Talking Points
Panel on International Cooperation for Global Responses and National Implementation
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Question: “How can we encourage North-South and South-South cooperation and greater policy coherence as a means of ensuring that developing countries are assisted in implementing health-related SDGs and related social goals?”

Main points:

- International cooperation and partnership is key to the achievement of the SDGs; it is also a key principle (the duty to cooperate) under international human rights law

- Meeting the right to health, which includes access to health services, goods, facilities, etc., as well as achieving SDG 3, requires cooperation North-North, North-South, and South-South cooperation in terms of:
  - Addressing barriers to access by all people to essential medicines, such as high prices of patented medicines, reduced government funding (due to austerity measures or loan conditionalities) for public health services, or restrictive policy regimes that prevent effective market competition from generic drugs manufactured
  - Research and development of medicines
  - Provision of health-related infrastructure and services for all peoples in all countries
  - Emergency humanitarian assistance in case of global pandemics

- This is particularly important with respect to HIV, HCV, tuberculosis and other communicable diseases.

- For developing countries, having policy space and using policy flexibilities are important in order address access barriers, particularly those relating to cost barriers arising from IPRs associated with patented medicines for communicable diseases (high cost of patented HIV, HCV, TB drugs). For example, the most effective treatment for hepatitis C is currently sofosbuvir, a direct action antiviral (DAA) invented and patented by Gilead and sold for USD84,000 for a 12-week course of treatment. This is a price that is clearly out of reach of the vast majority of the 170 million people living with the HepC virus worldwide, most of whom are in developing countries. Generic versions of sofosbuvir, if compulsory licenses are issued, could go for USD300-500, more affordable. These high prices compound the adverse impacts of limited public funding for such medicines available in many countries, especially developing countries, particularly after public health budgets were cut in many countries as part of austerity measures imposed in response to the 2008 global financial crisis.
  - The use of existing IPR-related policy flexibilities that are recognized under international law should be encouraged. These include the policy space to determine patent eligibility, non-grant of patents for non-innovation changes, use of safety data for approval of generics, use of compulsory license, and

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1 Vicente Paolo Yu III, Deputy Executive Director, South Centre.
government use. There are studies that have shown that when compulsory licenses are issued for the generic production of patented drugs, the cost of the generic versions can be 85% to 95% lower than the patented version. This translates into significant cost savings for national public health services that can be used to increase the number of patients treated, or be invested into increased public health services and facilities.

- Additionally, countries, especially developing countries, should have the policy space to opt for an exemption to patents for medicines and other essential health technologies.

- Policy coherence at the international level is needed – particularly in relation to the use of existing TRIPS flexibilities in relation to public health.

  - Pressure should not be placed on developing countries to avoid using such TRIPS flexibilities for public health purposes, particularly as these have been recognized as legitimate under the 2001 WTO TRIPS and Public Health Declaration and in the inclusion of a new Article 31bis amendment to the WTO TRIPS Agreement.
  - Countries should also avoid seeking to put TRIPS-plus provisions in any new BITs or bilateral or regional FTAs, such as data exclusivity, prolongation of patent terms, or inclusion of investor-state dispute systems that would be made applicable to the use of TRIPS flexibilities.

- There are also other challenges that increase the difficulty to advance and achieve international economic, social and environmental objectives, as the Group of 77 in its September 2017 Ministerial Statement pointed out. These include conflicts, uncertain global economic conditions, global financial volatility, climate change, rapid technological change, humanitarian emergencies, corruption, youth unemployment. Technological advances that could impact on the ways in which production and consumption of goods and services, such as artificial intelligence, could also become a significant challenge.

- The emergence of new diseases and epidemics, such as Ebola, bird flu, as well as the rise in antibiotic resistance, pose new challenges as well to the achievement of SDG3 and the right to health. New drugs need to be invented. But if the existing R&D model centered around for-profit drug R&D for the invention of new drugs is followed, such new drugs and antibiotics will be patented, thereby likely raising costs and thus limiting access by the poor, especially in developing countries, to such drugs.

- In this context, a stronger level of international cooperation should be developed, along three prongs:

  - One, there should also be a new model for research and development for new medicines. R&D for new drug discovery, especially for neglected diseases that are prevalent in developing countries, should be publicly funded; and any newly discovered drugs under this model should be patent-free or be patented under the name of public entity that funded the research with an open license to allow private companies to produce the drug under license from the public fund. This will allow for drug prices to be reduced.
  - Second, North-South financial and technological assistance will continue to be essential, particularly in terms of the development of human, institutional, and physical infrastructure for the delivery of public health services to their people.
Third, South-South cooperation can serve to complement North-South assistance through the exchange of expert skills, training, technology, and capacity in delivering public health services.