



International Chamber of Commerce

The world business organization

Intellectual Property and Medical Innovation

Submission to the Second Web-Based Hearing on Public Health, Innovation and Intellectual Property of the World Health Organization - Section 1, Draft Global Strategy and Plan of Action

ICC, the world business organization, has members in over 130 countries, representing several thousands of companies and business organizations of all sizes in different sectors.

ICC contributed to the work of the Commission on Intellectual Property, Innovation and Health, as well as to the first web-based hearing organized by the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property (IGWG). It is pleased to be able to continue to contribute to this process by submitting the following brief comments to the second web-based public hearing leading up to the second meeting of the IGWG on 5-10 November 2007.

ICC firmly believes that the protection of intellectual property stimulates international trade, creates a favourable environment for foreign direct investment, and encourages innovation, transfer of technology, and the development of local industry, all of which are essential for sustainable economic growth, and its concomitant benefits for public health.

ICC shares the concern expressed by the WHO about the need to improve public health in developing countries. As ICC has said in earlier papers, public health problems in developing countries are complex and varied, and must be tackled with different means properly adapted to the particular context of each situation. This view is reflected by the broad range of issues covered by the draft Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property ([A/PHI/IGWG/2/2](#)).

ICC believes that maintaining intellectual property protection for innovation, including so-called “incremental innovation”, contributes to stimulating development and improving public health. Intellectual property protection should be seen as a tool to help facilitate access to medicines in the developing world, rather than as an obstacle.

Intellectual property rights encourage creativity and innovation in most fields of technology requiring research. This is certainly true for the chemical and pharmaceutical fields. Research, whether public or private, requires investment. Investment in private research requires some expectation of a return on the investment, partly to reward the investment, partly to fuel further research.

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The patent system has evolved over many centuries into its current form which successfully encourages innovation in market environments. If the protection conferred by patents is overly prejudiced, the risk is great that there will be a reduction in investment in R&D and subsequent commercialization of new pharmaceutical and medical technologies. This would be to the detriment of patients and health systems in both developed and developing countries.

A second important function of the patent system is the wide sharing of technological information that allows researchers to avoid duplicating efforts and focus their research on the leading edge of innovation. As patent applicants are obliged to publish the details of their inventions in exchange for patent protection, published patents and patent applications are a rich resource in technical and scientific information accessible to all via patent office databases. A vast proportion of this information is freely usable, especially in developing countries. This knowledge pool, which would not exist without the patent system, stimulates further research and development, and can help researchers in countries at different stages of development in their research for new medical treatments. By encouraging the publication of inventions, patents also help avoid costly duplication of research.

The fundamental importance of intellectual property protection as a stimulus for medical innovation and research should therefore not be forgotten when defining healthcare strategies.

When formulating policies which affect intellectual property rights, ICC respectfully suggests that WHO should take an evidence-based approach, and base its proposals on serious and reliable research supported by generally accepted scientific and economic methodology.

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