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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Angola*, Azerbaijan*, Botswana*, Burundi, Brazil, Cameroon,
China, Costa Rica, Cuba, Egypt*, El Salvador*, Gabon*,
Ghana*, Guatemala, Honduras*, Kenya, Mexico, Nicaragua*,
Paraguay*, Peru, South Africa, Swaziland, Togo*, Turkey*,
Uruguay, Viet Nam: draft resolution**

2001/... Access to medication in the context of pandemics such as HIV/AIDS

The Commission on Human Rights,

Reaffirming the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming also that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right,

Recalling further its resolution 1999/49 of 27 April 1999 and welcoming the report of the Secretary-General on the protection of human rights in the context of human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS) (E/CN.4/2001/80),

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council

Bearing in mind World Health Assembly resolution 53/14 entitled “HIV/AIDS: confronting the epidemic”, adopted on 20 May 2000,

Acknowledging that prevention and comprehensive care and support, including treatment and access to medication for those infected and affected by pandemics such as HIV/AIDS, are inseparable elements of an effective response and must be integrated into a comprehensive approach to combat such pandemics,

Recalling the guidelines elaborated at the Second International Consultation on HIV/AIDS and Human Rights held in Geneva from 23 to 25 September 1996 (E/CN.4/1997/37, annex I), in particular guideline 6,

Taking note of General Comment No. 14 (E/C.12/2000/4) on the right to the highest attainable standard of health, adopted by the Committee on Economic, Social and Cultural Rights at its twenty-second session in April/May 2000,

Noting with great concern that, according to the Joint United Nations Programme on HIV/AIDS, the HIV/AIDS pandemic had claimed 21.8 million lives by the end of 2000,

Alarmed that, according to the same source, over 36 million people were infected with the HIV virus by the end of 2000,

Welcoming the recent initiatives by the Secretary-General and relevant United Nations agencies to make HIV/AIDS-related drugs more accessible to developing countries and noting that much more can be done in this regard,

Recognizing that the spread of HIV/AIDS can have a uniquely devastating impact on all sectors and levels of society and stressing that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security, as stated in Security Council resolution 1308 (2000) of 17 July 2000,

Emphasizing, in view of the increasing challenges presented by pandemics such as HIV/AIDS, the need for intensified efforts to ensure universal respect for and observance of human rights and fundamental freedoms for all, including by reducing vulnerability to pandemics such as HIV/AIDS and by preventing related discrimination and stigma,

1. *Recognizes* that access to medication in the context of pandemics such as HIV/AIDS is one fundamental element for achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;

2. *Calls upon* States to pursue policies, in accordance with applicable international law, including international agreements acceded to, which would promote:

(a) The availability in sufficient quantities of pharmaceuticals and medical technologies used to treat pandemics such as HIV/AIDS or the most common opportunistic infections that accompany them;

(b) The accessibility to all without discrimination, including the most vulnerable sectors of the population, of such pharmaceuticals or medical technologies and their affordability for all, including socially disadvantaged groups;

(c) The assurance that pharmaceuticals or medical technologies used to treat pandemics such as HIV/AIDS or the most common opportunistic infections that accompany them, irrespective of their sources and countries of origin, are scientifically and medically appropriate and of good quality;

3. *Also calls upon* States, at the national level, on a non-discriminatory basis:

(a) To refrain from taking measures which would deny or limit equal access for all persons to preventive, curative or palliative pharmaceuticals or medical technologies used to treat pandemics such as HIV/AIDS or the most common opportunistic infections that accompany them;

(b) To adopt legislation or other measures, in accordance with applicable international law, including international agreements acceded to, to safeguard access to such preventive, curative or palliative pharmaceuticals or medical technologies from any limitations by third parties;

(c) To adopt all appropriate positive measures to the maximum of the resources allocated for this purpose, to promote effective access to such preventive, curative or palliative pharmaceuticals or medical technologies;

4. *Further calls upon* States, at the international level, to take steps, individually and/or through international cooperation, in accordance with applicable international law, including international agreements acceded to, such as:

(a) To facilitate, wherever possible, access in other countries to essential preventive, curative or palliative pharmaceuticals or medical technologies used to treat pandemics such as HIV/AIDS or the most common opportunistic infections that accompany them, as well as to extend the necessary cooperation, wherever possible, especially in times of emergency;

(b) To ensure that their actions as members of international organizations take due account of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and that the application of international agreements is supportive of public health policies which promote broad access to safe, effective and affordable preventive, curative or palliative pharmaceuticals and medical technologies;

5. *Calls upon* the international community, the developed countries in particular, to continue to assist the developing countries in their fight against pandemics such as HIV/AIDS through financial and technical support as well as training of personnel;

6. *Invites* the Committee on Economic, Social and Cultural Rights, when considering the human rights dimension of combating pandemics such as HIV/AIDS, to give attention to the issue of access to medication and invites States to include appropriate information thereon in the reports they submit to the Committee;

7. *Requests* the Secretary-General to solicit comments from Governments, United Nations organs, programmes and specialized agencies and international and non-governmental organizations on the steps they have taken to promote and implement, where applicable, the present resolution, as well as to report thereon to the Commission at its fifty-eighth session;

8. *Decides* to continue its consideration of this matter at its fifty-eighth session, under the same agenda item.
