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Achieving equitable access and universal coverage goals for COVID-19 vaccines

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Experts debate on whether wavering IPR is the only appropriate and most effective way to address the shortage and inequitable distribution of COVID-related products, esp vaccines to prevent, treat and contain coronavirus





The pandemic has created an unprecedented pressing need for the development of novel vaccines and their equitable distribution amidst the increasing demand and urgency. However, the intellectual property rights (IPRs) of these essential formulations and proprietary technologies are guarded with patents, and public health experts opine that supply can never meet the demand given the infectious rate of the pandemic and the pace of vaccine manufacturing contradicting.

In October 2020, India and South Africa proposed to waive IP rights at the World Trade Organisation's (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council to temporarily waive such protections on certain patents and technology in response to COVID-19 exigency. Both countries introduced a TRIPS Council document requesting a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19. The proposal has since been co-sponsored by the delegations of Kenya, Eswatini, Mosambique, Pakistan, Bolivia, Venezuela, Mongolia, Zimbabwe, Egypt, the African Group, the LDC Group, the Maldives, Fiji, Namibia, Vanuatu, Indonesia and Jordan.

Along with the World Health Organisation (WHO) and the United Nations AIDS charity, UNAIDS, the campaign was backed by more than 120 countries. In May 2021, with President Joe Biden's support, the US expressed its support to waive off IPRs on COVID-19 vaccines temporarily, which further received positive response from Russia and China. A small number of governments including Japan, South Korea, Switzerland, the United Kingdom, Norway, Canada, Australia, Brazil and European Union member states are reported to express their distress and concerns over the waiver proposals. These countries are vowing to share/donate their vaccine stocks with low-income nations through designated channels or willing to provide more funding to schemes such as COVAX.

The European Union proposal, which is backed by other developed country members, calls for limiting export restrictions, supporting the expansion of production, and facilitating the use of current compulsory licensing provisions in the TRIPS Agreement, particularly by clarifying that the requirement to negotiate with the right holder of the vaccine patent does not apply in urgent situations such as a pandemic, among other issues.

While recognising that IPRs should not stand in the way of deploying and creating capacity, or of ensuring equitable access to vaccines and therapeutics, several developed and developing members have cautioned that this can be attained while maintaining IP as the basis for incentivising investment in innovation, and for licensing technology transfer, so that members can effectively fight new strains of COVID-19 and any future diseases and pandemics. Some are particularly concerned that waiving IP rights might undermine the existing efforts and arrangements for large scale production of vaccines that rely, in part, on the IP system.

To tackle the issue, Governments, stakeholders and policy makers are focussing on leveraging access to tools, formulations and technologies as immediate and critical need to pandemic response, while addressing the associated valid concerns. This has led to a range of initiatives by international organisations, governments and private sectors for the voluntary sharing, pooling or non-assertion of IP rights (IPRs), responding to the spirit of collaboration that dominates the global effort to tackle the pandemic. Such coordination may contribute to the empirical basis that is essential for policy making in a rapidly evolving trade landscape in the mutual interest of all stakeholders, including governments and economic operators.

WTO members have agreed on a draft ministerial decision on so-called non-violation and situation complaints (NVSCs) in the area of intellectual property (IP). The decision is expected to be adopted at The 12th Ministerial Conference (MC12).

Though waiver is not a silver bullet, these vital arguments over IP waivers need to be addressed with a common goal for equitable and universal vaccination. Experts debate on whether wavering IPR is the only appropriate and most effective way to address the shortage and inequitable distribution of COVID-related products esp vaccines to prevent, treat and contain coronavirus.

Expert Opinions:

Waiver of IP rights & Equitable access to vaccines *(Advantages of IP Waiver)*

By, Amina Mahmood ISLAM, Deputy Director, SingHealth Duke- NUS Global Health Institute, Singapore (Left)

Waiver will naturally impact pharmaceutical industries *(Dis-advantages of IP Waiver)*

Lim Ren Jun, Principal (Healthcare & Life Sciences), Baker & McKenzie - Wong & Leow Law firm, Singapore (Right)

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