[English translation by WIPO]

1. The Eurasian Patent Office (EAPO) fully supports the proposal of the United States of America (document SCP/17/11) concerning the need to conduct research, within the World Health Organization (WHO), in order to identify the factors affecting the population's health and constituting barriers to the accessibility of reliable and effective medicines, as well as to determine the share of influence of a patent monopoly, in both positive and negative terms, on the health of the population, including on the provision of accessibility of medicines.

2. At the same time, it should be pointed out that the patent system plays a uniquely important role in the development of research activities in relation to devising new medicines; there are numerous examples of this in the successful battle against diseases, namely through the creation of new patented medicines (for example, against the HIV infection). The issue of the need to carry out additional research, within the Standing Committee on the Law of Patents (SCP), in order to confirm the positive influence of the patent system on the health of the population, is therefore a controversial one. It is more appropriate to carry out the analysis proposed by the United States of America, in order to provide a general overview of the factors influencing the health of the population and the accessibility of medicines.

Such research would serve as a starting point in determining the future work of the SCP on the subject of patents and health.

3. As regards the joint proposal put forward by the Delegation of South Africa (document SCP/16/7), it should be pointed out that the patent system incorporates many mechanisms allowing access and the supply of the national market with the requisite medicines to be regulated (compulsory license according to the TRIPS Agreement, TRIPS flexibilities allowing States to define situations independently, which require the grant of a compulsory license, including for the purposes of regulating prices for medicines, and the Bolar exception

which promotes the accelerated establishment of the production of generics), but, as shown by the research results published, most countries in need of medicines rarely make use of these regulatory possibilities. Since the work aimed at studying the problem in question is conducted both by other WIPO committees and also in other international organizations, it is not appropriate to duplicate such work also within the SCP.

As regards the exhaustion of rights, it should be noted that the work in question is already being done by the SCP; the results of the 2011 questionnaire on exceptions and limitations could be used for further analysis of the issue of the parallel import of medicines.

In relation to the two remaining issues of the first proposed element, we consider it useful to conduct a study within the SCP.

4. It is also appropriate to focus the activities of the SCP on issues which are directly connected to the patent system and to patent protection of medicines. This issue is closely connected with the problem of quality of patents, since in the past few years a trend towards patenting inventions relating to medicines and their use, which constitute minor modifications (improvements) of pre-existing medicines, has clearly been observed. The development of more precise standards for assessing the patentability of such inventions is one of the effective means of limiting an unjustified patent monopoly on the market for medicines.