



WORLD HEALTH ORGANIZATION

EXECUTIVE BOARD
113th Session
Provisional agenda item 8.9

EB113/INF.DOC./1
15 January 2004

Intellectual property rights, innovation and public health: terms of reference for review group

Note by the Director-General

1. The purpose of this document is to provide information on steps taken pursuant to resolution WHA56.27 on intellectual property rights, innovation and public health.

2. In May 2003, the Fifty-sixth World Health Assembly adopted resolution WHA56.27 which requested the Director-General:

.... to establish the terms of reference for an appropriate time-limited body to collect data and proposals from the different actors involved and produce an analysis of intellectual property rights, innovation, and public health, including the question of appropriate funding and incentive mechanisms for the creation of new medicines and other products against diseases that disproportionately affect developing countries, and to submit a progress report to the Fifty-seventh World Health Assembly and a final report with concrete proposals to the Executive Board at its 115th session (January 2005).

3. It is intended to establish a time-limited body known as the Commission on Intellectual Property, Innovation and Public Health. The body will review the interfaces and linkages between intellectual property rights, innovation and public health in the light of current evidence and examine in depth how to stimulate the creation of new medicines and other products for diseases that mainly affect developing countries. Its analysis will take account of how intellectual property rights can promote innovation relevant to public health, and how funding and other incentive mechanisms, including institutional arrangements, may contribute to this end. Although asked to focus on the creation of new medicines and other products, the body will need to be conscious that health outcomes will depend on the accessibility of the products of innovation to those who need them and can apply them.¹ It will concentrate on practical solutions to the problems identified in the resolution.

4. A small secretariat has been established in WHO to manage the work of the Commission, supported by key staff from across the Organization. An internal working group has also been constituted, including focal points from all regional offices. The secretariat will hold regular consultations with bodies in the United Nations system and other agencies with relevant expertise.

¹ See document A56/17.

5. A budget line has been created to ensure adequate funding of the activities of the Commission and publication of its findings.

TERMS OF REFERENCE OF THE COMMISSION ON INTELLECTUAL PROPERTY, INNOVATION AND PUBLIC HEALTH

6. In the light of resolution WHA56.27 and in its examination of intellectual property rights, innovation and public health, the Commission will:

- summarize the existing evidence on the prevalence of diseases of public health importance with an emphasis on those that particularly affect poor people and their social and economic impact
- review the volume and distribution of existing research, development and innovation efforts directed at these diseases
- consider the importance and effectiveness of intellectual property regimes and other incentive and funding mechanisms in stimulating research and the creation of new medicines and other products against these diseases
- analyse proposals for improvements to the current incentive and funding regimes, including intellectual property rights, designed to stimulate the creation of new medicines and other products, and facilitate access to them
- produce concrete proposals for action by national and international stakeholders.

METHOD OF WORK

7. The Commission will adopt a consultative and receptive method of working, including appropriate arrangements for liaison with governments and relevant bodies in the United Nations system, other international agencies, and private-sector and civil-society bodies. The Commission will build on, and not duplicate, other relevant recent reports. It will seek to add value through a comprehensive review of the existing evidence, commissioning further research or synthesis of studies where appropriate, consultations with stakeholders and academics, and rigorous analysis of all the material it gathers. A web site will be set up to share information and knowledge regularly with interested parties.

COMMISSION MEMBERS

8. Members of the Commission will be selected on the basis of demonstrated expertise and wide experience in the issues under consideration, geographical distribution, diversity (e.g. gender), occupational mix and discipline. Disciplines should include public health, clinical or medical research, economics, law and intellectual property. Members will be independent, with a strong academic or professional background and sensitivity to different disciplinary approaches. They will serve in their individual capacities rather than as representatives of an interest group or institution. The expressions and opinions of the individual or collective members of the Commission will not be binding on WHO

and will not represent the policy position of the WHO Secretariat. The Director-General will appoint the members (6-10) after the forthcoming session of the Executive Board. The first meeting of the Commission will be held in the first quarter of 2004.

9. The report of the Commission will be presented to the Executive Board in January 2005 at its 115th session as the work of an independent body.

= = =