



**Executive Board
11th Session - Special Session on Patent Pool
5 February 2010 - Geneva, Switzerland**

Resolution 1

Patent Pool Implementation Plan

Following its resolutions EB11/5, EB10/15, EB-TC-2008/1, EB8/9, and EB6/6, the UNITAID Board thanks the UNITAID Secretariat for document UNITAID/EB11/SSPP/2010/3, detailing its further work on the legal structure of the Patent Pool Entity and the nature of its relationship with UNITAID.

The Board takes note with appreciation of the analysis and recommendations of the Secretariat as detailed in document UNITAID/EB11/SSPP/2010/3. Accordingly, the Board instructs the Secretariat to take the necessary actions to facilitate the establishment of a patent pool entity along the lines of document UNITAID/EB11/SSPP/2010/3, and subject to the following steps:

1. The UNITAID Secretariat will draw up the draft MoU that will govern the relationship between the new Patent Pool Foundation and UNITAID by March 2010, and for final approval by the UNITAID Board before the end of June 2010.
2. The UNITAID Board notes that it will approve the MoU once it has discussed and agreed upon:
 - (a) The matters specified on page 13 of the document UNITAID/EB11/SSPP/2010/3 as being subject to informal consultation;
 - (b) The Patent Pool Foundation's year one business plan, budget and key performance indicators; and
 - (c) The issues raised in the Annex.

A handwritten signature in blue ink, appearing to be "E. Han".

Annex

1. Technology transfer mechanisms, capacity-building and local manufacturing of medicines in developing countries;
2. Consistency with other access to medicines-related multilateral instruments, such as the WTO Declaration on the TRIPS Agreement and Public Health, the WIPO Development Agenda and the WHO Global Strategy on Public Health, Innovation and Intellectual Property;
3. Transparency and participation of interested parties;
4. Establishment of periodic review mechanisms;
5. Definition of standards of license agreements within the Pool on a non-exclusive and non-discriminatory basis;
6. Inclusion of all developing countries in the geographical scope of the Pool;
7. License agreements within the Pool structured in a way that takes into account different patentability criteria across jurisdictions and ensures that royalties will not be due on invalid, frivolous or non-existing patents.
8. Nothing in the operation of the Patent Pool shall be construed in a way that could undermine, limit or interfere with domestic law and regulations of individual countries.
9. Put in place mechanisms to ensure the quality and safety of products.

