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**14<sup>th</sup> COMMISSION**

**International Intellectual Property Law and Pandemics: Access to Medicine, Prevention,  
Preparedness and Response**

Rapporteur: Mr Edward Kwakwa

**RESOLUTION**

**INTERNATIONAL INTELLECTUAL PROPERTY LAW AND PANDEMICS: ACCESS  
TO MEDICINE, PREVENTION, PREPAREDNESS AND RESPONSE**

*The Institute of International Law,*

*Upholding* the primacy of human rights, including the right to health, to foster equitable access to life-saving health technologies, particularly during global health emergencies such as pandemics,

*Recalling* the fundamental role of scientific research and innovation in promoting human progress and in addressing global challenges, and recognising the contributions of intellectual property (IP) systems in this regard,

*Acknowledging* that the COVID-19 pandemic has highlighted the need to re-balance IP rights and global health considerations, and underscoring the necessity for equitable access for the most vulnerable to vaccines and medicines and for rapid medical innovations in order to protect public health,

*Recognizing* the connection between national and international legal frameworks to protect human rights, and those governing IP, trade, investment and global health, as well as the need for greater coherence between them to address global health challenges effectively,

*Further recognizing* that public, private, non-governmental organisations (NGOs) including philanthropic sources, investments in vaccine and health technology development have played a vital role in mitigating the risks associated with health emergencies, and underscoring that these contributions must be completed with equitable distribution mechanisms,

*Emphasizing* that equitable access must be placed at the forefront of global health considerations, fostering transparency, promoting collaborative research, and ensuring that the benefits of scientific innovation in health technologies are shared with all humankind by the parties concerned,

*Acknowledging* that while some progress has been achieved by the amendment of Article 31 of the Agreement on Trade-Related-Aspects of Intellectual Property Rights (TRIPS Agreement), at the request of the developing countries, there is still room for improvement in order to guarantee effective, equitable access to pharmaceutical products,

*Observing* that measures such as export bans and economic sanctions applied during the COVID-19 pandemic may have temporarily served the national interests of pharmaceuticals-producing countries but contributed to hindering timely access to vaccines for vulnerable import-dependent countries, especially developing and least-developed countries, thus exacerbating global disparities,

*Recognizing* that global collaboration, including public-private partnerships, is essential to leveraging innovation for the benefit of all humankind, particularly in times of crisis,

*Stressing* the importance of multilateral negotiations on an Annex to the World Health Organisation (WHO) Pandemic Agreement, and recalling the universal application of the WHO International Health Regulations 2005 (rev. 2024),

*Reaffirming* the content of the Resolution of the *Institut* on Epidemics, Pandemics and International Law (2021) in its entirety and cognizant of the need to further reinforce it,

*Adopts* the following Articles:

## **Article 1: Right to health and equitable access to vaccines**

Every human being has an inalienable right to health. This entails the right to equitable access to vaccines, diagnostics, therapeutics and other health technologies.

## **Article 2: Obligations of States**

1. States shall establish clear and harmonised international rules through negotiations to ensure that legal barriers presented by conflicts between IP protections law and the protection of the human right to health, do not impede the rapid and equitable dissemination of health technologies during public health emergencies.
2. States shall further refrain from using international economic instruments, including those related to trade, investment, economic sanctions and IP, as impediments to the rapid and equitable distribution of vaccines, diagnostics, therapeutics, and other health technologies.
3. States shall, in accordance with international law, interpret and apply the TRIPS Agreement and other relevant instruments in a manner that supports their right to protect public health and, more specifically, to ensure effective access to medicine for all.

## **Article 3: Obligations of International Organisations**

International organisations involved in the protection of global health issues shall assist in the implementation of the policies and measures referred to in the present Resolution. To this effect, they shall collaborate among themselves and with non-State entities, including NGOs and the scientific community.

## **Article 4: Obligations of States and International Organisations**

States and international organisations shall re-evaluate existing IP frameworks to ensure they are fit-for-purpose by the time of the next global pandemic, emphasizing: (i) transparency, (ii) collaborative research, and (iii) the need to ensure that the fruits of scientific innovation and traditional knowledge, especially in the health sector, are shared equitably.

### **Article 5: The Role of Industry**

1. Pharmaceutical and related industries shall adopt flexible approaches to facilitate licensing, knowledge-sharing initiatives, scientific research and innovation, and technology transfer, to fill manufacturing capacity gaps in low- and middle-income countries.
2. They are encouraged to align their operations with global human rights frameworks, including the UN Guiding Principles on Business and Human Rights and the UN 2030 Agenda for Sustainable Development, to avoid adverse impacts on equitable access to health technologies.

### **Article 6: Obligations common to States, International Organisations and Industry**

1. States, International Organisations and Industry shall cooperate with a view to eliminating the impact of export restrictions and other trade measures that hinder equitable access to vaccines and health technologies, especially during pandemics.
2. They shall promote equitable access to life-saving health technologies, ensuring that pandemic responses are inclusive, transparent, and aligned with international law, particularly human rights law; they shall maintain under continuous review the effectiveness of this equitable access.

### **Article 7: Pandemics as National Emergencies**

Pandemics may constitute national emergencies that allow States, in the exercise of their right to protect health, to invoke exceptions under international treaties on IP, trade, investment and global health.

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