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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Algeria*, **Armenia***, **Bangladesh**, **Bolivia (Plurinational State of)***, **Bosnia and Herzegovina***, **Brazil**, **Chile**, **Colombia***, **Costa Rica***, **Cuba**, **Guatemala**, **Ecuador**, **Egypt***, **El Salvador***, **India***, **Nicaragua***, **Panama***, **Peru***, **South Africa***, **Turkey***, **Uruguay**, **Venezuela (Bolivarian Republic of)***: draft resolution

17/... The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

The Human Rights Council,

Reaffirming that the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is a human right as reflected in, inter alia, the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as well as, with respect to non-discrimination, in the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and that such a right derives from the inherent dignity of the human person,

Recalling Human Rights Council resolution 15/22 of 30 September 2010 and all resolutions and decisions on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health adopted by the Council, the General Assembly and the Commission on Human Rights, and Council resolution 12/24 of 2 October 2009 on access to medicine in the context of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Recalling also the Declaration on the Right to Development, which, inter alia, establishes that States should take, at the national level, all measures necessary 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,

* Non-Member State of the Human Rights Council.

Recalling further the ministerial declaration on implementing the internationally agreed goals and commitments with regard to global public health, of the 2009 high-level segment of the Economic and Social Council,

Concerned that, for millions of people throughout the world, the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through access to medicines that are safe, effective, affordable and of good quality, in particular essential medicines, vaccines and other medical products, and to health-care facilities and services, still remains a distant goal and that, in many cases, especially for those living in poverty, this goal remains remote,

Recalling that access to medicine is one of the fundamental elements in achieving progressively the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and that it is the responsibility of States to ensure access for all, without discrimination, to medicines, in particular essential medicines, that are affordable, safe, effective and of good quality,

Recognizing the need for States, in cooperation with international organizations and civil society, including non-governmental organizations and the private sector, to create favourable conditions at the national, regional and international levels to ensure the full and effective enjoyment of the right of everyone to the highest attainable standard of physical and mental health,

Recalling 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 of the World Trade Organization 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 members of the World Trade Organization to protect public health and, in particular, to promote access to medicines for all; and further recognizes, in this connection, the right of members of the World Trade Organization to use, to the full, the provisions of the above-mentioned Agreement, which provide flexibility for this purpose,

Concerned about the interrelatedness between poverty and the realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, in particular the fact that ill health can be both a cause and a consequence of poverty,

Concerned also that the increasing incidence of non-communicable diseases constitutes a heavy burden on society, with serious social and economic consequences, and aware that there is a need to respond to cardiovascular diseases, cancers, diabetes and chronic respiratory diseases, which represent a leading threat to human health and development,

1. *Takes note* of the annual report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health;¹

2. *Recalls* that development and all human rights are interdependent and mutually reinforcing and, in that regard, recognizes the progressive realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health as one of the central aspects of development, as reflected in health-related internationally agreed development goals, in particular the Millennium Development Goals, taking into account the social determinants of health particular to each society;

¹ A/HRC/17/25.

3. *Calls upon* the international community to continue to assist developing countries in promoting the full realization of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through financial and technical support and training of personnel, while recognizing that the primary responsibility for promoting and protecting all human rights rests with States;

4. *Encourages* States:

(a) To integrate the right of everyone to the enjoyment of the highest attainable standard of physical and mental health into development strategies, particularly with respect to the internationally agreed development goals, including the Millennium Development Goals, recognizing, in that regard, the critical role of strengthening health systems;

(b) To ensure that information on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health is widely promoted, particularly in development-related areas;

5. *Encourages* relevant United Nations agencies and programmes, within their mandates, to pay particular attention to the impact of development programmes on the enjoyment of human rights and fundamental freedoms, in particular the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, including through the collection and sharing of good practices and the strengthening of national capacities;

6. *Welcomes* the report of the Special Rapporteur on the expert consultation on access to medicines as a fundamental component of the right of everyone to the highest attainable standard of physical and mental health, held on 11 October 2010;²

7. *Encourages* States:

(a) To establish and implement legal frameworks that ensure access for all, without discrimination, to medicines that are affordable, safe, effective and of good quality;

(b) To raise awareness about the responsible use of medicines, including through the wide dissemination of information in that regard, taking into account the potential risks to health;

(c) To ensure that investment, industrial or other policies promote development and access to medicines, in particular their affordability;

(d) To ensure the active and informed participation, as appropriate, in formulating national medicines policies and programmes;

(e) To establish monitoring and accountability mechanisms for policies relating to access to medicines;

(f) To ensure that procurement practices and procedures for medicines are transparent, fair and competitive;

(g) To address the potential negative impacts of intellectual property rights on the availability and affordability of medicines, including by taking full advantage of the flexibilities provided for in the Agreement on Trade-Related Aspects of Intellectual Property Rights, and to assess the human rights impact prior to the adoption of additional commitments, recognizing that intellectual property protection is important for the development of new medicines, as well as the concerns about its effects on prices;

² A/HRC/17/43.

(h) To promote the transfer of technology and investment in research and development to developing countries, as appropriate;

(i) To apply measures and procedures for enforcing intellectual property rights in such a manner as to avoid creating barriers to the legitimate trade of affordable, safe, effective and good-quality medicines, and to provide for safeguards against the abuse of such measures and procedures;

8. *Recognizes* the innovative funding mechanisms that contribute to the availability of vaccines and medicines in developing countries, such as the Global Fund to Fight AIDS, Tuberculosis and Malaria, the GAVI Alliance and the International Drug Purchase Facility, UNITAID, and calls upon all States, United Nations agencies and programmes and relevant intergovernmental organizations, within their respective mandates, and encourages relevant stakeholders, including pharmaceutical companies, to further collaborate to enable equitable access to good-quality, safe and efficacious medicines that are affordable to all, including those living in poverty, children and other vulnerable groups;

9. *Urges* all States, United Nations agencies and programmes and relevant intergovernmental organizations, within their respective mandates, and encourages non-governmental organizations and relevant stakeholders, to promote the innovative development, the availability and the affordability of new drugs for diseases disproportionately affecting developing countries;

10. *Emphasizes* the central role of prevention, particularly through the promotion of healthy lifestyles, and urges all States, United Nations agencies and programmes and relevant intergovernmental organizations, within their respective mandates, and encourages non-governmental organizations and relevant stakeholders to promote the reasonable use of, and equitable and affordable access to safe, effective and good-quality medicines for non-communicable diseases, and to address the challenges arising from the high costs and the long duration of treatment;

11. *Invites* the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to prepare, in consultation with States Members of the United Nations, United Nations agencies and programmes, international and non-governmental organizations, and relevant stakeholders, a study on existing challenges, ways to overcome them and good practices with regard to access to medicines, to be presented to the Human Rights Council at its twentieth session.
