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FAST FACTS

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Bill C-393: Life-saving bill killed in the senate

On March 25th when the Conservative government fell on a non-confidence motion, a number of bills died on the Order Paper. Bill C-393 was poised to save lives, and its untimely death was entirely preventable. This private member's bill was designed to cut through the red tape that has prevented Canada's Access to Medicines Regime (CAMR) from fulfilling its original purpose—to send affordable and life-saving drugs to sub-Saharan Africa and other poor countries.

And these medicines are desperately needed. While access has improved over the last five years, two thirds of those infected by HIV and living in sub-Saharan Africa do **not** receive the treatment they need. Half of the children in Africa who are born with HIV die before their second birthday and eight out of ten die by the age of five. If Bill C-393 had passed, Apotex, Canada's largest generic manufacturer, would have produced a pediatric antiretroviral twice a day pill, replacing the syrup that children dislike, that is difficult to store where refrigerators are the exception, and cumbersome and expensive to transport.

In 2004, CAMR was passed unanimously in the House and in the Senate. It responded to changes made by the World Trade Organization (WTO) in 2001 and 2003 to give member countries greater

flexibility to export low-cost generic medicines to poor countries to meet public health needs. CAMR provides for compulsory licences to be issued to Canadian generic manufacturers to make and export essential drugs to a list of WTO-approved countries. Patent-holding companies receive royalties from the generic manufacturer.

But by the time that CAMR was approved by Parliament, its requirements were made so cumbersome as to make it unworkable. In fact, in seven years, only one order of one drug to one country (Rwanda) has been filled. And, unbelievably, if Rwanda wanted to re-order this drug, it and the generic manufacturer would have to start, all over again, the long and complicated process that involves seeking voluntary licences from brand-name manufacturers for every single order before a compulsory licence can be issued.

So this is where Bill C-393 comes in. It contained the essential 'one-licence solution' to fix CAMR so that it can work. Rather than requiring separate approvals for every single order to each country, once a drug is approved it can be ordered by all eligible countries. Predictably, the lobby arm of the brand-name pharmaceuticals (Rx&D) mounted an all-out assault on the Bill, claiming that its passage would result in lost jobs and lost research capacity. Given that poor countries



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constitute about 2% of the Rx&D market, the projected damage Bill C-393 would do to the industry appears much exaggerated and, frankly, beyond belief. Other claims—that the Bill breached international law and that medicines would inevitably be diverted to the black market—were equally unfounded.

When the Bill emerged from House of Commons Standing Committee on Industry, Science and Technology in October, 2010, the one-licence solution had been removed by a one vote majority that included four Conservatives and a lone Liberal member, the Industry critic, Marc Garneau. However, robust debate in the House re-inserted this essential provision and on March 9, Bill C-393 passed the House with a very healthy majority of 61 votes with support from all parties.

So on to the Senate where the Bill was introduced on March 21st and a second reading vote was delayed each day until the Government fell on March 25th. The Senate could have chosen to act quickly as it had heard witnesses on a virtually identical bill (S-232) that died when Mr. Harper prorogued Parliament in December 2009. And the rationale behind the delay became very clear when a memo was leaked that had been sent from Industry Minister Tony Clement's office urging Conservative Senators to vote against the Bill. It explained that Senator Larry Smith had met with "pharmaceutical industry leaders in the Montreal area, all are against bill C-393 as it is extremely damaging to our ability to motivate companies to patent new drugs in Canada... Many jobs in Canada's research and development sector stand to be lost as a result of this bill." Smith announced the day after his appointment to the Senate that he would run for the Conservative nomination in Lac-Saint-Louis, which just happens to be the Montreal riding with the heaviest concentration of Canadian brand-name pharmaceutical companies.

And so, tragically, Bill C-393 that had such potential to save lives, approved by 80 percent of Canadians in a national opinion poll, endorsed by leaders from both faith and medical research communities, and which had enjoyed all-party support in the Commons, died on the Order Paper when unelected Senators followed Mr. Clement's instructions rather than either their conscience or the expressed wishes of their elected legislative counterparts.

Pat Evans is chair of "The Hill Team" (Ottawa), and member of the National Advocacy Committee of the Grandmothers-to-Grandmothers Campaign



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