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It is a pleasure to be able to comment upon the *Draft global strategy and plan of action on public health, innovation and intellectual property* as prepared by the Intergovernmental Working Group, 31 July 2007.

The plan incorporates three themes that have been part of most of my life. I started my career in the health sector as a public health official. McMaster University, where I have been employed for the past twenty of my thirty-five years in the field, is known world-wide for our focus on innovation in all quarters of life. Finally, as an academic, intellectual property has been a topic of great interest lately to the community to which I belong.

Please allow me to start with a concern I have in the formulation of any and all public policies – that of implementation, and in this case, regulation. No one in the free world can argue with the legitimacy of a call for better health for all as is enshrined in the IGWG's paper. It is incumbent upon the developed world to assist the developing world in promulgating good health and well-being to their populations. How can anyone argue with the goals set out therein? But pronouncements are not enough. How will the action items enumerated in the report be implemented, enforced and regulated? The success of this plan lays in its details yet to be developed and in particular the types of economic and social regulation to be employed. This plan calls for behaviour change of all sorts at all levels in all parts of the world. Regulations change behaviour. Careful thought must be given to this part of the equation if this plan is to be successful; otherwise it will create more problems than currently exist – which has been the legacy of much public policy of the past three generations world-wide.

Secondly there are some falsehoods in the rationale provided. For example, compulsory licensing does not exist in Canada as claimed by the IGWG. This and other fabrications need to be corrected if this plan is to be a credible action document.

Thirdly, safety must be a major concern. Recent media headlines of unsafe manufactures emanating from second and third world countries practising old manufacturing techniques, cutting corners, or deliberately ignoring health, safety and environmental concerns have alerted all of us to the unsafe manufacturing environment that goes unregulated in those countries. Given the delicacy of pharmaceutical manufacturing in the best of situations it is of grave concern that serious consideration is being given to promote more pharmaceutical manufacturing in developing nations without any sort of regulatory, compliance, auditing or inspection regimes in place. Global harmonization of

health, safety and environmental manufacturing standards with rigorous and timely enforcement measures being put into places should precede any attempts to disperse pharmaceutical manufacturing throughout the third world. Further, not all developing countries are equal. Some have the skills, the profit repatriation legislation and political stability that industry needs to invest in their domains; many others simply do not and show no signs of such.

Next, where are the patients in all this? Surely the patients of developing countries have just as much right to voice their opinions about the future of their health care in their countries as do patients in the “north”. To the best of my knowledge, being on the board of a national patients’ organization as well as a representative to the International Association of Patient Organizations, there has been no such consultation. I always find it ironic that groups trying to redress the ills inherited from the past return to the same paternalistic stance that is held in disdain. Who is the IGWG to tell patients in developing countries what route the future of their health care should take without first enlisting their voice?

Also, discovery of any type is, at best, serendipitous. No government or intergovernmental policy can, has, or will innovate anything. There is abundant literature to support this statement. It is the life’s work of dedicated researchers that all too infrequently leads to innovation and discovery. The best that governments can do – and intergovernmental bodies as well – is to provide an environment in which research may flourish. This has to do with non-punitive tax regimes; open and safe investment climates and capital markets; political stability; freedom of movement of goods, labour, money, technology and ideas; and financial support for both base research as well as commercialization.

This leads me to the issue of compound libraries. I share the same fear here as I do with manufacturing, and that is safety. Every compound housed in these libraries was developed with the goal of improving health yet many could possibly be used for the aims of bioterrorism if they were allowed to fall into the wrong hands. As an academic I subscribe to dissemination of knowledge but one must be careful in this case since post 2001 we find ourselves in a different world than the one in which academic freedom was championed. Again this is an area for careful economic and social regulation as well as security measures rather than just wide-sweeping intergovernmental statements of policy.

Finally, please allow me to address the issue of intellectual property. Intellectual property is not a barrier to access to drugs in the third world. In fact, intellectual property is not a barrier to anything in my knowledge. Intellectual property, and most importantly the protection thereof, breeds innovation; allows otherwise conservative beings to take risks; rewards a life-time’s work; protects one’s work from theft, misuse, and from falling into the hands of those with less than pure motives; and guarantees a high level of dissatisfaction with the status quo.

If we are to improve the public health of developing countries, and we agree that innovation is part of the solution, then intellectual property – by definition – becomes

part of the solution and not a barrier as argued by the IGWG. The literature is quite clear that the protection of intellectual property stimulates innovation and the dissemination of its fruits – not the other way around.

The real barriers to improving the health of the developing nations are barriers that the IGWG, WHO, WHA and United Nations continue to ignore: money, power, politics and ideologies. Drugs are not reaching those who need them most, not because of patents or industry location, but because military dictatorships and pseudo-democratic governments (where they pretend to exist) either stockpile them for the elites, sell them on the black market at prices well beyond what was intended, or sell them abroad. Even in situations that exist where the little that can get through to the neediest will get through without interference there is often inadequate infrastructure, human resources, and transport available to facilitate the timely delivery and use of dated product. To focus on intellectual property as a barrier in face of the above realities is nothing short of ignoring the truth and running to seek a scapegoat as governments have done time and time again.

I trust you receive my comments in the vein that they were intended – of hoping to refocus a document whose goals we must in all be agreement, but the actions identified to achieve these goals are fated not to succeed.

We all want to achieve better health for all – especially in developing countries where the challenges and needs are the greatest – but this is not the way to go about it.

Thank you.

Yours most sincerely,

Dr. D. Wayne Taylor