

Brazil's Right to Save Lives

The New York Times

June 23, 2005

Editorial

Brazil has the best anti-AIDS program of any developing country. It has a model prevention effort and was the first poor country to provide free AIDS treatment to all who need it, a program countries around the world are now beginning to emulate.

It has been able to afford this because Brazilian labs make copycat versions of expensive brand-name drugs. Brazil can freely copy any drug commercialized before 1997, when the country began to respect patents on medicines, a requirement for joining the World Trade Organization. But newer AIDS medicines are still imported and are expensive, and Brazil is spending two-thirds of its antiretroviral budget on just three of these drugs.

The government is now contemplating measures that would allow Brazilian labs to copy these drugs. Brazil's health ministry has asked the manufacturers of the drugs to voluntarily license Brazil to make copies. They have refused, and Brazil is threatening to break the patents and pay the holders a reasonable royalty, as W.T.O. rules require.

Right-wing groups in the United States and pharmaceutical manufacturers are calling this theft, and several members of Congress have asked the United States trade representative to apply trade sanctions. American trade officials have refrained, but they have criticized Brazil's threat to seize patents. While property rights deserve respect and should not be carelessly violated, what Brazil is doing is legal and deserves Washington's support.

Brazil's opponents argue that the country has no real AIDS emergency. Drug companies note that they offer Brazil drugs at deep discounts and say that Brazil can afford them. But the World Trade Organization rules are clear: they encourage all members to use the flexibilities in the intellectual property rules to promote access to medicine for all. Countries need not wait for an emergency, and Brazil isn't even a tough call.

Brazil's free universal treatment program, an indispensable weapon against the AIDS epidemic, locks Brazil's government into buying lifelong daily medicines for 170,000 people, and that number is rising. Brazil has the right to make sure it can continue to meet this burden by getting medicines at the cheapest possible price.

Breaking patents should be reserved for when it is clearly necessary to protect public health. But these rights have been underused. Only a handful of countries have used W.T.O. rules to break patents on medicines. Countries are intimidated, mainly by the United States. Health ministers who propose making copycat drugs are usually silenced by influential local business sectors afraid of trade retaliation. The American trade representative should make a public statement that the United States will not retaliate against Brazil for exercising its right to save lives.