

Abstract of the **MINUTES OF MEETING**

Held in the Centre William Rappard on 5-7 March 2002

1. The representative of Switzerland said that his delegation would participate actively and constructively in discussions aimed at reaching a timely solution with respect to the problems of Members with a genuine public health need and with insufficient or no manufacturing capacities in the pharmaceutical sector if they needed to make effective use of a compulsory licence because access to drugs which were under patent was not available otherwise. His delegation was prepared and willing to contribute to a tailor-made solution devised specifically for the needs of the countries which might need this kind of additional support. However, such a solution had to be found without weakening or undermining the patent protection as a whole provided under the TRIPS Agreement. The solution to be found must not diminish incentives for industry to invest into research and development of new and more effective medicines as otherwise it would be a lose-lose situation, with those dependent on new and effective medicines being hurt most.

He referred to information published by the US Center of Disease Control and Prevention the previous week according to which developing and developed countries were going to face a "vaccine disaster". Because research and development in the pharmaceutical, and especially the vaccine, sector was so expensive and because patients were not willing or not in a position to pay for these new vaccines, the stimulus for research and production of new vaccines was constantly reducing. As a consequence, within the last 20 years, the number of producers of vaccines had reduced from 15 to 4 in the United States. The number of vaccines available against diseases such as tetanus, diphtheria, meningitis or pneumonia therefore was dramatically reduced in the United States and elsewhere. This example showed that whatever the legal approach taken by the Council, the stimulus for the relevant industries to conduct the necessary research into drugs and vaccines against diseases that were threatening all of humanity should be maintained. He agreed with the statement in paragraph 15 of the EC paper that an adequate participation by patent right holders was a prerequisite of any solution and it should not affect their capacity to offer drugs needed on more favourable terms. Therefore, the success or failure of the task before the Council depended on establishing clear, appropriate eligibility conditions. The Council should define with meaningful precision what was to be understood by "insufficient or no manufacturing capacities in the pharmaceutical sector"; which situations were to be covered by the solutions to be found; and how to ensure that the solution would be for the real benefit of those countries that lacked sufficient manufacturing capacity to meet their health needs and not one for the benefit of those Members that indeed had these manufacturing capacities or to countries which did not face a public health problem. Distinguishing between these countries should be done by reference to objective, recognized criteria which could lend welcome transparency. He suggested that the Council could ask the Secretariat to ask relevant international organizations such as UNDP or the World Bank to provide relevant data on world development indicators before the next meeting. The Council should also try to identify and point out to the General Council at the end of this year those options open to Members which enabled access to needed medicines without having resort to a solution focusing on compulsory licensing, since such options might be much more efficient and effective in practice and easier to handle for the countries concerned.