

## WHO Convention on Research and Development Financing and Coordination

### Draft resolution proposed by the Republic of Kenya

The Sixty-fifth World Health Assembly,

PP1 Recalling resolution WHA 63.28 which requested the Director-General to establish a Consultative Expert Working Group (CEWG) to take forward the work of the expert working group earlier established under resolution WHA61.21, and to submit the final report to the Sixty-fifth World Health Assembly;

PP2 Further recalling resolutions WHA 59.24, WHA 61.21 and WHA 62.16;

PP3 Recalling the consultations and diplomatic processes undertaken at the WHO around the issue of needs-driven research and development (R&D) for health and access to affordable medicines<sup>1</sup>, which led to the unanimous adoption by the World Health Assembly in 2008 and 2009 of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property ;

PP4 Recognizing the progress made in the implementation of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, in particular the establishment by the United Nations Economic Commission for Africa and the World Health Organization of the African Network of Drugs and Diagnostics Innovations (ANDI), which is promoting and sustaining African-led health product innovation to address African public health needs through the assembly of research networks, and the building of capacity, including innovation and local pharmaceutical production; the Eighth World Trade Organization Ministerial Conference adoption of measures on extending transition period under Article 66.1 of the TRIPS Agreement beyond the year 2013 among other measures to increase access to medicines, the World Intellectual Property Organization new initiatives to accelerate research and development of medicines for neglected tropical diseases, among others;

PP5 Noting element 2.3(c) of the WHO Global Strategy on Public Health, Innovation and Intellectual Property, which calls for “exploratory discussions on the utility of possible instruments or mechanisms for essential health and biomedical R&D, including *inter alia*, an essential health and biomedical R&D treaty” as an integral component of the global strategy’s mandate to promote innovation, improve access to medicines, diagnostics, vaccines including medical devices and enhance sustainable needs-driven health research and development relevant to diseases which disproportionately affect developing countries;

PP6 Aware of the existing need to secure additional and sustainable financing for research and development to address the health needs of developing countries, improve coordination, facilitating the maximum use of and complement existing financing in order to develop and deliver safe, effective and affordable medicines, diagnostics, vaccines and medical devices;

PP7 considering the report of the Consultative Expert Working Group on Research and Development: Financing and Coordination as a solid basis for supporting further the efficient and effective implementation of the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property;

PP8 Recognizing the analysis and proposals contained in the CEWG report, particularly the recommendation that the WHO should convene formal intergovernmental negotiations on a binding agreement to strengthen global financing and coordination for R&D for health needs of developing countries under the auspices of WHO;

PP9 Acknowledging the unique normative function of the WHO deriving from Article 2(k) and Article 19 of the WHO Constitution, and recognizing the indispensable imprimatur of the WHO in the setting of new binding legal norms aimed to the attainment for all people of the highest possible level of health ;

PP10 Emphasizing the importance of public funding of health research and development and the role of Member States in coordinating, facilitating and promoting health research and development, and recognizing that it is ultimately the responsibility of Member States to secure access to affordable medicines for people in need;

PP11 Having considered the report of the Consultative Expert Working Group on Research and Development: Financing and Coordination;

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<sup>1</sup> Resolutions WHA49.14 and WHA52.19 on a revised drug strategy, WHA53.14 and WHA54.10 and WHA57.14 on HIV/AIDS, WHA56.27 on intellectual property rights, innovation and public health, WHA58.34 on the Ministerial Summit on Health Research, WHA 59.24 on the report of the WHO Commission on Intellectual Property Rights, Innovation and Public Health (CIPRH), WHA59.26 on international trade and health; WHA60.30 on public health, innovation and intellectual property, resolutions WHA61.21 and WHA62.16 on the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property and WHA63.28 on the establishment of a consultative expert working group on research and development: financing and coordination.

2. **Welcomes** the report of CEWG and expresses its appreciation to the Chair, Vice Chair and all the Members of the Group for their work;

### 3. DECIDES

To establish an Intergovernmental Negotiating Body to develop the WHO Convention on Research and Development Financing and Coordination<sup>2</sup> taking into account the CEWG recommendations, in particular the strengthening and securing sustainable funding to address identified R&D priorities of developing countries; promoting R&D in diseases that disproportionately affect developing countries; delinking R&D costs and prices of products; enhancing innovative capacity of developing countries and technology transfer; generating R&D outcomes as public goods and strengthening R&D coordination mechanisms all predicated on five key principles of:

1. Knowledge sharing as a condition for the implementation of the universal right to health which encompasses an obligation on the State to generate health research and development that address the health needs of disadvantaged individuals, communities and populations;
2. Knowledge as a global public good that requires collective action and de-links research and development costs from product prices for diseases that disproportionately affect 2.7 billion people living in developing countries;
3. Capacity building and institutional strengthening to ensure the use of scientific knowledge to respond to people's health needs,
4. Ensuring sustainable financing mechanism for R&D for health needs of developing countries, and
5. Access to affordable medicines as a key component of primary health care and universal coverage;

### 4. URGES Member States

- (1) To consider the recommendations of the report, and ensure that the report is included on the agenda of the WHO's regional Committees in 2012
- (2) To give high priority to accelerating work on the development of the WHO Convention on Research and Development Financing and Coordination for health needs of developing countries;
- (3) To provide additional resources and enhance cooperation to accelerate the work of the INB on the WHO Convention on Research and Development Financing and Coordination;
- (4) To significantly increase funding for implementation of the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, including additional funding for national, regional and international health research and development institutions;
- (5) To make access to affordable medicines, diagnostics, vaccines and medical devices a priority sector for investment and sustainable development;

### 5. REQUESTS the Director-General:

- (1) to convene immediately the Intergovernmental Negotiating Body to draft and negotiate the WHO Convention on Research and Development Financing and Coordination, and to allocate the necessary resources to it;
- (2) to provide secretarial and other support to the Intergovernmental Negotiating Body including required financial resources, services and facilities for the performance of its work, and as necessary regional consultations;
- (3) to invite in consultation with Member States, six experts<sup>2</sup> to attend the sessions of the Intergovernmental Negotiating Body to provide advice and expertise, as necessary upon request of the Chairman, taking into account the need to avoid conflicts of interest;
- (4) to invite observers at sessions of the INB on the WHO Convention on Research and Development Financing and Coordination in accordance with the provisions of resolution WHA27.37 and other relevant Rules of Procedures and resolutions of the Health Assembly;
- (5) to submit progress report to the Sixty-seventh World Health Assembly and the final WHO Convention on Research and Development Financing and Coordination through the Executive Board to the Sixty-eighth World Health Assembly.

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<sup>2</sup> The Intergovernmental Negotiating Body developing the WHO Convention on Research and Development may benefit from expertise from the International Law Commission, among others for the drafting. Policy guidance to inform the draft Convention is provided by the WHO Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property, negotiated over several years and to which the proposed Convention would specifically respond to the gap highlighted in Element 7 Chapter of the document.