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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion and
Protection of Human Rights
Fifty-fourth session
Item 4 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Intellectual property and human rights

Note by the secretariat¹

1. In resolution 2001/21 the Sub-Commission on the Promotion and Protection of Human Rights addresses several requests to the High Commissioner for Human Rights, specifically:

(a) To seek observer status with the World Trade Organization for the ongoing review of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (para. 9);

(b) To consider the need for an examination, and, if necessary, to conduct such an investigation, into whether the patent, as a legal instrument, is compatible with the promotion and protection of human rights and corresponding State obligations (para. 10);

¹ The document was submitted late to the conference services in order to ensure that the most up-to-date information could be provided to the Sub-Commission.

(c) To undertake an analysis of the impact of the TRIPS Agreement on the rights of indigenous peoples (para. 11);

(d) To convene an expert seminar to consider the human rights dimension of the TRIPS Agreement based, inter alia, on the reports of the High Commissioner on the impact of the TRIPS Agreement on human rights (E/CN.4/Sub.2/2001/13) and to report thereon to the Commission on Human Rights at its fifty-ninth session (para. 13).

2. The High Commissioner has not been able to complete all the requests made of her by the Sub-Commission in time for its fifty-fourth session. In relation to the call in paragraph 13 of the resolution, while the High Commissioner did make attempts to find funding from outside sources, there is currently no budget for an expert seminar. Consequently, the High Commissioner recommends that the Sub-Commission draft a decision on the seminar for adoption by the Commission so that the Commission can decide on the budgetary implications of convening a seminar on this theme.

3. The High Commissioner is currently undertaking the analysis requested in paragraph 11 of the resolution, which she would submit to the expert seminar.

4. In relation to the request made in paragraph 10, the High Commissioner convened an Expert Group on Human Rights and Biotechnology on 24 and 25 January 2002. One of the issues considered by the experts was "benefit-sharing and the patentability of genetic material". Within this context, the experts discussed the use of patents and other instruments to claim intellectual property in human genetic and genomic material, and the global standardization of intellectual property protection regimes in the form of the TRIPS Agreement. The relevant parts of the report of the expert group will be made available to the Sub-Commission under item 4 of the current session.

5. In relation to the request in paragraph 9, the High Commissioner has commenced the process of seeking observer status with the World Trade Organization for the ongoing review of the TRIPS Agreement and she will report to future sessions of the Sub-Commission on progress.
