Activities by other organizations. Dissemination of information March 2011

Dear **ECONMED** participants:

In this occasion we are glad to share the United Nations Development Program (UNDP) " *Good Practice Guide: Improving Access to Treatment by Utilizing Public Health Flexibilities in the WTO TRIPS Agreement*," which can be adapted to and used in different public health contexts to help improve access to medicines.

- The guide is part of the organization's IPR and public health advisory work developed within the Joint United Nations Programme on HIV/AIDS (UNAIDS) and shaped by the health-related Millennium Development Goals (MDG, 6), "*to halt and reverse the spread of HIV, Malaria and other epidemics by 2015*" and "*to achieve universal access to treatment for all those who need it by 2010."* The guide describes the TRIPS flexibilities, distinguishing between **preventative** ones (such as applying strict patentability criteria and allowing fast and efficient patent oppositions) and **remedial** ones (such as allowing compulsory licenses, parallel importations, and the Bolar exception in national legislations).
- A number of evidenced-based examples where such flexibilities have been used can be found in the Guide and some of them are specific to Latin American countries. Cases of preventative measures include **Argentina**'s preemptive exclusion of test data protection in its legislation allowing for greater generic medicines production, and **Chile's** restriction of TRIPS-plus provisions in the US-Chile FTA such as maintaining the possibility of parallel imports and compulsory license in its legal framework; the **Peruvian** government joined its competition authority and its IP office to ensure collaboration in pursuing greater access to medicines. Examples of remedial measures include **Ecuador**'s issuing in Marhc 2010 of a compulsory license (Presidential Decree 118) Presidential Decree 118); **Brazil** used the "government use" clause (Art. 31(a), j, TRIPS), authorizing the use, production, and sale of drugs under patent for government purposes and, in another occasion, the government's announcement to grant a compulsory license served as a negotiating tool to lower prices for ARVs with pharmaceutical companies.
- In conclusion, the Guide recommends countries to incorporate both preventative and remedial flexibilities into their legislations and to set guidelines and administrative procedures for their systematic and effective use. The Report encourages the use of minimum standards of IPR enforcement established in the TRIPS to avoid hampering access to good quality, generic medicines, and calls for governments to strengthen national patent offices and competition authorities to protect public health from TRIPS-plus obligations. The PAHO has made similar recommendations in a number of reports, including *Access to High-Cost Medicines in the Americas* and *Trade Related Aspects of Intellectual Property Rights and Access to Medicines: Focusing the Analysis on the Americas*, which encourage countries to incorporate all the available TRIPS flexibilities to improve access to medicines for populations across the Americas.
- We take this opportunity to welcome our colleagues at UNDP's HIV/AIDS unit, both at global and regional levels, to **ECONMED**. We look forward to their contributions. Warm greetings also to the new participants from **Mexico, Peru and Argentina.**

ECONMED counts on the contribution (through requests of information, sharing of best practices, dissemination materials of interest …) of its participants to keep building up collaborative spaces of work between public health professionals in the Americas. You can submit your communications on any topic related to the legal and economic regulation of pharmaceutical products for approval to econmed@listserv.paho.org