

10 March 2017

Dear Prime Minister, Gen Prayut Chan-o-cha,

Urgent: Retain Thailand's position as a role model in protecting public health

We, the undersigned organizations from [Make Medicines Affordable](#) and its allies, would like to express our grave concern over your consideration to apply an executive order under the interim charter's Section 44 to address a bottleneck of over 12,000 patent applications in the pipeline. This includes patents related to medicines, which could extend the monopoly period and further increase the cost of essential drugs.

We appreciate the desire to address the bottleneck. However, by accelerating the approval process and providing fast-track examination for applications that were already patented in other countries, will only serve to encourage more unmerited patents to be applied for.

This order will undoubtedly jeopardize access to essential medicines and the public health of Thailand as more unmerited drug patents, known as ever-greening, will be granted. This would result in exorbitant prices, unaffordability, and inaccessibility - as the evidence below clearly shows.

The global community recognized Thailand as a model for good practice in successfully scaling up HIV and AIDS treatment – over 300,000 people living with HIV able to access anti-retroviral medicines at no cost, and also other high-cost-treatment diseases like cardiovascular diseases and cancers. That was because of the use of compulsory licensing by the Thai government in 2006 and 2007 to import affordable generic ARVs and other medicines from India and provided them to patients free-of-charge under the national health insurance schemes.

Similar to India and Argentina, Thailand developed its own drug patent examination guidelines to ensure that ever-greening patents on medicines would be detected and refused in order to encourage merited pharmaceutical innovation in the country as well as to promote access to essential medicines at affordable prices.

According to the World Intellectual Property Organization's information, Thailand granted patents at similar rate to other countries like India and Brazil, recognized as countries having pro-health intellectual property policies. In 2014, 7,930 patent applications were filed in Thailand and 1,286 patents were granted. The rate of granted patent in Thailand was equal to 16%, compared to 13% and 11% in India and Brazil in 2015 respectively. This is also a reason not to approve patents purely on the basis that other countries have, as many of those countries are aspiring to your model and so it would be a backward step.

Even as a current role model there is more to be done. A study on ever-greening patents on medicines and its impact in Thailand reflects that over 80% of patent applications on medicines and more than 70% of drug patents in 2000-2010 are ever-greening patents and Thailand would have saved at least 8,000 million baht if those patents were not granted.

So while Thailand's rate of patent approval is among the top countries, the evidence shows that the patent system could be tightened up even more, to the benefit of the public health budget and public health itself.

We would like to urge you Prime Minister not to use the executive order to do the opposite and expedite drug patent approval, a process that will result in ever-greening patents and unmerited and prolonged monopolies on life-saving medicines. Instead, Thailand should fully apply the patentability criteria as recommended by World Health Organization (WHO), International Center for Trade and Sustainable Development (ICTSD), United Nations Conference on Trade and Development (UNCTAD), and the United Nations' High Level Panel on Access to Medicines.

Yours sincerely,

The Make Medicines Affordable global partnership and its allies.

- AIDS Access Foundation, Thailand
- AIDS and Rights Alliance for Southern Africa (ARASA), Namibia
- Al Shehab Foundation, Egypt
- Associação Brasileira Interdisciplinar de AIDS (ABIA), Brazil
- Acción Internacional para la Salud, Perú
- Association "Partnership network", Kyrgyzstan
- Association Tunisienne pour la Prévention Positive-ATP+, Tunisia
- Association Tunisienne de Lutte contre les MST et le SIDA (ATL MST/SIDA), Tunisia
- AFVIH (association des femmes VIH+), Mauritania
- Association du Lutte Contre le Sida-ALCS, Morocco
- BONELA, Botswana
- Coalition PLUS, International
- Delhi Network of Positive People (DNP+), India
- Forum of AIDS NGO's from Rio Grande do Sul, Brazil
- Forum of AIDS NGOS from São Paulo, Brazil
- Fundación Grupo Efecto Positivo, Argentina
- Gestos_soropositividade, comunicação e gênero, Brazil
- Global Justice Now, UK
- Grupo pela Vidda SP, Brazil
- Grupo de Resistência Asa Branca, Brazil
- Health GAP (Global Access Project), USA, Kenya, Uganda
- Health Poverty Action, UK
- I-MAK, USA
- International HIV/AIDS Alliance, UK
- International Treatment Preparedness Coalition – ITPC Global, Botswana
- International Treatment Preparedness Coalition, Eastern Europe and Central Asia, (ITPCru), Russia
- International Treatment Preparedness Coalition, Latin American and Caribbean (ITPC-LATCA), Guatemala
- International Treatment Preparedness Coalition, MENA Region (ITPC MENA), Morocco
- ITPC-South Asia, Regional
- Just Treatment, UK
- Latin American and the Caribbean Council of Services Organizations.
- Lawyers Collective, India
- Le Réseau Maroc Euromed, Morocco
- M.Coalition MENA, Lebanon
- Open Society Georgia Foundation, Georgia
- PF "AGEP"C", Kazakhstan
- Positive Malaysian Treatment Access & Advocacy Group (MTAAG+), Malaysia
- Red Latinoamericana por el Acceso a Medicamentos, RedLAM, Latin America
- Réseau Accès aux Médicaments Essentiels (RAME), Burkina Faso
- SECTION27, South Africa
- Third World Network, Malaysia.
- The All-Ukrainian Network PLWH, Ukraine
- Treatment Action Campaign, South Africa