



Introduction

Despite international efforts to improved drug access, there are significant drug gaps globally. The Trade-Related Aspects of Intellectual Property Rights Agreement (TRIPS), governed by the World Trade Organization (WTO), has provisions for certain policy levers governments can apply to improve drug access. One of these is the use of compulsory licensing. Pursuant to Article 31 of TRIPS ("Other Use Without Authorization of the Right Holder"), compulsory licensing enables a government to license to another firm, agency, or party the use of a patent without the titleholder's consent.

In Canada, compulsory licensing is not permissible under domestic patent law but in 2004, the Canadian Government amended its law to facilitate compulsory licensing under specific circumstances. *Canada's Access to Medicines Regime* (CAMR), previously known as the *Jean Chrétien Pledge to Africa Act* permits Canada to issue compulsory licenses to Canadian pharmaceutical manufacturers to produce patented medicines for export to countries in need and without the manufacturing capabilities. The JCPA has yet to be tested, therefore its material impact on increasing global access to medicines is still unknown. However, a legislative review is scheduled for May 2007. To facilitate the amendments needed to ensure the JCPA's feasibility, it is imperative that researchers examine this legislation adequately.

Our Project

Our research project is funded by a Connaught Grant at the University of Toronto's Faculty of Pharmacy, awarded to Jillian Clare Cohen, Assistant Professor at the Faculty. We aim to predict whether CAMR is likely to achieve its humanitarian goals, and to investigate the potential barriers encountered by developing countries applying for compulsory licenses. Our objective is to analyze the policy content of this legislation, as well as its feasibility, opportunities and obstacles, hoping to provide a sufficient evidentiary basis for a future revision of the legislation, to take place in 2007. Our primary data are interviews to stakeholders directly involved in the drafting, negotiation and implementation of CAMR, as well as individuals with a high political interest in its outcome. The interview participants have been categorized in stakeholders from the Canadian government (including representatives from CIDA, Health Canada, Industry Canada and Members of Parliament), generic, as well as research based pharmaceutical companies, representatives of developing countries, members of international organizations regulating health and trade, as well as non-governmental organizations with key interests in the issue.

Our Goal

Although much literature has been written about the benefits of compulsory licensing regimes, there has not been enough attention paid to the constraints and barriers developing countries must deal in order to apply this policy tool. We hope that our project's findings will provide policy makers enough information of developing countries' needs in order to make this legislation as feasible and efficient as possible.