



EXCO/PT05/RES/2

**Compulsory Licensing of Pharmaceutical Patents for Export to Countries  
with Public Health Problems**

**FICPI**, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Lisbon from 30 October to 2 November 2005, passed the following Resolution:

**Noting** that on 30 August 2003 the General Council of the WTO adopted a Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health whereby waivers from the obligations set out in paragraphs (f) and (h) of Article 31 of the TRIPs Agreement are regarded as being justified by exceptional circumstances, such as public health problems;

**Noting** that the European Community played an active role in the adoption of this Decision and made a commitment at the WTO to contribute fully to the implementation of this Decision, thereby necessitating adoption of an EU Regulation for compulsory licensing of patents relating to the manufacture of pharmaceutical products for export to countries with such problems;

**Confirming** that the WTO system should offer the possibility of combating national emergencies or other circumstances of extreme urgency for public health;

**Recognising** that solving national health crises requires other measures, especially investment in medical infrastructure and the solving of basic financial problems;

**Recognising** that patentees need to obtain an adequate return on their patented drugs to invest in the development of new medicines;

**Recognising** that the grant of a compulsory licence is a major derogation from the exclusive rights afforded by a patent; and

**Approving** of the provisions in the TRIPs Agreement safeguarding the interests of the patentee;

**Urges** that any legislation enabling such waivers should be:

- strictly limited to the export of pharmaceuticals to countries having urgent health needs where guarantees have been given to protect the patentee, especially with respect to preventing re-exportation and ensuring appropriate use of the pharmaceuticals in the importing country; and
- applicable only if the patentee has the right to be party to proceedings for granting and settling the terms of the compulsory licence.