Draft

WPRO Informal Inter-Country Consultation on Public Health, Innovation and Intellectual Property, Manila, 5-7 Sept. 2007

= brief summary =

Background

The main objective of the informal consultation was to discuss both the IGWG process and the issues it seeks to address, in order to identify the key issues, priorities and problems. The consultation was not meant to be a negotiating forum, and did not aim to develop a regional position.

Views expressed by participants during the discussions were personal views and did not necessarily reflect their country’s position.

The consultation brought together participants from Australia, Brunei-Darussalam, Cambodia, China, Lao People's Democratic Republic, Malaysia, Mongolia, Philippines, and Vietnam. Participants represented different sectors, notably Ministries of Health, Medicines Regulatory Agencies, Health Research Institutes, as well as national Intellectual Property Offices.

Observers from nongovernmental organizations (Cut The Cost Cut The Pain Network-Philippines, Health Action International, International Federation Of Pharmaceutical Manufacturers Association, Medecins Sans Frontieres-China, Medical Action Group-Philippines, and Oxfam Great Britain-Philippines) were present, and they were given opportunities to participate in the discussions.

Each delegation was given the chance to lead comments on each elements of the draft and then followed by all participants.

Outcome

While participants came from diverse backgrounds, during the discussions it appeared that there was considerable common ground. Participants discussed and commented on the issues listed below.
General view of the draft text (document A/PHI/IGWG/2/2)

Overall, the draft document was well received. However, the participants had the following comments:
- the approach is right, but the document could be further improved;
- the final text should be more specific;
- at times the wording is so broad and general that the meaning is not clear;
- not all indicators are appropriate;
- there is some overlap/duplication;
- some proposed actions could be listed under a different element;
- roles of some stakeholders in some areas need to be clarified.

Comments and suggestions

Participants came up with a number of comments and suggestions; these are listed below. Some suggestions are specific to the IGWG process, while others apply more generally to intellectual property rights (IPR), trade and public health.

Specific to the IGWG:
- A map of research needs, ongoing efforts and gaps should be prepared, to facilitate coordination efforts. This should be a dynamic exercise with regular updates, not an exclusive list.
- Coordination is important to avoid overlap, but should not kill motivation or creativity. Also, some overlap may be positive, since efforts by different research groups can be complementary and/or may accelerate matters. Thus, the focus should be on both stimulating efforts that are already ongoing, and using additional funding strategically to fill the gaps.
- One possible additional mechanism to increase funding for medical research and development in some countries is to tie it to debt relief.
- There is a need for complementary mechanisms to increase R&D aimed at diseases that mainly affect developing countries, i.e. Medical R&D Treaty, and Advance Purchase Commitment etc. These complementary mechanisms are meant as additions to the current IPR system.
- It is not clear how the different progress indicators feed into the overall monitoring under element 8. It is also not clear how some of the indicators can be measured, and whether they measure what we want to measure. Thus, there is a need for further fine-tuning. This may be more feasible once the strategy and plan of action have reached a more mature stage.
- The monitoring proposed under element 8 should, after being further developed and/or fine-tuned, be undertaken regularly; it should not be a one-off exercise.
- It is important for countries to organize national consultations and prepare a national view or position before the 2nd IGWG meeting in November.
- Relevant stakeholders should be involved in the national consultation process.
Other Issues:

- There is a need for increased political will and commitment to give more priority to medical research. The IGWG process is part of that, but it may not be sufficient.
- There is a general need to increase understanding and capacity on issues related to IPR, data exclusivity, use of TRIPS flexibilities, prevention of evergreening\(^1\) etc. in developing countries.
- WHO should be more active in supporting member states and in compiling and sharing information and experiences in the area of TRIPS flexibilities and public health.
- The Ministry of Health should be involved in trade negotiations, in order to give input and make sure that public health implications are being taken into consideration\(^2\).

Other issues discussed

A number of issues were discussed, without leading to a conclusion or suggestion:

- For some developing countries, access really is the crucial issue; others feel there is a need for far more emphasis on complementary mechanisms to promote innovation.
- Clinical trials and the need for ethical review mechanisms.
- Traditional medicine is an importance source of health care in many (developing) countries. Traditional medicine provides opportunities to developing countries, but also poses challenges, for instance related to harmonization/standardization, appropriate documentation as well as protection (incl. the protection of biological resources).
- Information on the patent status of medicines and medical technology is often difficult to obtain, especially in developing countries. Therefore the need for a database on patent status was emphasized.
- The concept of a patent pool was discussed extensively. Issues raised included how patent pools do or can function, the fact that they are potentially useful esp. in area of biotechnology, and the need to make sure they are not anticompetitive. It could be useful to learn from the use of patent pools in other industries.
- TRIPS-plus provisions: discussions touched on the different provisions that fall under “TRIPS-plus” and their implications from a public health perspective.
- Insufficient infrastructure and human resources for research (incl. brain drain). However, some countries are making conscious efforts to get their scientists to return; it may be possible to draw lessons from their experience).

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\(^1\) Evergreening is a term popularly used to describe patenting strategies that are intended to extend the patent term on the same compound (CIPIH).

\(^2\) It was understood that while the MOH should give input, the MOH is not the responsible Ministry and will not make the final decision.
The following points were also discussed and felt to be important by the majority of participants:

- The need for an overall framework (e.g. like the Framework Convention on Tobacco Control (FCTC)) was emphasized.
- Access to compound libraries is important, but there is a need for more clarity on how to achieve it.
- There is a need to clarify some of the terms and concepts in the working text, for example TRIPS-plus, upstream research, downstream research, patent pools, compound libraries.