that guarantee the poor have access to in-expensive generic medicines. "By acting upon the request to issue open compulsory licenses on medicines for AIDS, the government will ensure that it can take advantage of the widest number of suppliers of medicine, and seek financing from the widest group of donors for the treatment of AIDS. A failure to grant open compulsory licenses will limit the number of suppliers, or present risks of limiting donor support for treatment." Gardiner said.

In commenting on the request, James Love, the Director of the Consumer Project on Technology (CPTech) and the Chairman of Essential Inventions, said: "This is about Cameroon providing the leadership that is needed in West Africa, and demonstrating that West African countries are implementing the flexibilities in the TRIPS that protect the poor. We believe this is an important step toward a longer run framework for access to essential medicines. It will lower the risks that donors will shun low cost generics. Every major donor has indicated it will support the purchases of generic AIDS medicines, if countries abide by trade agreements. Several countries are buying small quantities of generic medicines, without having issued compulsory licenses. As global agencies seek to scale up treatment efforts, it is time to address the need for transparent, predictable, and legal instruments to address patent issues. The most important flexibility in the TRIPS and Bangui agreements concerning access to medicines are the provisions for compulsory licensing of patents. Recently two Asian and four southern African countries have issued compulsory licenses on AIDS medicines. To our knowledge, no West African country has issued compulsory licenses under the terms of the OAPI 1999 Bangui Agreement on Intellectual Property. This petition is an opportunity for the Cameroon government and the OAPI to demonstrate the Bangui Agreement can be implemented in a way that protects the poor and addresses donor concerns."

Robert Weissman, the Legal Counsel for Essential Inventions, said: "The ranks of countries issuing compulsory licenses -- from Zambia to Indonesia, from Mozambique to Malaysia -- is growing rapidly. They are showing that it is politically, legally and

economically feasible and straightforward to exercise the most important TRIPS flexibility, compulsory licensing. In joining this growing legion of countries to issue compulsory licenses, Cameroon will take an important step in addressing its pressing HIV/AIDS public health problem."

The Cameroon contact for Essential Inventions is Jean Marie TALOM. Mr. TALOM, a lawyer, lives in Yaounde, where works with REDS, a group that defends the human rights of persons living with AIDS. Mr. TALOM said: "The Cameroonian government has reduced the price of some AIDS medications and diagnostics, by purchasing generic drugs with funding from the Global Fund. However, I would like to emphasize is that the reduction in price affects only some first-line treatments for AIDS, while prices remain very expensive for other treatments or illnesses. In addition, in order to receive financing from certain donors, Cameroon must be in compliance with international rules on intellectual property. This is why the government must issue this non-voluntary license to provide access to medicines."

Yoke Ling, an intellectual property expert from the Third World Network, agreed that Cameroon should approve the request to issue compulsory licenses. She said: "The petition for non-voluntary licenses presents Cameroon with an exceptional opportunity to take the lead in the West Africa sub-region in safeguarding the public health interests of Africans. Allowing the petition will be a signal to all African states that governments have the policy space under TRIPS and the Doha Declaration and should exploit it to take appropriate measures to address the health concerns of their people. The issuing of non-voluntary licenses is regularly done in developed countries for various reasons including for public health reasons, thus Cameroon must show no hesitance in approving the petition."

Michael Bailey of Oxfam welcomed the initiative, commenting that increasing use of compulsory licences was the inevitable consequence of the WTO TRIPS agreement. "The best way to bring down the price of medicines in the developing world is to have generic competition, full stop, and that means reforming TRIPS. In the meantime, we have no choice but to use these safeguards."

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The text of the EII petition is on the web in English and French here:
<http://www.essentialinventions.org/docs/cameroon/>

REDS is short for Réseau sur l'Éthique, le droit, et le VIH/SIDA. Reds is a Cameroonian organization of activists working to promote human rights in the context of AIDS. Reds works to help the government to implement policies that facilitate the prevention and treatment of HIV/AIDS. They also give counsel to those living with HIV/AIDS whose rights have been violated, as well as with researchers to promote these rights.

<http://64.233.161.104/search?q=cache:WBwDYgh84yYJ:perso.dixinet.com/redscm/Creation.html+REDS+Sida&hl=en>