

Draft Resolution EB8 / [number of the resolution]

Patent Pool

Following its resolution EB6/6, UNITAID Board acknowledges the work of the Expert Group on Patent Pools in further exploring patent pooling, identifying operational alternatives for the pool (taking into consideration its voluntary/non-voluntary nature, governance and geographical coverage), as well as in providing elements for a cost/benefit analysis. The work of the Expert Group provides a solid background for the Secretariat 's proposals.

The Board further acknowledges the potential described in the update on a patent pool presented by the Secretariat EB8/2008/11 and supports the principle of establishing a Patent Pool.

In this respect, the Board agrees the principle of a patent pool, and requests that the Secretariat should undertake the necessary actions for this establishment, as follows:

- a task force of up to five experts be setup by the Secretariat by mid August 2008,
- this task force will be composed of experts with skills in the following areas: patent law, legal & business risks, economic analysis and management, public health aspects of patent pooling, HIV/AIDS treatments, and construction of other patent pools and to be operational in September 2008.
- The task force will report to the Executive Secretary. The Executive Secretary will report on progress to the Board in all regular sessions and extraordinarily as deemed necessary.
- The mandate of the task force will be to design the structure for the medicines patent pool and develop instruments to implement it, with initially a focus on the area of Pediatric ARV and new combinations.
- As deliverables, the task force will have to satisfactory accomplish the following activities:
 - o With the assistance of WIPO, provide an in depth technical review of patents related to the focus area (patent landscape and review of applicable national laws) ,
 - o the preparation of proposals for standard license agreements for distribution and manufacturing,
 - o the design and documentation of all the necessary steps to establish an entity to act as the licensing agency,

- design mechanisms to address liability of the licensing agency, such as insurance and other means,
 - investigate conditions and terms of agreements with patent owners and potential licensees in the focus area,
 - propose a management structure for the licensing agency,
 - prepare a budget for the first 3 years of operation of the licensing agency.
- The task force will present to the Board for approval within a period of six months a full operational plan for the successful implementation of the Patent Pool.
 - The Secretariat will prepare and submit to the Board's approval by mid July 2008 an adequate budget for the task force operations in order to implement the above mentioned scheme in the first six months of realization.
 - The Board requests the Expert Group on patent pool to continue its work in further investigating patent pooling issues, in providing advice to the Secretariat and giving an overall guidance to the Task Force.

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