

LATIN AMERICAN CIVIL SOCIETY JOINT DECLARATION ON THE INTERGOVERNMENTAL WORKING GROUP ON PUBLIC HEALTH, INNOVATION AND INTELLECTUAL PROPERTY (IGWG)

The undersigned, representatives of civil society organizations that gathered in La Paz, Bolivia, from August 22nd to August 24th 2007, at the request of the civil society and the government of Bolivia to prepare for the next meeting of the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property (IGWG), declare:¹

WHEREAS

That States have assumed key commitments for the protection of the life, health, and wellbeing of the people. Thus, the Universal Declaration of Human Rights recognizes the rights of everyone “to life” (Art. 3^o), “to realization of the economic, social, and cultural rights” (Art. 22^o), and “to a standard of living adequate for health and well-being” (Art. 25^o). It furthermore recognizes the right of everyone to “share in scientific advancement and its benefits” (Art. 27^o). Moreover, in the International Covenant on Economic, Social, and Cultural Rights, the States recognize “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” (Art. 12^o), specifying among other measures “the prevention, treatment, and control of epidemic, endemic, occupational, and other diseases” and creating the “conditions which would assure to all medical service and medical attention in the event of sickness.”

That these commitments oblige the States to create and /or use every rightful mechanism to guarantee access to all components that contribute to the full exercise of the right to health. Medicines are one such component, especially essential medicines, i.e. all those that are needed to guarantee the right to life.

That access to essential medicines is an indicator of equity and social justice that must be embedded in the plans in the fight against poverty in Latin American countries.

That the Revised Drug Strategy (WHA 52.19) agrees that access to medical technologies and public health interests should occupy a primary position, and the Doha Declaration on the TRIPS Agreement and Public Health clearly expresses that the TRIPS agreement does not and should not prevent States from taking measures they deem appropriate to protect public health and to guarantee access to medicines for all.

That the objective of the protection of intellectual property rights is not only to protect the rights of inventors but also to protect inventions that enhance the well being of society. No one should be excluded from the benefits of scientific advancement.

That, in the context of the patent system, countries possess highly permissive rules in which undue concessions are granted to patents that directly affect the processes of research and development in third world countries.

That medicines, many of which are protected by intellectual property rights, are unaffordable by the poor and/ or public health systems or place those countries that do not have comprehensive health coverage for their citizens in a serious dilemma.

¹ Resolution WHA 59.24 charged the IGWG to draw up a global strategy and plan of action in order to provide a medium-term framework based on the conclusions and recommendations of the Commission (CIPHI) and 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.

That the high price of medications is one barrier to access to medicines by the people who require them and worsens the situation of millions of people in developing countries that disproportionately bear a disease burden that includes both communicable and non-communicable diseases, where women and children are the most affected.

That negotiations of the Intergovernmental Working Group on Public Health, Innovation, and Intellectual Property represent an opportunity in the pursuit of new mechanisms for financing and promoting medical research and development, taking into consideration the impact such mechanisms have on access to essential pharmaceutical products (WHA 60.30).

PROPOSE

So that the following proposals coincide with the urgent needs of the populations represented in this declaration, they must be regarded as priorities:

1. Public health must be the frame of reference and the vital objective of all decisions that are made in terms of innovation and intellectual property. The participatory nature of the document's discussion and its implementation must permit taking on the tendency of perceiving health in commercial terms and must give priority to access to comprehensive health care, thus strengthening public investment policies in this matter so these benefit the largest majority.
2. The most important innovations are those that have a real and effective impact on conditions of health in the people and that permit access to necessary medicines, most of which are now no longer protected by patents.
3. Innovation must take into account a country's structural causes of dependency, such as external debt, lack of fulfillment of cooperation by rich countries, unfair trade rules, delay in reaching the millennium goals, and a lack of real political will by some countries in the region for assuming their own commitments.
4. The concrete and urgent health needs of the people of the region require the immediate adoption of measures and provisions that respond to established consensus, such as the flexibilities afforded by the TRIPS agreement. Likewise, to guarantee legal, technical, and financial conditions on a national and regional level and the necessary capacity build for implementing these flexibilities.
5. The creation of a database that includes prices and intellectual property rights information on medicines and biomedical technology for the region. Such a database will, in this way, permit better negotiation and marketing conditions.
6. All patent granting processes and procedures for medicines and biomedical technology must be based upon the principles of transparency, openness, and public responsibility as measures for increasing social control on the relevancy of the proposed innovation to public health.
7. As a condition that favors innovation for public health, transparency in terms of the data on the relationship of the cost of researching and developing medicines, their prices, and the incentives.

8. Defining and reporting on economic, technological, and human resources that are available for research in regional governments and cooperating countries, allowing this way that countries in the region fulfill their responsibilities.
9. Legal contribution to technological innovation and development must be related to the effective fulfillment of assumed commitments of rich countries, and those countries must respect them and avoid drawing conditions as agreed upon in the Paris Declaration.
10. Countries must prioritize public health and give leadership to the WHO for assuming its responsibility in this context, according to Article 19 of its statutes, and at the same time to assume binding commitments, including decisions that are made by the Intergovernmental Working Group on Public Health, Innovation, and Intellectual Property.
11. Local wisdom and biodiversity resources are the heritage of the people and, as a consequence, must not be considered in the intellectual property debate that primarily looks to commercial interests. Alternative protection systems to the existing monopolistic systems must be considered, and regional governments must be requested to participate more actively in the WIPO discussions, involving to a greater extent their citizens and communities and bearing in mind the region's intercultural context. It is important to push for and encourage researching and developing natural products as a complementary strategy.
12. Any delay in the realization of these above points that is imposed by conditions brought on by commercial aspects should represent a violation of the human rights to health and life.

AGREE

To form an alliance of civil society institutions that demands to be recognized by the governments as a permanent and formal partner in the development of activities of the Intergovernmental Working Group on Public Health, Innovation, and Intellectual Property.

La Paz, August 24th, 2007

SIGNED:

- Acción Internacional para la Salud Bolivia (AIS Bolivia)
- Comité de Defensa de los Derechos del Consumidor (CODEDCO Bolivia)
- Red Internacional de Grupos Pro Alimentación Infantil (IBFAN Bolivia)
- Fundación por la Naturaleza y la Vida (FUNAVI Bolivia)
- Acción Internacional para la Salud para América Latina y el Caribe - AIS LAC
- Asociación Brasileña Interdisciplinaria de SIDA - Red Brasileña por la investigación de los Pueblos – Grupo de Trabajo sobre Propiedad intelectual - ABIA/REBRIP/ GTPI.
- ForoSalud - Perú
- Fundación Instituto para la Investigación del Medicamento en los Sistemas de Salud – IFARMA - Colombia
- Asociación Peruana de Consumidores y Usuarios – ASPEC
- Misión Salud - Colombia
- Fundación Solón – Bolivia