



Buenos Aires, November 8th 2011.-

**Dr. Francis Gurry**  
**Director General**  
**of the World Intellectual Property Organization**  
**By e-mail**

Dear Sir:

I am pleased to address you regarding Note C. 7998, in order to submit comments on the topic of "Patents and Health".

Regarding this particular subject, we emphasize that ALIFAR shares and supports the Proposal submitted by the Delegation of South Africa on behalf of the African Group and the Development Agenda Group (documents SCP/16/7).

In fact, the Development Agenda requires the patent system to be in line with the fundamental public policy priorities and, in particular, with the promotion and protection of public health. The patent system, and the intellectual property as a whole, are not goals by themselves that should be blindly maximized. Instead, they are one more of the diverse political, economic, and legal tools aimed at promoting development and should, therefore, be analyzed and applied according to the particular context and characteristics of each country.

ALIFAR is particularly concerned about the proliferation of pharmaceutical patents granted on minor modifications, and generally obvious, of drugs or pharmaceutical manufacturing processes. We consider that this phenomenon seriously affects competition and, as a direct consequence of this, it exerts a negative influence on public health policies and access to medications.

For this reason, ALIFAR considers that, in order to deepen and cooperate with the work agenda of the Proposal submitted by the Delegation of South Africa on behalf of the African Group and the Development Agenda Group, the frame study to be carried out by eminent and independent experts should also analyze the costs and benefits to public health, as well as practices on the admissibility of the following claims and/or pharmaceutical patents<sup>1</sup>:


- i) Selection patents.
- ii) Treatment methods
- iii) Use-bound claims and second indications of pharmaceuticals
- iv) Pharmaceutical formulations and compounds.
- v) Combinations of active ingredients.

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<sup>1</sup> The working paper entitled "Guidelines for the examination of pharmaceutical patents. Developing a Public Health Perspective", by Carlos Correa, sponsored by the WHO, ICTSD and UNCTAD, 2006, analyzed the subjects mentioned in this comment. We understand that the SCP is a proper environment to widen and deepen the analysis.

- vi) Dosage forms.
- vii) Salts, ethers and esters.
- viii) Polymorphs.
- ix) Analogue procedures
- x) Enantiomers
- xi) Active metabolites and pro-drugs.

I take the opportunity to send you my kindest regards.



**Rubén Abete**  
**Secretary General**