

**The Intergovernmental Working Group on Public Health, Innovation and Intellectual Property:
a brief background, progress to date, next steps**

... global strategy and plan of action in order to provide a medium-term framework ... such strategy and plan of action aims at securing an enhanced and sustainable basis for needs-driven, essential health research and development relevant to diseases that disproportionately affect developing countries, proposing clear objectives and priorities for research and development, and estimating funding needs in this area;

*World Health Assembly Resolution 59.24*²

Background

Less than half of the poorest and most vulnerable populations in sub-Saharan Africa can access the essential medicines they need. There are various and diverse barriers to access to medicines; some of the most prominent are *patents* and the lack of *innovation* or *research and development (R&D)* into medicines for the most important diseases of developing countries.

The patent holder gets a monopoly on a medicine for the number of years the patent is valid. Prices and access are affected during this market monopoly as the price is normally set as high as the rich market can bear in order to maximize industry and shareholder profits. People in many countries cannot afford these prices for the medicines they need.

The current system of patent-driven innovation has failed to provide incentives to stimulate the necessary R&D into medicines for diseases of developing countries. Indeed, given the populations most affected by these diseases, the market for these medicines is minimally, if at all, profitable. The incentives for investments in R&D rather tend to lie in the lucrative markets of so-called lifestyle medicines and “me too” medicines (eg. those offering no therapeutic benefit over existing products).

Overall, the health interests of poor people are neglected by the profit-driven pharmaceutical market. Indeed, the WHO Commission on IP, Innovation and Health (CIPiH)³ concluded that patents do not work as incentives for research and development (R&D) for medicines for poor people.

IGWG: an opportunity for change

A new system for R&D and access is urgently needed. WHA Resolution 59.24, entitled *Public health, innovation, essential health research and intellectual property rights: towards a global strategy and plan of action* established an intergovernmental working group (IGWG) tasked to draw up a global strategy and plan of action as stated above, and based on the recommendations of the CIPiH.

The IGWG process is open to all interested WHO Member States. Representatives of non-Member States, UN organizations, and specific inter- and non- governmental organizations have also been invited as observers at IGWG sessions. Finally, representatives of private entities and civil society (CS) organizations have also been allowed to provide inputs into the process.

¹ The African CS Coalition on IGWG includes HAI Africa, EPN, DNDi Africa Liaison Office, HERAF Kenya, CIN Kenya, SEATINI, CWGH Zimbabwe, MWENGO Zimbabwe, CHESSORE Zambia, HEPS Uganda, WLAC Tz, SAFAIDS, ICP Mauritius, APPIA Cameroon, Oxfam GB RSA

² http://www.who.int/gb/ebwha/pdf_files/WHA59/A59_R24-en.pdf

³ www.who.int/intellectualproperty/report/en/index.html

IGWG: progress to date and future plans

The first IGWG session was held in Geneva during December 2006, following which a first draft strategy and plan of action was released. Time was given to Member States and interested parties to consult and review the document and to provide inputs and comments. The most recent draft of the *Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property*⁴ was released after the second IGWG session in November 2007. As work on the draft was not completed, a third IGWG session (officially referred to as IGWG II *bis*) has been scheduled for 28 April – 03 May 2008.

The resulting global plan of action will be presented to the World Health Assembly in May 2008.

Conclusion

The final IGWG strategy will have substantial implications on how the issues of public health, innovation and intellectual property relate, and how they are dealt with at the global and national levels. The ongoing IGWG negotiations are addressing a number of important issues, such as global governance, financing for essential health R&D, trade agreements and relations, innovation policies, access to medicines, and, crucially, ethical and ideological issues including Human Rights.

The main beneficiaries of these negotiations will be poor people from developing countries. African Member States and their partners must take action to ensure the needs and interests of their people are effectively represented in this process.

⁴ WHO document A/PHI/IGWG/2/Conf.paper No.1 Rev.1 14 Dec 07 www.who.int/gb/phi/pdf/igwg2/PHI_IGWG2_CP1Rev1-en.pdf