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HUMAN RIGHTS COUNCIL

Twelfth session

Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Brazil, Bolivia (Plurinational State of), Bosnia and Herzegovina, Colombia*,
Cuba, Dominican Republic*, Ecuador*, Egypt, India, Kyrgyzstan, Nicaragua,
South Africa, Venezuela (Bolivarian Republic of)*: draft resolution**

**12/... Access to medicine in the context of the right of everyone to the
enjoyment of the highest attainable standard of physical and
mental health**

The Human Rights Council,

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

Recalling also Commission on Human Rights resolutions 2001/33 of 23 April 2001,
2002/31 and 2002/32 of 22 April 2002, 2003/28 of 22 April 2003, 2004/27 of 16 April 2004 and
2005/25 of 15 April 2005, and that the right of everyone to the enjoyment of the highest
attainable standard of physical and mental health is a human right that derives from the inherent
dignity of the human person,

* Non-Member State of the Human Rights Council.

Emphasizing the development goals of the United Nations Millennium Declaration, in particular the four health-related development goals,

Noting with concern that, for millions of people throughout the world, the full enjoyment of the right to the highest attainable standard of physical and mental health remains a distant goal and that, in many cases, especially for those living in poverty, this goal is becoming increasingly remote,

Recalling the Declaration on the Right to Development, which establishes that States should take, at the national level, all necessary measures for the realization of the right to development and should ensure, inter alia, equality of opportunity for all in their access to basic resources, such as health services,

Recalling also its resolution 6/29 of 14 December 2007, in which the Council extended the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling further Council resolution S-10/1 of 23 February 2009, and reiterating its concern that financial and economic crises are having a negative impact on the ability of States to provide social services, such as health,

Regretting the high number of people still without access to medicines, and underscoring that improving access to medicine could save millions of lives every year,

1. *Recognizes* that access to medicine is a fundamental element in achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
2. *Stresses* the responsibility of States to ensure access to all, without discrimination, of medicines, in particular essential medicines, that are affordable and of good quality;

3. *Recognizes* that the human rights perspective of access to medicines should be applicable to communicable and non-communicable diseases alike;
4. *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, to ensure that their actions as members of international organizations take into due account 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 that promote broad access to safe, effective and affordable medicines;
5. *Recognizes* that the Doha Ministerial Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights and Public Health confirms that the Agreement does not and should not prevent members from taking measures to protect public health and that the Declaration, while reiterating the commitment to the Agreement, affirms that it can and should be interpreted and implemented in a manner supportive of the rights of States Members of the World Trade Organization to protect public health and, in particular, to promote access to medicines for all;
6. *Encourages* all States to apply measures and procedures for enforcing intellectual property rights in such a manner as to avoid creating barriers to the legitimate trade of medicines, and to provide for safeguards against the abuse of such measures and procedures;
7. *Invites* the Office of the United Nations High Commissioner for Human Rights to convene an expert consultation, within existing resources, open to the participation of Governments, regional and international organizations, relevant United Nations bodies and civil society organizations, in order to identify challenges related to the realization of access to medicines as an integral part of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and invites the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to present a summary of the discussions of the expert consultation to the Council;

8. *Encourages* the Special Rapporteur to continue his analysis, within his existing mandate, of the human rights dimensions of the issues of access to medicines;

9. *Encourages* all Member States to include in their national reports, to be submitted to the universal periodic review mechanism, information on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, particularly on measures taken to realize access to medicines;

10. *Decides* to remain seized of this matter.
