

NON-NEGOTIABLE LANGUAGE FOR THE OUTCOME DOCUMENT OF THE HIGH LEVEL MEETING ON AIDS

A briefing paper from the Civil Society Coalition on AIDS

May 27, 2011

As negotiations on the Outcome Document for the High Level Meeting on AIDS proceed, The Civil Society Coalition on AIDS has become increasingly concerned about amendments to the Zero Draft that severely compromise existing commitments and obligations to human rights, treatment, prevention, and funding.

The following briefing paper sets out the language that the Civil Society Coalition on AIDS believes must be in the final draft of the Outcome Document if it is to have any significance for the global AIDS response moving forward. It also provides an analysis of text that has either been deleted or inserted into the Zero Draft and recommendations of how Member States should respond to these interventions.

If the Outcome Document does not reaffirm the human right to health and commit to bold, time-bound targets for treatment, prevention and funding, civil society will have no choice but to publicly denounce UN Member States for backtracking on commitments made in 2001 and 2006 and to declare the High Level Meeting process irrelevant to the global response to HIV.

HUMAN RIGHTS

The Outcome Document that emerges from the UN High Level Meeting on AIDS must reaffirm Member States' commitment to the full realization of human rights for all as an essential part of the global HIV response. In particular, it must commit to address the human rights-related barriers to access to services and justice for key affected populations and the youth among those populations—specifically, adolescent girls, men who have sex with men, transgender people, sex workers, people who inject drugs, mobile populations and refugees, people with disabilities, and prisoners and pre-trial detainees. Throughout the text this list of populations should be referred to as “key affected populations”. Further, given the disproportionate burden of HIV on the world's women, strong commitments to promote and protect the human rights of women are essential to the document.

Civil society analysis of language on human rights

- The following proposed text in (para 2quint) should be removed: “Reaffirm the sovereign right of each country to implement all HIV-related programs and policies including the proposals in this resolution, consistent with national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights.” *This text suggests, incorrectly, that national laws and cultural, social, and religious norms take precedence over human rights obligations. A human rights approach to HIV has been adopted by the World Health Organization and the Joint United National Programme on HIV/AIDS (UNAIDS) and has been endorsed by resolutions of the Human Rights Council, multiple UN treaty bodies and successive declarations by the UN General Assembly including the 2001 and 2006 declarations on HIV/AIDS.*
- The complete listings of key affected populations (see above) should remain in the document. *In every country where data is reliably collected and reported, key affected populations bear a disproportionately heavy burden of HIV. The current text of the Outcome Document is inconsistent with national and regional AIDS strategies which affirm the human rights of key affected populations and recognize the need for tailored interventions to reach them.*
- The proposed text: “...and others engaged in high risk, irresponsible behavior” following the list of key affected populations (para 41) should be stricken everywhere it appears in the document. *This is*

stigmatizing language that fails to recognize the human rights of all populations affected by or at risk of HIV and that can undermine the effectiveness of HIV programs by increasing barriers to HIV services for key affected populations.

- Retain all existing text and amendments which name gender inequality and all forms of discrimination against women—including violence—as drivers of HIV (para 10) and recognize that women’s empowerment and the protection of women’s human rights, including their right to have control over and decide on all matters related to their sexuality, are essential to the HIV response. *The human rights of women, including reproductive rights, are affirmed in the Cairo and Beijing declaration, CEDAW, and multiple regional human rights conventions. The 2006 political declaration on HIV/AIDS (paras 30 and 31) commits to eliminating gender inequality and violence. Diluting or backtracking on these commitments is unacceptable and would detract from both human rights and public health.*

TREATMENT

A strong and ambitious treatment target is required, especially in light of incontrovertible evidence from HIV Prevention Trial 052 demonstrating the prevention benefits of treatment. The World Health Organization (WHO) estimates that 18 million people will be in need of ART by 2015 and a global strategy is needed to provide access to all who need them. At the very least, 15 million represents 80% of them and should be the target for 2015. To achieve universal access to ART and to reduce mortality among people with HIV there is an urgent need to increase access to services for co-morbidities such as TB/HIV, hepatitis C, and cervical cancer that threaten investments made in ARV scale up.

Civil Society analysis of language on treatment

- Time bound targets for universal access must be retained (para 48) and phrases such as “*work toward universal access to treatment*” must be removed from ARV treatment targets. Text referring to access to high quality TB treatments and diagnostics in line with the Global Plan to Stop TB: 2011-2015 must also remain in the text. *The lack of time bound targets represents a global retreat from Universal Access goals to which G8 countries committed at Gleneagles in 2005 and which Member States endorsed during the High Level General Assembly Meeting in 2006. The fact that we failed to meet Universal Access targets in 2010 is not an excuse to retreat from them in 2011.*
- Text referring to “importance of generics” and the threats that TRIPS Plus measures pose to access to affordable medicines (para 21) should remain in the document. Proposed language such as “recognize the importance of intellectual property rights and their progressive use as an incentive for investment in research and development of newer generations of treatments” should be removed (para 20). Further, the following text should be removed (para 52a): “calling for a broad and timely acceptance of the amendment to article 31 of the TRIPS Agreement as proposed by the General Council of the in its decision of 6 December 1995.” Finally, specific mention of the WTO Doha Declaration and the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property should be added to the outcome document. *In the document, Member States commit to ensuring the sustainability of treatment. This will not be possible without commitments to adopt and maximize utilization of public health flexibilities as described in the TRIPS agreement, the Doha Declaration on the TRIPS Agreement and Public Health. Amendment 31 to the TRIPS agreement has been shown to be unworkable and inadequate for developing countries. The 2006 political declaration on HIV/AIDS calls for the TRIPS Agreement to be implemented in a way that will “promote access to medicines for all including the production of generic antiretroviral drugs and other essential drugs for AIDS-related infections” (para 43). Any text that would undermine existing commitments in this regard and erect barriers to accessing affordable treatment for HIV, co-infections and opportunistic infections, is unacceptable.*

PREVENTION

Member States must commit to expand effective, targeted, evidence-based prevention to achieve a 50% reduction in sexual HIV transmission by 2015 through the provision of an essential package of HIV and sexual and reproductive health services and education programmes for all communities, including people living with HIV, specifically adolescent girls, young people, men who have sex with men, transgender people, sex workers, people who inject drugs, mobile populations and refugees, people with disabilities, prisoners and pre-trial detainees. Harm reduction programmes, including opioid substitution therapy and providing access to sterile needles and syringes, are critical to effective prevention efforts in countries where epidemics are concentrated among people who use drugs.

Civil Society analysis of language on prevention

- Delete inserted language on prevention approaches “including abstinence and fidelity, discouragement of harmful sexual and social behaviors” (para 42) and retain all mentions of male and female condoms. *There is no evidence that abstinence and fidelity programs result in the reduction of HIV transmission. Member States must make available to their citizens the full complement of **evidence-based** HIV prevention, care, treatment, and support technologies and tools—regardless of possible objections on moral, legal, or political grounds—as a commitment to the human right to health.*
- Retain text on comprehensive sexuality education as a proven prevention approach (para 42) and elsewhere in the document. *The provision of sexuality education is a key component of effective, evidence-informed HIV prevention and will contribute to the achievement of MDG 3, 5 and 6. The commitments to impart sexuality education are established in the African Women’s Rights Protocol (art. 14g), CEDAW (art. 10h) and the Convention on the Rights of the Child (art. 24.2), as well as the 2006 UNGASS declaration which pledged to promote access to HIV/AIDS education.*
- Retain existing and inserted text on harm reduction including opioid substitution programmes and sterile syringe access (para 42) and retain paragraph 46 committing to reduce HIV transmission among people who inject drugs. *UNAIDS, WHO and the United Nations Office on Drugs and Crime) include both opioid substitution therapy and needle and syringe programmes within their Comprehensive Package of Interventions for HIV prevention, treatment and care for people who inject drugs. Removing or amending this language would represent a retreat from commitments made by the UN General Assembly in the 2006 Political Declaration (para. 22), the 2001 Declaration of Commitment on AIDS (para. 52); and the **Economic and Social Council** (Text of the Economic and Social Council resolution E/2009/L.23 adopted by the Council on 24 July 2009, para. 19).*

FUNDING

Member states must commit to fully fund the HIV response to a level of at least US\$24 billion per year by 2015 to meet Universal Access targets and support innovative global HIV AND AIDS investment strategies that maximize synergies and deliver sustainable programmes, including (but not limited to) the Treatment 2.0 agenda. Member States must also fully fund the Global Fund to Fight AIDS, Tuberculosis and Malaria to meet and sustain its essential demand-driven model and meet its 2011 – 2016 strategic targets in order to triple the number of lives saved by Global Fund funding.

Civil Society analysis of language on funding

- Time bound funding targets should be retained (paras 67 and 68) and such phrases as “through a series of incremental steps” should be removed. *Commitments to Universal Access goals are meaningless without commitments to the funding needed to achieve them.*
- References to the Abuja Declaration (para 69) should be retained and text obligating Member States to meet commitments to Overseas Development Assistance with contributions totalling 0.7 % of GNI should be inserted. *Development assistance and government commitments to health and development overall will dramatically increase the potential of meeting Universal Access goals.*
- The following text must be retained: “...ensure the Global Fund is fully funded commensurate with levels to be identified at the 2012 mid-term review of the Global Fund replenishment process” (para 72) and all references to the Global Fund’s reform programme or the need to show progress in fighting corruption must be deleted. *The Global Fund has been one of the most innovative and effective funding mechanisms for HIV/AIDS, allowing countries to rapidly scale up effective programs and contributing to saving more than 6 million lives. The Global Fund has also consistently and transparently demonstrated zero tolerance for corruption and deploys some of the most rigorous procedures to detect fraud and fight corruption of any organization financing development. Linking continued funding of the Global Fund to a reform process, to which the Board and Secretariat have already fully committed and which is well underway, is inappropriate in a document such as this. These insertions into the text suggest that the Global Fund has not been effective in carrying out its mission and that the organization is fundamentally flawed. Further, these insertions could undermine the Fund’s ability to raise the resources that countries demand of it to effectively respond to HIV/AIDS, tuberculosis, and malaria and strengthen their health systems.*