

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
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September 15, 2011

The Honorable Kathleen Sebelius  
Secretary  
US Department of Health and Human Services  
200 Independence Avenue SW  
Washington, DC 20201

Dear Madam Secretary:

As you prepare for the high-level meeting of the United Nations General Assembly on the prevention and control of non-communicable diseases (NCDs) later this month, I urge you to work to ensure that the outcome of the meeting includes an explicit recognition that NCDs are of epidemic proportion and that access to affordable medicine is an essential component of NCD control.

This meeting will be the first ever high-level meeting on NCDs to be held by the U.N. General Assembly. It will have a particular focus on the social and economic impacts these diseases present for developing countries.

The meeting is a major opportunity to address the global disease burden created by cardiovascular diseases, diabetes, cancers, and chronic respiratory ailments among other disorders that are leading causes of preventable death and disability. As noted in the Moscow Declaration issued in preparation for this event, NCDs cause over 60% of global deaths, a percentage expected to rise to 75% in the next 20 years; 80% of these deaths occur in the developing world.<sup>1</sup> It is a crisis identified by the U.N. Secretary General as an urgent situation of “epidemic” proportion.<sup>2</sup>

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<sup>1</sup> See World Health Organization, *Moscow Declaration Preamble*, First Global Ministerial Conference on Healthy Lifestyles and Noncommunicable Disease Control, April 2011 (online at [http://www.un.org/en/ga/president/65/issues/moscow\\_declaration\\_en.pdf](http://www.un.org/en/ga/president/65/issues/moscow_declaration_en.pdf)).

<sup>2</sup> See Report of the Secretary-General, *Prevention and control of non-communicable diseases*, United Nations General Assembly, May 19, 2011 (online at <http://www.ghd-net.org/sites/default/files/UN%20Secretary-General's%20Report%20on%20NCDs.pdf>).

The United States has much to contribute to this dialogue on disease prevention and control. The meeting is an opportunity to highlight and share best practices we have developed through successful programs and legislation promoting tobacco control, obesity reduction, early diagnosis, and education for healthy lifestyles. At the same time, we also have an obligation to underscore the importance of ensuring that affordable lifesaving medicines to treat these diseases are available in developing countries. Too often, the price of medicine can mean the difference between life and death for those suffering from chronic conditions.

As the head of the U.S. delegation and as the head of the U.S. Department of Health and Human Services, the leading health ministry in the world, you have an opportunity and, I believe, an obligation to take a leadership role in ensuring that the Political Declaration that results from the meeting explicitly recognizes the importance of access to affordable medicine as an essential component of NCD control.

Specifically, the United States should support the inclusion of references to the Doha Declaration<sup>3</sup> and the TRIPS flexibilities confirmed therein.<sup>4</sup> The Doha Declaration was adopted by the World Trade Organization in 2001 to make clear that international intellectual property rules “can and should be interpreted and implemented in a manner supportive of WTO Members’ rights to protect public health and, in particular, to promote access to medicines for all.”<sup>5</sup>

Such references are consistent with the World Health Organization’s *Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property*, which discusses NCDs and states that flexibilities recognized by the Doha Declaration “that would permit improved access [to health products] need to be considered for action by national authorities in light of the circumstances in their countries.”<sup>6</sup>

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<sup>3</sup> *Declaration on the TRIPS Agreement and Public Health*, WTO Ministerial Conference — Fourth Session, WT/MIN(01)/DEC/2, adopted Nov. 14, 2001 (on line at <http://www.who.int/medicines/areas/policy/tripshealth.pdf>). [hereinafter referred to as the Doha Declaration]

<sup>4</sup> *Agreement on Trade-Related Aspects of Intellectual Property Rights* (online at [http://www.wto.org/english/tratop\\_e/trips\\_e/t\\_agm0\\_e.htm](http://www.wto.org/english/tratop_e/trips_e/t_agm0_e.htm)). Flexibilities noted in the Doha Declaration include the right to grant compulsory licenses and to import patented medicines from countries where they are sold at a lower cost. (See Paragraph 5, Doha Declaration.)

<sup>5</sup> Paragraph 4, Doha Declaration.

<sup>6</sup> Paragraph 38, World Health Organization, *Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property* (WHA61.21), 61<sup>st</sup> World Health Assembly, May 24, 2008 (online at [http://apps.who.int/gb/ebwha/pdf\\_files/A61/A61\\_R21-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/A61/A61_R21-en.pdf)).

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Failure by the United States to support mention of the Doha Declaration would undermine a decade of progress in safeguarding the right of developing countries to take action in urgent circumstances to lower drug costs and scale up treatments of communicable and non-communicable diseases.

Thank you for your leadership on this important issue.

Sincerely,



Henry A. Waxman  
Ranking Member

cc: The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce