

DRAFT RESOLUTION THROUGH WHICH THE PRESIDENT OF THE REPUBLIC IS REQUESTED TO INSTRUCT THE CARRYING OUT OF INFORMATION AND IMPLEMENTATION ACTIONS OF THE C-TAP PROJECT OF THE WORLD HEALTH ORGANIZATION

Considering:

1. That the COVID-19 pandemic constitutes a danger to not only national but also global security, with devastating effects on lives, health and nations' economies.
2. That governments, universities, pharmaceutical companies and research institutes around the world are actively working to promote technology, as well as biomedical research and development, in an attempt to control the COVID-19 public health emergency.
3. That the funding of these investigations and developments has a majority contribution from the public sector and donors, as well as the heroic and anonymous will of thousands of volunteers who expose their lives and health to test the effectiveness and safety of these vaccines and treatments, in Chile and in the world.
4. That the personal safety of each one of us as well as the global safety in this pandemic, will be achieved when all countries and regions are free of it, or have it under control. This requires universal access to technologies, vaccines and treatments that are effective in this regard.
5. That world leaders, including scientists, politicians and religious leaders, have indicated that the vaccine should be considered public goods.
6. That in this context, as well as the practices and rules of the economic and health order have had to be adjusted to allow more effective responses to the pandemic, such as, for example, the flexibility of rules of competition, or clinical trials, suspension of economic activities, risks, etc., this is also essential with respect to the rules of appropriation of knowledge and research results for COVID-19, both voluntary by the holders, and mandatory by governments.

I.- VOLUNTARY MEASURES BY HOLDERS OF INTELLECTUAL PROPERTY RIGHTS.

7. In this context, the World Health Organization (WHO) has developed the Covid-19 Technology Access Pool (C-TAP), a proposal that complements the Access to COVID-19 Tools (ACT) Accelerator initiative and other WHO efforts to combat the COVID-19 pandemic.

C-TAP compiles pledges of commitment of governments, pharmaceutical companies, research centers and other holders of intellectual property rights, to voluntarily share and make accessible to the world community, COVID-19 health technology related knowledge, intellectual property and data. The purpose of

the initiative is to accelerate the development of vaccines, drugs and other technologies through open scientific research, and to fast-track product development by mobilizing additional manufacturing capacity. The C-TAP initiative seeks to overcome traditional roadblocks to equitable access to knowledge due to intellectual property and the exclusive use of data and other information.

In short, C-TAP aims to make vaccines, tests, treatments and other health technologies to fight COVID-19 accessible to all, and as such, that information must be made universally available as global public goods¹.

8. The initiative was presented on May 15 of this year by the President Carlos Alvarado Quesada of Costa Rica and WHO Director-General Dr. Tedros Adhanom Ghebreyesus, and endorsed by the President of the Republic Sebastián Piñera, who, in a statement, showed the support of the Chilean Government for backing the proposal².
9. Despite the fact that Chile is part of the group of countries that support the C-TAP, to date there is an undoubted lack of information and transparency related to the implementation and progress of the initiative in our country, particularly, its dissemination and its possibilities for national research centers, either to access knowledge or to contribute to the C-TAP.

II. LIMITATIONS ON INTELLECTUAL PROPERTY IMPOSED BY TRIPS TO STOP THE PANDEMIC.

10. Notwithstanding the foregoing, given the extreme danger we face, all legal measures that may help remove access barriers due to intellectual property must be available for their implementation in a timely manner by our country, including its limitations and exceptions in pursuit of public health and national security.
11. Therefore, we consider necessary and appropriate the proposal made by India and South Africa in the World Trade Organization, before the Council for TRIPS, for a **temporary exemption from intellectual property rights, industrial designs, patents, layout-designs of integrated circuits and trade secrets / undisclosed product information to prevent, contain or treat COVID-19.**
12. It is noteworthy that UNITAID has supported this call for intellectual property waivers and action for access to COVID-19 products proposed by India and South Africa, and points out that “just as we will need a range of products – such as

¹ <https://www.who.int/news/item/29-05-2020-international-community-rallies-to-support-open-research-and-science-to-fight-covid-19>

² <https://www.who.int/news/item/15-05-2020-who-and-costa-rica-preview-technology-pooling-initiative-to-ensure-access-to-covid-19-health-products-for-all>
<https://www.emol.com/noticias/Internacional/2020/05/15/986309/Costa-Rica-OMS-tratamientos-coronavirus.html>

protective equipment, tests, medicines and vaccines – to tackle COVID-19, we will need multiple approaches to ensuring access (...) Information sharing, voluntary licensing, technology transfer, flexibilities and waivers can all contribute to expanding access”³. “Unitaid calls on countries to take the necessary measures to facilitate and promote access to vaccines, therapeutics and diagnostics that will help fight the COVID-19 pandemic. This should include ensuring that they have the legal and health systems in place that enable fast production, importation, registration and deployment of effective products, once these become available”⁴.

13. In this regard, the aforementioned proposal from India, South Africa and Brazil states that “3. Given this present context of global emergency, it is important for WTO Members to work together to ensure that intellectual property rights such as patents, industrial designs, copyright and protection of undisclosed information do not create barriers to the timely access to affordable medical products including vaccines and medicines or to scaling-up of research, development, manufacturing and supply of medical products essential to combat COVID-19”⁵.
14. As the proposal of India and South Africa before the Council for TRIPS reads, “to date, there is no vaccine or medicine to effectively prevent or treat COVID-19 (...) 7. As new diagnostics, therapeutics and vaccines for COVID-19 are developed, there are significant concerns, how these will be made available promptly, in sufficient quantities and at affordable price to meet global demand. Critical shortages in medical products have also put at grave risk patients suffering from other communicable and non-communicable diseases (...) In this sense, intellectual property rights may hinder the timely provision of affordable medical products to patients. (...) “In addition, many countries especially developing countries may face institutional and legal difficulties when using flexibilities available in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). A particular concern for countries with insufficient or no manufacturing capacity are the requirements of Article 31bis and consequently the cumbersome and lengthy process for the import and export of pharmaceutical products”⁶.
15. In these exceptional circumstances, the proposal hopes to instruct the Council for TRIPS recommends, as early as possible, to the General Council “a waiver from the implementation, application and enforcement of Sections 1, 4, 5, and 7 of Part II of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19. 13. The waiver should continue until widespread

³ <https://unitaid.org/news-blog/unitaid-supports-call-for-intellectual-property-waivers-and-action-for-access-to-covid-19-products/#en>

⁴ Idem.

⁵ “WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19: COMMUNICATION FROM INDIA AND SOUTH AFRICA”. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True>

⁶ Idem.

vaccination is in place globally, and the majority of the world's population has developed immunity (...)”⁷.

In the light of the foregoing and in accordance with the powers set forth in Article 52.1 (1)(a) of the Constitution of Chile, I come to propose to this Honorable House the following:

DRAFT RESOLUTION

The Chamber of Deputies requests H.E. the President of the Republic that, through the Minister of Health and the Minister of Foreign Affairs, requires the World Health Organization (WHO) to strengthen and accelerate the implementation of the Covid-19 Technology Access Pool (C-TAP) to the date. Likewise, to report on the measures being adopted in Chile in order to disseminate the benefits of the C-TAP initiative, and on the way in which Chilean research institutions and pharmaceuticals participate in the project.

Additionally, agrees to request H.E. the President of the Republic, through the Minister of Foreign Affairs, to order that the Mission of Chile to the WTO, it is to support in the TRIPS Council, the waivers from the obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), regarding to prevention, containment or treatment of COVID-19, waiver that should continue until the widespread vaccination is in place worldwide, and the majority of the world’s population has developed immunity.

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⁷ Idem.