

Feisee, Lila  
Biotechnology Industry Organization, Private sector

Biotechnology Industry Organization (BIO)  
Submission to the World Health Organization  
Second Public Hearing on Public Health Innovation and Intellectual  
Property  
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Summary

The Biotechnology Industry Organization ("BIO") commends the WHO Intergovernmental Working Group on Public Health, Innovation and Intellectual Property ("IGWG") for undertaking the task of drawing up a global strategy and plan of action that, according to its mandate, will aim "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."

BIO is pleased to find many positive suggestions reflected in the Draft global strategy on public health, innovation and intellectual property, and in the corresponding plan of action (together, the "Draft"). In particular, BIO supports the Draft's emphasis on capacity-building for developing countries, including through additional investment in education, health-delivery infrastructure, and regulatory capacity. BIO also supports the recommendation to remove tariffs and taxes on health care products. BIO is dismayed that the Draft has gone beyond the IGWG's mandate by addressing Type I noncommunicable diseases. BIO submits that this overreach threatens to divert much needed resources away from the challenges presented by diseases that disproportionately affect developing countries, and toward areas where health research and development is strongest, and benefits affected populations in developed and developing countries alike. The IGWG was fittingly mandated to focus its work on Type II and Type III diseases. BIO asserts that Type I diseases are not and should not be part of the IGWG mandate and any mention of them should therefore be removed from the Draft.

BIO also believes it would be both inappropriate and a waste of resources for the WHO to take on work that is mandated and completed, with the necessary expertise, in WIPO and the WTO, as the Draft proposes. In addition, the phrase "intellectual property management" is not defined, and it should be made clear that any intellectual property system must work in compliance with Member States' existing international obligations, including those set out in treaties administered by WIPO and the WTO. The phrase should in no event be interpreted as a recommendation to weaken existing intellectual property rights.

BIO unequivocally opposes the suggestion that IGWG resources be spent on discussions on the feasibility of a medical research and development treaty. Proponents of the R&D treaty aspire to undermine the international system with respect to IPRs and replace it with unproven state- and bureaucracy-driven initiatives. Such discussions have no place in the IGWG, and its resources must not be squandered on them.

BIO believes that it should also be made clear that any access to compound libraries or transfer of technology must be undertaken on a

strictly voluntary basis, as the alternative would have a chilling effect on investment and public-private cooperation.

BIO welcomes and appreciates this opportunity to comment on the Draft, and looks forward to continuing its engagement in taking on the challenges posed by diseases that disproportionately affect developing countries.