

**STATEMENT TO THE AFRICAN MEMBER STATES OF THE WORLD HEALTH ORGANISATION**

**on the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property**

The African Civil Society Coalition on IGWG reiterates its commitment to the ongoing WHO initiative to develop a *Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property*.<sup>2</sup> We reaffirm there is an urgent need for action to improve access to medicines for people in developing countries.

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

- Our people cannot access the medicines they need.<sup>3</sup>
- The economic, social<sup>4</sup> and political determinants of illness are not being sufficiently addressed.
- The pharmaceutical market is not driven by public health interests<sup>5</sup>, but by commercial interests.<sup>6</sup>
- Patent protection and high prices are two of the barriers blocking poor people's access to medicines.<sup>7</sup>
- Funding for research, development<sup>8</sup> and access<sup>9</sup> (RDA) to medicines is insufficient.
- There is a lack of innovation for medicines for many of the diseases prevalent in our countries.<sup>10</sup> 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.<sup>11</sup>

With this background, and having reviewed the outcome of the IGWGII meeting in November 2007, we have compiled notes and comments on the outstanding issues in the current version of the IGWG draft strategy. Our specific in-text comments may be found within the attached draft document, and we welcome this opportunity to share them with African delegates to IGWG II *bis* (scheduled for 28 April – 03 May 2008) and other IGWG related deliberations.

***General comments on the draft IGWG strategy***

- Health is a Human Right. The WHO Constitution recognizes health as a Human Right and all Member States of WHO, by way of their membership, reaffirm this fact. The strategy under development by the IGWG on Public Health, Innovation and Intellectual Property must be addressed in a Human Rights context. We support those WHO Member States who seek to (a) uphold the WHO Constitution and (b) fulfil their obligations regarding this Human Right.
- 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).

<sup>1</sup> The African CS Coalition on IGWG met for the second time in Arusha on 03 – 04 April 2008. The Coalition 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, and Oxfam GB South Africa

<sup>2</sup> 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](http://www.who.int/gb/phi/pdf/igwg2/PHI_IGWG2_CP1Rev1-en.pdf)

<sup>3</sup> In the poorest parts of Africa, half the population cannot access essential medicines [http://www.unmillenniumproject.org/reports/tf\\_essentialmedecines.htm](http://www.unmillenniumproject.org/reports/tf_essentialmedecines.htm)

<sup>4</sup> WHO Commission on the Social Determinants of Health at [www.who.int/social\\_determinants/en/](http://www.who.int/social_determinants/en/)

<sup>5</sup> [www.accessmed-msf.org/fileadmin/user\\_upload/medinnov\\_accesspatents/fatal%20imbalance.pdf](http://www.accessmed-msf.org/fileadmin/user_upload/medinnov_accesspatents/fatal%20imbalance.pdf) and [www.thelancet.com/journals/lancet/article/PIIS0140673602090967/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140673602090967/abstract)

<sup>6</sup> Statistics on the global sales and profits of the pharmaceutical industry are found on [www.imshealth.com](http://www.imshealth.com)

<sup>7</sup> Medicine prices - a new approach to measurement HAI / WHO [http://www.haiweb.org/medicineprices/survey\\_results.php](http://www.haiweb.org/medicineprices/survey_results.php)

<sup>8</sup> [www.who.int/gb/ebwha/pdf\\_files/WHA59/A59\\_R24-en.pdf](http://www.who.int/gb/ebwha/pdf_files/WHA59/A59_R24-en.pdf)

<sup>9</sup> [www.globalhealthfacts.org](http://www.globalhealthfacts.org)

<sup>10</sup> Chirac, P., Torrele, E. Global framework on essential health R&D. *Lancet* 367: 1560 – 1561

<sup>11</sup> [www.who.int/intellectualproperty/report/en/index.html](http://www.who.int/intellectualproperty/report/en/index.html)

- The Right to Health must take precedence over commercial interests.
- The Essential Medicines Concept as defined by WHO<sup>12</sup> must be recognized, supported and integrated into the IGWG Strategy.
- 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.
- “Research” for health products for the diseases affecting our people must encompass discovery, development and delivery.
- RDA and its funding is the primary responsibility of our governments and the public sector, therefore public and private (including philanthropic) responsibilities should not be construed as “equal.”
- Research in traditional medicines should be encouraged, taking into account the rights of the local communities and international efforts to protect traditional knowledge.
- In line with the recent Kampala Declaration and Agenda for Global Action on health workers,<sup>13</sup> the “brain drain” and migration of our African health professionals, including researchers, is a serious problem for Africa. Developed countries should stop recruiting our skilled health workers and our governments should make all efforts to retain them.
- Developed countries should be encouraged to facilitate the transfer of technology to developing countries, and developing countries must ensure an enabling environment for its success.
- The progressive concepts of open source compound libraries and digital databases, patent pools and alternative licensing policies should be developed and implemented.

## ***Conclusion***

We note with deep concern that while our people struggle to access the health care and essential medicines they need, the majority of African Member States to the WHO are not adequately represented in the current IGWG negotiations. The outcomes of the negotiations will be an important plan of action; its main beneficiaries will largely be our people. We urge our governments to take action, monitor, and represent us effectively throughout this process.

We urge our African governments to honour, without delay, their commitments on health financing in accordance with the Abuja Declarations.<sup>14</sup> Financing for the implementation of the IGWG strategy does not absolve our governments from their Abuja Declarations commitments. In this regard, we call upon our governments to support and contribute to the financing mechanisms agreed upon for the implementation of the IGWG strategy.

We recognize WHO as the United Nations agency with the lead mandate on all issues pertaining to health, including the relationship between health, trade, intellectual property, and innovation. We therefore call upon our African governments to seek technical assistance from WHO when addressing these issues. In turn, we urge our governments to request WHO to strengthen its focus and technical capacity in these areas.

As African civil society, we reaffirm our commitment to the IGWG process and to engage with our governments in the ongoing struggle to ensure the delivery of comprehensive, participatory and equitable health care, including universal access to essential medicines, for all our people.

***04 April 2008, Arusha***

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<sup>12</sup> Essential medicines are defined by WHO as “those that satisfy the priority health care needs of the population. They are selected with due regard to public health relevance, evidence on efficacy and safety, and comparative cost-effectiveness. Essential medicines are intended to be available within the context of functioning health systems at all times in adequate amounts, in the appropriate dosage forms, with assured quality and adequate information, and at a price the individual and the community can afford.” [www.who.int/medicines](http://www.who.int/medicines)

<sup>13</sup> [www.who.int/workforcealliance/forum/2\\_declaration\\_final.pdf](http://www.who.int/workforcealliance/forum/2_declaration_final.pdf)

<sup>14</sup> [www.un.org/ga/aids/pdf/abuja\\_declaration.pdf](http://www.un.org/ga/aids/pdf/abuja_declaration.pdf) (2001) and [www.africa-union.org/root/au/conferences/past/2006/may/summit/doc/en/ABUJA\\_CALL.pdf](http://www.africa-union.org/root/au/conferences/past/2006/may/summit/doc/en/ABUJA_CALL.pdf) (2006)