

## Handouts

### Trial role cards

#### **Trial role card: Pharma Inc.**

You are a group of senior Pharma Inc. executives. Your company is one of the world's leading producers of pharmaceuticals. You have bought the rights for the commercialisation of key HIV- and AIDS-related medicines. You need to maintain your profit margin and to please your shareholders. Thus you wish to protect the company's right to set the selling price of your products, keeping in mind the research costs, production costs, and the wages of your work-force. To allow another company to simply copy and sell your products at a lower price would jeopardise your profit and the sustainability of your company. You have therefore joined forces with other leading pharmaceutical companies to prevent any State from allowing the copying and selling of your products at cheaper prices, and to sue them if necessary. You have started legal action against the South African Government.

You should prepare your arguments to defend your position. You will have five minutes to present them during the trial.

#### **Trial role card: South African Government**

You are senior officials in the South African Government. Your government is trying to respond to the request of the pharmaceutical companies who have started legal action against you. Pharma Inc. is trying to prevent any State from allowing the copying and selling of their products at cheaper prices, that is, below the retail price of their own products. In principle you agree with Pharma Inc's position.

However, popular movements, led by the Treatment Action Campaign (TAC), claim that it is a constitutional obligation by the State to provide cheap access to drugs, particularly in the context of the HIV/AIDS epidemic. You have responded to popular political pressure and have started to allow the import of cheaper (copied) drugs from countries such as Indonesia.

You should prepare your arguments to defend your position. You will have five minutes to present them during the trial.

#### **Trial role card: Treatment Action Campaign (TAC)**

You are a group of activists representing the Treatment Action Campaign (TAC), South Africa. The Campaign claims that the State has the responsibility to provide cheap access to drugs, particularly in the context of the HIV/AIDS epidemic. The government has responded and has started importing cheaper drugs.

You also claim that it is the responsibility of the State to make financial provisions for patients and organisations struggling with HIV/AIDS diseases.

However, the South African Government has been brought to trial by pharmaceutical companies to prevent any copying and selling of their products at cheaper prices. Therefore, you have decided to join forces with the government to defend the role of the State in providing cheap access to drugs.

You should prepare your arguments to defend your position. You will have five minutes to present them during the trial.

**Trial role card: Judges**

You are the group of judges who are presiding over the attempt by leading pharmaceutical companies to prosecute the South African Government and to prevent it from allowing the copying and selling of their products at cheaper prices. Activists representing the Treatment Action Campaign (TAC) are defending the government position.

Your role is to invite the three parties in turn to present their respective positions. At the end of the presentations you should not make a judgement or come to conclusions. Your job is to help to clarify issues and to summarise the arguments in support of the conflicting claims.

The core of the problem is how to resolve conflicting claims to human rights. The defence (the government and TAC) claim the rights to life and dignity, and the prosecution (Pharma Inc.) claim the right to property. The official court records put it like this:

*“The **rights to life and dignity** are the most important of all human rights, and the source of all other personal rights. By committing ourselves to a society founded on the recognition of human rights, we are required to value these two rights above all others. And this must be demonstrated by the State in everything that it does, including the way it punishes criminals.”*

*Versus*

*“The **right to property** is protected by section 25 of the South African Constitution which states the following: “Property 25 (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property”.*

You should prepare questions to the three parties. You will have ten minutes to ask your questions and listen to the answers.

**Trial role cards: Journalists (Optional – see “variations” above)**

You are a group of journalists and you are in charge of covering the trial.

Your task is to report on the trial and present all points of views. You have access to the separate meetings organised by the different parties: judges, TAC, South African Government and Pharma Inc. When you attend the meetings you may only observe; you may not disturb, interrupt or contribute to the work of the groups. You may, however, carry out individual interviews if it does not disturb the process of the meetings. You can also take pictures and you will have access to a computer, printer and the Internet to produce your work.

You will present the results of your work at the end of the trial. You can choose the format, for instance a blog, a tweet, a newspaper article or a radio or TV broadcast. You will have 10 minutes to present your report.

### Instructions to the small groups for part 2

You are a group of four people, each one a representative of one of the four parties:

- Pharma Inc.
- The South African Government
- Activists representing the Treatment Action Campaign (TAC)
- The judges in the case.

#### Instructions

1. In turn, each person should identify themselves and the party they represent, that is, the role they are playing.
2. Next, each person should indicate their feelings about the situation at the end of the trial. If they think that it will be easy to find a solution, they should show a green card, and if they think it will be difficult they should show a red card. (The purpose of using the cards is to help everyone be more aware of how the consensus-building process is going.)
3. Now your task is to try to come to a satisfactory decision, based on consensus among the four members. You should take the discussion in rounds. The judge chairs the discussion and presents his/her position last.
  - Round one: state your position
  - Round two: present your ideas for a solution
  - Round three: negotiate on the proposed solution
4. Listen carefully to each other. At the end of each contribution you should show your colour card to indicate how you now feel about the prospects for reaching a satisfactory solution.
5. At the end of the consensus process, choose one person to report the results back in plenary.