



IAVI's mission is to ensure the development of safe, effective, accessible preventive HIV vaccines for use throughout the world.

### **IAVI's Intellectual Property Agreements: Using "Social Venture Capital" to Help Ensure Global Access to AIDS Vaccines**

In 1955, when Dr. Jonas Salk was asked who held the patent rights to his polio vaccine, his answer was simple: "the people." His reasoning was remarkably plain. "*To patent the vaccine,*" said Dr. Salk, "*would be like patenting the sun.*"

Today, unlike in Dr. Salk's era, most vaccine-development expertise resides within the private industry. Without patents and other mechanisms to protect intellectual property and ensure a return on investment, private companies are unlikely to invest the enormous sums of money needed to develop an AIDS vaccine. Nor should they be asked to do so.

#### **Dr. Salk's Vision and Today's Economic Reality**

The International AIDS Vaccine Initiative was guided by both Dr. Salk's vision and today's economic realities when it created its Vaccine Development Partnerships and invested \$15 million in them. While a successful AIDS vaccine will necessarily rely on technologies covered by new and existing patents, IAVI's intervention helps to ensure that AIDS vaccines will reach those who need them most: those living in developing countries.

In keeping with IAVI's mission to ensure the development of safe, effective, accessible preventive HIV vaccines for use throughout the world, the Initiative has secured unique intellectual-property and technology-transfer agreements. These far-sighted agreements will help make a successful vaccine available in developing countries at a reasonable price. IAVI's investment of "social venture capital" enhances the value of its partners' intellectual property, without interfering with their most profitable markets.

"We were able to combine the best mechanisms of the for-profit and not-for-profit sectors to achieve our goals," adds Lita Nelsen, who serves as IAVI's principal adviser on intellectual property issues and is director of the technology licensing office of the Massachusetts Institute of Technology.

## **A New Paradigm for Vaccine Development**

“Unlike traditional venture capitalists, who seek equity in return for their investments, IAVI seeks a commitment that a successful vaccine will be provided to the poor in developing countries at a reasonable price.” says Seth Berkley, M.D., president of the International AIDS Vaccine Initiative.

“This is a new paradigm for vaccine development. The current paradigm – in which vaccines are developed in the industrialized world and sold exclusively there at high prices to recoup research and development costs – should not be acceptable for any vaccine, and certainly not for AIDS. Developing countries should not be forced to wait 10 or 15 years for an AIDS vaccine to trickle down to them. We need to start now to ensure that a successful AIDS vaccine will later be made available simultaneously in developed and developing countries,” according to Dr. Berkley.

## **What is Intellectual Property?**

In the broadest sense, intellectual property can be defined as intangible property based on creations of the mind. Mechanisms such as patents, copyrights and trademarks all provide legal protection for these rights. Patent rights, for example, enable the owner to exclude others from exploiting the protected invention for a specific period of time in exchange for full disclosure to the public. Licensing of intellectual property allows a party to use such rights without obtaining ownership. Payment for these rights is called a licensing or royalty fee.

IAVI’s investment in Vaccine Development Partnerships is unique: it enables the Initiative, a non-profit scientific organization, to help make the fruits of weighty intellectual property rights available to the public sector of developing countries.

In one of its agreements with a biotechnology company, for example, IAVI has secured rights to ensure that a successful vaccine will be distributed in developing countries at a reasonable price. The price will take a number of factors into consideration, including the income level of the country, and is expected to be substantially lower than prices in industrialized countries. Under the terms of the agreement, should the company decline to produce the vaccine for developing countries in reasonable quantity at a reasonable price, IAVI will have certain rights to obtain licenses in order to contract with other manufacturers to make the vaccine available in those countries.

In the current AIDS Vaccine Development Partnership agreements, developing countries are defined according to The World Bank’s criteria for lower and middle-income countries. The public sector is considered the governments and not-for-profit organizations serving these countries.