

**SUBMISSION BY THE  
BOLIVARIAN REPUBLIC OF VENEZUELA**

04 September 2012

**DRAFT DECISION TEXT ON TECHNOLOGY TRANSFER AND  
INTELLECTUAL PROPERTY RIGHTS**

The Conference of the Parties,

*Recalling* Article 4, paragraph 5, of the Convention,

1. *Affirms* that consistent with the principles of the Convention and to enable meaningful mitigation and adaptation actions in developing countries, the flexibilities of the international regime of intellectual property rights as articulated by the Agreement on Trade-Related Aspects of Intellectual Property Rights may be used to the fullest extent by developing country Parties to address adaptation to climate change and/or mitigation of GHG emissions, in order to enable them to create a sound and viable technological base; accordingly, consistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights, each Party retains its right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted; specific and urgent measures shall be taken by developed country Parties to enhance the development and transfer of technologies at different stages of the technology cycle covered by intellectual property rights to developing country Parties,
2. *Decides* that Parties shall ensure that intellectual property rights and agreements shall not be interpreted or implemented in a manner that limits or prevents any Party from taking any measures to promote adaptation or mitigation to climate change, including the improvement of their cost-effectiveness.
3. *Decides* further that the Parties should cooperate to undertake a range of measures including:
  - a) Create a global pool of goods and technologies to promote mitigation and adaptation to climate change; in which intellectual property right owners of climate technologies are

required to make their intellectual property as well as know-how available to developing countries;

- b) Use of full flexibilities contained in the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, including compulsory licensing;
  - c) Use differential pricing on patented technologies for developing countries in order to lower the cost of technology acquisition for developing countries;
  - d) Review all existing relevant intellectual property rights regulations in order to provide significant information to remove the barriers and constraints affecting environmentally sound technologies;
  - e) Promote innovative intellectual property rights sharing arrangements for joint development of environmentally sound technologies;
  - f) Reduce time patents on climate-friendly technologies;
4. *Decides* that developed country Parties shall take all practicable steps to ensure that intellectual property rights are interpreted and applied in a manner that promotes, and ensures the cost-effectiveness, of adaptation and mitigation actions in developing country Parties;
5. *Decides* that the Technology Executive Committee shall perform additional functions as follows:
- a) Create a multisectoral expert groups to conduct technology assessments and look into the potential environmental, social and economic impacts and the appropriateness of new and emerging technologies on a needs basis;
  - b) Undertake assessments in an independent manner, without conflict of interest, including existing, new and emerging technologies so as ascertain their appropriateness for adoption in or transfer to developing countries;
  - c) Identify, suggest, and take measures to promote initiatives to overcome or remove obstacles or barriers to technology transfer to and in adopting in developing countries and to endogenous development of technologies in developing countries;
  - d) Explore and implement measures to ensure that international rights and obligations relating to intellectual property shall be

supportive and do not run against the objectives of the Convention, identifying, and promoting actions in all relevant forums for flexible mechanisms or intellectual property rights protection, especially those in the public domain;

- e) Recommend procedures for Parties to implement measures to ensure that flexible mechanisms related to international rights and obligations on intellectual property shall be supportive and do not run counter to the objective of the Convention;
  - f) Identify, suggest and take measures to promote initiatives to overcome or remove obstacles to technology transfer to and adoption in developing countries. Among the barriers may be high cost of the technology, lack of financial resources and human expertise, lack of institutional arrangements to identify and introduce technologies, and intellectual property that may influence access;
  - g) Analyze and recommend further activities to expand technologies in the public domain;
  - h) Identify, suggest and promote actions in all relevant forums to exclude intellectual property rights (IPR) protection and revoke existing IPR protection in developing countries and least developed countries on environmentally sound technologies to adapt to and mitigate climate change, including those developed through funding by governments or international agencies;
  - i) Promote research and further independent innovation by developing countries;
6. *Requests* the Technology Executive Committee to report to the nineteenth session of the Conference of the Parties on the measures taken by Parties in relation to paragraphs 1 to 4 above and the actions of the Technology Executive Committee with respect to the additional functions under paragraph 5 above, for the appropriate action and further guidance of the Conference of the Parties.