



RESOLUTION 8

CONCERNING THE DOHA DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession of more than 70 countries, assembled at its Executive Committee meeting held in Prague, Czech Republic from October 7 to 9, 2002, passed the following Resolution:

1. **Recognising** as set forth in the Doha Declaration on the TRIPS Agreement and Public Health that serious public health crises exist that developing and least developed countries must address;
2. **Recognising** that some developing and least developed countries “with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement”, and that the TRIPS Council has been instructed to find an expeditious solution to this potential problem and report to the General Council before the end of 2002;
3. **Recognising** the generally-accepted belief that the intellectual property system provides incentives to invent and develop new technologies that may benefit society, and that grant of a compulsory license in situations other than in connection with a national emergency or other circumstances of extreme urgency may impede such development;
4. Now, therefore, **FICPI urges** that when a public health crisis exists in a developing or least developed WTO member country with insufficient or no manufacturing capacity for a particular pharmaceutical or diagnostic product (“the crisis country”), Article 31 of TRIPS be interpreted to allow the crisis country to grant under TRIPS compliant procedures a license to have that product produced in another developing or least developed WTO Member country having the technological base for such production (“the producing country”), provided that:
 - i) The license is granted only if the patent owner is not supplying, or will not agree to supply, the product in sufficient quantities at prices acceptable to the crisis country,
 - ii) The license is granted only for production of amounts required for supplying the needs of the crisis country,
 - iii) The license is proportionate to the needs of the crisis country, and the license is granted only for a term sufficient to meet the needs of the crisis country,
 - iv) The crisis country enacts safeguards to ensure that the product is used domestically, and therefore is not exported to any other country,
 - v) The terms of the license and its operation are monitored and controlled by the TRIPS Council, and
 - vi) Any compulsory license granted under the provisions of i) – v) above is not to be taken as an exhaustion of the rights of the patent owner except for those granted under the compulsory license, and the patent owner is given complete immunity from any liability arising therefrom.