

**INTELLECTUAL PROPERTY RIGHTS – TECHNICAL COOPERATION
EXERCISE IN THE CARIBBEAN**

BARBADOS, 15-17 OCTOBER 2008

Barbados, 2009.

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This document has been produced with the financial assistance of the European Community and the technical support of the World Health Organization. The views expressed herein are those of the authors and can therefore in no way be taken to reflect the official opinion of the European Community or the World Health Organization

I. Background

In October 2006 the United Nations Development Program (UNDP) conducted in cooperation with other international agencies a cooperation exercise in the Caribbean¹ on Intellectual Property Rights (IPR) and access to antiretroviral (ARV) medicines to which there was no immediate follow up.

During the Intergovernmental Working Group on Public Health, Innovation and Intellectual Property (IGWG) of the World Health Organization (WHO) negotiation process (2006-2008)², Caribbean countries were not specially active within the discussions in the Americas region, with the isolated exceptions of Barbados and Suriname (which hosted a sub-regional meeting in Paramaribo in February 2008), apparently failing to rely the information onto other CARICOM member states.

In early 2008, the Caribbean Community (CARICOM) asked the Brazilian Ministry of Health, through the Human Immunodeficiency Virus/Acquired immune deficiency syndrome/Sexual Transmitted Diseases (AIDS/STD) Programme and International Relations Office (AISA) for technical assistance on the issue of IP and access to drugs. In further conversations with both AISA and CARICOM it was decided that PAHO should be coordinating this cooperation exercise.

An invitation was extended to UNDP and other specialized agencies in order to highlight the UN system coherence and collaboration in the Americas on the issue of IP and Public Health. The participation of civil society was also sought with contributions from Third World Network (TWN) and Medecins Sans Frontiers (MSF) - Brazil. Lastly, the activity was greatly enriched by the participation of Dr.

¹For more information see: UNDP Fostering appropriate national responses to Intellectual property and access to medicine 26 October 2006 at <http://content.undp.org/go/newsroom/2006/october/trinidad-property-rights-20061026.en?categoryID=349435&lang=en>

²For an overview on the IGWG negotiation process see: 142nd Session of PAHO Executive Committee "Intergovernmental working group on public health, innovation and intellectual property: current status" CE/142/Inf. 4 June 2008 at <http://www.paho.org/english/gov/ce/ce142-INF4-e.pdf>

Carlos Correa from the University of Buenos Aires (UBA) and Dr. Anthony So from Duke University.

I. Objectives

-To conduct a technical cooperation exercise with Caribbean Health personnel and Patent offices representatives under the auspices of CARICOM and the collaboration of UNDP and the Brazilian AIDS Agency.

-To assess the sub-region needs and priorities on IP and Public Health, most specially in connection with the WHO Global Strategy on Public Health, Innovation and Intellectual Property and its Regional Perspective and its implementation in the Americas at large and the Caribbean sub-region particularly.

-To present and introduce the upcoming consultancy project by Health Research for Actions (HERA) on “Assessment Patent related Issues and Access to Medicines” in Caricom member states and Dominican Republic commissioned by CARICOM with the assistance of PAHO/WHO.

II. Summary

The Goal of the meeting was to promote capacity building and awareness rising not only for MOH officials but also Patent Offices representatives from the Caribbean Sub-region. It was an opportunity to introduce them to the Global Strategy and Plan of Action on Public Health, Innovation and Public Health (WHA61.21)³ and to the regional perspective, the PAHO/WHO Resolution on the

³ See Global Strategy and Plan of action on Public Health, Innovation and Intellectual Property WHA.61.21 at http://apps.who.int/gb/ebwha/pdf_files/A61/A61_R21-en.pdf

issue⁴. Both documents provide an comprehensive and interrelated approach, that it embodied in terms of Intellectual Property and Innovation as factors shaping access conditions to public health goods.

A three-day format was chosen in order to cover the whole range of issues from global evolution of IP rules and regulations, to sub-regional free trade agreements (most specially those affecting the Caribbean) and the Global Strategy and the Regional Perspective all taken from a Caribbean perspective with the input of all participants and facilitators.

Day 1

A selection of the most relevant presentations on Intellectual Property: definition and main instruments:

- TRIPS agreement – main clauses, flexibilities including Compulsory licenses and parallel import, Doha Declaration, 30 August decision and Para 6 mechanism **Jaume Vidal PAHO WDC**
- Public Health tools. Using IP instruments to secure Public Health interests. **Juliana Vallini ICTC Brazil**
- Experiences and best practices of developing and developed countries in using TRIPS flexibilities **Tenu Avafia UNDP**
- Indian experience. Patent Act 1970-2005. Dynamics and examples **K M Gopakumar TWN**

Dr. Michelle Childs on behalf of HERA presented the project on IP legislation in the Caribbean. Describing the initial assessment and setting out prospective next steps. Such introduction was briefed by a roundtable presentation by participants on their intellectual property policies, structures and eventual health sector

⁴ See the draft resolution “Public Health, Innovation and Intellectual Property” CD.48/18 at <http://www.paho.org/english/gov/cd/cd48-18-e.pdf> and the final Resolution, CD.48.R15 at <http://www.paho.org/english/gov/cd/cd48.r15-e.pdf>

participation, concluding in an initial collective exercise of mapping up the IP situation in the Caribbean (needs, weaknesses and opportunities).

Day 2

More specifically focused on the use and impact of IP rules on Public Health policies and programs from different perspectives:

- Challenges of IP rules on Public health actions, programs and policies.

Juliana Vallini ICTC Brazil

- TRIPS flexibilities as Public Health tools **Dr. Carlos Correa University of Buenos Aires**

- Para 6. Mechanism **Dr. Carlos Correa University of Buenos Aires**

- Civil society contribution. Expertise, advocacy and support **K M Gopakumar TWN**

- Bilateral free trade agreements and TRIPS plus. CAFTA agreement, CARIFORUM **Dr. Carlos Correa University of Buenos Aires**

- Collaboration with Civil Society. Possibilities and Examples **Gabriela Chaves MSF Brasil**

Malcolm Spencer, from the Caribbean Regional Negotiating Machinery (CRNM), delivered an informal presentation on ongoing FTA negotiations and the situation in the Caribbean after the negotiation with the European Commission of an Association Treaty and the upcoming talks with Canadian authorities

Day 3

Entirely consecrated to the Global Strategy: its origins, implications and possibilities

- CIPIH report. The basis for Intergovernmental Working Group on Public Health, Innovation and Intellectual Property **Dr. Carlos Correa University of Buenos Aires** (Dr. Correa was a member of the CIPIH)
- IGWG – Background, processes and regional participation **Jaume Vidal PAHO Washington**
- Bolivia and Barbados Working papers **Dr. Maryam Hinds (Barbados)**
Bolivia and Barbados proposals during the IGWG

Overall presentation and discussions of WHA61.21 and CD.48.r15 from the perspectives of different actors and stakeholders:

- **Tenu Avafia (UNDP)**
- **Carlos Correa (University of Buenos Aires)**
- **Anthony So (Duke University)**
- **Juliana Vallini (ICTC)**
- **Jaume Vidal (PAHO Washington).**

This dialogue was followed by a group exercise of identification of priorities and opportunities for the Caribbean.

Dr. Anthony So (Duke University) delivered a closing presentation on the challenges of innovation: alternative mechanisms to foster pharmaceutical development.

III. Major recommendations-actions to be taken

Most participants were very satisfied with the results of the workshop (see final survey attached) and several of the goals can be considered as achieved. It is necessary however to schedule not only a follow up on the activity but also be able to identify the differentiated needs of the Caribbean countries. Most especially among those with functioning Patent authorities such as Jamaica,

Trinidad and Tobago and smaller islands with less structured institutional frameworks.

The HERA report on IP legislation might be useful instruments to identify and collect relevant information on Public Health and patent-related issues in the region. Most importantly, the workshop allowed for the identification of relevant public health and patent officials that might be called upon if need arose.

Annex 1. List of Participants

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