

## **Experts suspect Cotonou Declaration another attempt by developed nations to push counterfeit agenda**

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In what is being termed as yet another attempt by the developed countries to garner political support to legitimise and legally accommodate International Medical Products Anti counterfeit Taskforce (IMPACT) within the WHO framework, the Chirac Foundation's Cotonou Declaration on Fake Medicines has recently declared manufacturing and marketing of counterfeit medicines as a crime and a breach of peace.

The declaration, adopted in a ceremony held at the Cotonou International Conference Centre, Benin, further states that the international traffic of counterfeit medicines seriously compromises peaceful relations between states. It was signed by the Honour Committee members of the Chirac Foundation's (established and headed by former French President Jacques Chirac) international mobilisation campaign against the traffic of falsified medicines.

Experts in the field view this development as yet another attempt by the developed countries to accommodate IMPACT within the WHO framework. Developing countries had opposed a resolution endorsing the IMPACT, a developed country IP enforcement initiative, in the World Health Assembly 2008 and the WHO Executive Board (EB) Meeting 2009. As a result of this opposition, WHO had decided to drop the resolution on IMPACT in the 2009 WHA. The DG also expressed the willingness to drop the term counterfeit in the WHO Medium Term Strategy document and the budget. Recently, the WHO South East Asia Regional Office passed a resolution stressing the need to separate issues related to intellectual property enforcement from the safety, quality and efficacy of medicines.

The discussion on counterfeit medicines in WHA 2009 is postponed to WHA 2010. Against this background, the Cotonou Declaration's initiation to organize global conference aimed at establishing the basis of an International Convention to battle counterfeit medication gaining importance. This conference is expected to be used to push the anti counterfeit agenda in WHO, experts say.

Currently, there is no WHA resolution, which recognizes either WHO as the Secretariat of IMPACT or the work of IMPACT. The declaration endorses the approach of IMPACT without mentioning it directly, experts said and added that the declaration elevates the issue of counterfeit medicines - essentially an intellectual property issue-- as breach of peace, which compromises peaceful relations between states. This attempts to bring the issue within the jurisdiction of the UN Security Council.

According to Article 39 of the UN Charter, "The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall

make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security". Article 42 of the UN Charter empowers UN Security Council to authorize the use of force.

Experts are of the view that there are many similarities between the campaign and IMPACT. Firstly, the declaration's endorsement for an international convention on counterfeit medicine originally appeared in the Rome Declaration 2006 adopted in the joint WHO-IFPMA workshop, which launched IMPACT.

Another striking similarity is in the approach of the campaign and IMPACT. The campaign is advocating a strict legal framework, wherein the different actors of the health industry (pharmacists, their associations, laboratories) as well as law enforcement and customs officials can act in a coordinated manner. This is an approach proposed by IMPACT and both do not address the root cause of the trade in medicines, which compromises quality, safety and efficacy i.e. high prices and aggressive medicine promotion strategies.

Both IMPACT and the declaration use the word counterfeit which conflates an essentially intellectual property issue with safety and quality of medicines. Three persons who work with IMPACT are members of the patronage committee of the international mobilisation campaign.