

**The African Civil Society Coalition on IGWG1[1]
Submission on the on the
Intergovernmental Working Group (IGWG) draft Global Strategy and Plan of Action**

Introduction

The African Civil Society Coalition on IGWG welcomes the initiative from WHO to develop a *Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property*.^{2[2]} We affirm there is an urgent need for action to improve access to medicines for people in developing countries.

The health situation in our African countries is affected by various challenges, including the following:

- The majority of our people cannot access the medicines they need.
- The economic, social and political determinants of illness are not being sufficiently addressed.
- The pharmaceutical market is not driven by public health interests, but by commercial interests.
- Patent protection and high prices are two of the barriers blocking poor people's access to medicines.
- Funding for research, development and access (RDA) to medicines is insufficient.
- There is a lack of innovation for medicines for many of the diseases prevalent in our countries. Health interests of poor people are neglected by the profit-driven pharmaceutical market. Indeed, the WHO Commission on IP, Innovation and Health (CIPIH) concluded that patents do not work as incentives for research and development (R&D) for medicines for poor people.

With this background, we have developed the following comments on the draft IGWG strategy.

General comments on the draft IGWG strategy

- Health is a Human Right and the concepts developed by the IGWG on Public Health, Innovation and Intellectual Property must be addressed in this context.
- The issues of human rights, public health and access to essential medicines must remain as primary foci and objectives when considering issues of innovation and intellectual property (IP).
- The Type I diseases our people are increasingly experiencing should be prioritized along with the Type II and III diseases, as the epidemiologic transition progresses through our countries and the rest of the developing world.

^{1[1]} The African CS Coalition on IGWG met in Nairobi on 28 - 29 August 2007. The Coalition includes: HAI Africa, EPN, DNDi Africa Liaison Office, ACORD, KHRAN, CIN, SEATINI, SAN, CWGH, MWENGO, CHESSORE, HEPS Uganda, WLAC, and EANNASO

^{2[2]} WHO document A/PHI/IGWG/2/2 ; 31 July 2007

- "Research" for health products for the diseases affecting our people must encompass discovery, development and delivery.
- RDA is the primary responsibility of our governments and the public sector, therefore public and private responsibilities should not be construed as "equal."

Specific comments on the eight elements of the draft IGWG strategy

ELEMENT 1: PRIORITIZING R&D NEEDS

- The epidemiological situations in our countries are very different; therefore the gaps in RDA for health products for the diseases that affect us need to be identified at both national and regional levels

ELEMENT II: PROMOTING RESEARCH AND DEVELOPMENT

- Our governments must take leadership and responsibility for the promotion of RDA, therefore we endorse the need for a legally binding treaty to best ensure our governments commit to RDA
- RDA in our countries must include type I diseases

ELEMENT III: BUILDING AND IMPROVING INNOVATIVE CAPACITY

- Discovery and RDA must be promoted and supported as a key area for our researchers and public research institutions
- The "brain drain" and migration of our health professionals, including researchers, is a serious problem for Africa. Developed countries should stop recruiting our skilled health researchers and our governments should make all efforts to retain them
- IP issues related to Traditional Knowledge (TK) are being discussed at other international fora, and we believe WHO is not an appropriate forum to further these discussions; for now, the issues of protection of TK should be left at country level

ELEMENT IV: TRANSFER OF TECHNOLOGY (TT)

- We don't agree with the draft's use of "enforcement of IP." The use of "appropriate management of IP" gives a more favourable focus on public health, and more clearly infers consideration of the flexibilities contained in the World Trade Organization's Agreement on Trade-related Aspects of IP (TRIPS) and the Doha Declaration (*ref: paragraphs 4 - 6*)
- Developing Countries, including Least Developed Countries, need sufficient technology transfer and to develop technological capacity

ELEMENT V: MANAGEMENT OF IP

- Our governments should exchange information and experiences in their use of TRIPS flexibilities
- Our governments should negotiate IP agreements at the multilateral level and not at bilateral levels; all agreements should be fully transparent to the public and must retain a focus on public health over commercial interests

ELEMENT VI: IMPROVING DELIVERY AND ACCESS

- Improving access and delivery systems is an essential component of the strategy
- Our people need more affordable medicines through generic competition

- Our governments must ensure the removal of all taxes on medicines
- Our governments should support compliance with Good Manufacturing Practices (GMP) standards for the local manufacturing of medicines
- We demand national and international efforts for the elimination of substandard and counterfeit medicines

ELEMENT VII: ENSURING SUSTAINABLE FINANCING MECHANISMS

- The primary responsibility for funding RDA lies not with philanthropic donations but with our national governments

ELEMENT VIII: ESTABLISHING MONITORING AND REPORTING SYSTEMS

- A central entity or organization should be assigned responsibility to coordinate all efforts towards the realization of the IGWG action plan
- As an alliance of civil society organizations, we ask WHO for recognition and financial support as permanent members involved in the development and monitoring of IGWG activities

29 August 2007, Nairobi
