

AIPSN statement on Vaccines and IPR waiver
India-South Africa Proposal for TRIPS Waiver – Putting People before Profit

As Covid-19 pandemic continues to keep its grip on the globe, countries are facing severe shortages in medical supplies and treatments, with intellectual property rights hindering the timely provisioning of affordable medical products. To address this, India and South Africa have put in a proposal at the Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS), under the World Trade Organisation (WTO), demanding a temporary waiver of certain TRIPS obligations on copyrights and related rights, industrial designs, patents, and the protection of undisclosed information in relation to the prevention, containment or treatment of Covid-19.

Most of the least developed and developing countries have supported these proposal in the TRIPS council, arguing for equitable and affordable access to medicines and medical products at least in these times of widespread catastrophe. The proposal has also got support from the World Health Organisation (WHO). However, it has been opposed by developed countries such as the US, the UK, Japan and even Brazil, on the grounds that such a move would hinder innovation and that there is no indication of intellectual property rights (IPRs) being a barrier to accessing Covid-19 related medicines and technologies.

Nothing can be farther from the truth! Over the last few months, countries have faced IP barriers in drugs, masks, ventilator valves and reagents for testing kits. Multiple patents have been filed for Covid-19 vaccines in development(https://msfaccess.org/sites/default/files/2020-10/COVID_Brief_ProposalWTOWaiver_ENG_2020.pdf). Even the stockpiles of potential vaccines have been reportedly cornered by the rich countries.

Unequal Access to Medical Products across Countries even in times of Global Crisis

More than nine months into the pandemic, the situation across the globe remains grim not only in terms of the spread and impact of the pandemic but also the availability of medical products. On the one hand global supply chains have broken down leading to supply shortages, on the other the demand has been increasing due to rising incidence of coronavirus. The Low and Middle Income Countries (LMICs) are the worst hit because the Covid-19 pandemic has not just been a public health crisis, it has been economically devastating as well. The national budgets of these countries are severely strained and most of them also lack the production capacity of the much needed medical products. It is unfortunate that in such dire times when the world is waiting for a vaccine we are witnessing (https://twm.my/title2/briefing_papers/twn/Inovio%20countersued%20IP-COVID%20Jul%202020%20Hammond.pdf) manufacturers relying on proprietary production techniques thereby potentially making vaccines more expensive and less available, large commitments of manufacturing capacity in 2021/2022 being sealed up in contracts, and rich countries locking down COVID-19 vaccine supplies through big money contracts(<https://launchandscalefaster.org/covid-19>).

Appropriating Public Funds for Private Profits

Public funding must cater to people's needs rather than corporate greed. Ironically, out of the total funding of 96 million USD for research into Coronaviral diseases (including MERS, SARS) during 2016-18, the bulk 93% has been public funding, 6% by philanthropic organisations and less than 1% by the industry. If we look at the larger set of Emerging Infectious diseases, the proportion of public funding is 77% and that of industry 18% during 2014-18 (<https://gfinderdata.policycuresresearch.org/>) Even for the Covid-19 pandemic, it is largely public funds that have been committed by various governments. The big pharma, thus, uses

public funds for R&D to garner private profits, taking advantage of the IPR regime without any concrete commitment to share the technologies and know how developed through public funding to scale up the production through non-originator manufactures.

Multilateral Trade Policy - Creating Monopoly Profits

Just as the TRIPS agreement was bulldozed on to the least developed and developing countries during the 1990s in the name of ‘free and fair’ trade regime, so are the developed countries arguing to protect the IPRs, which are in fact means for creation of monopoly profits. The big corporations and the rich countries were as hand in glove then as they are today. The trade policy regime has led to concentration of manufacture products in a few countries. As per a WTO report (https://www.wto.org/english/news_e/news20_e/rese_03apr20_e.pdf), Germany, the United States (US), and Switzerland supply 35% of world’s medical products; China, Germany and the US export 40% of personal protective products. Such concentration of production in times of huge global demand is bound to lead to profiteering and to deal with this is to decentralise production through local manufacturing. To do this, access to the whole range of technologies and strategies for manufacturing these products is required.

TRIPS flexibilities are insufficient

TRIPS flexibilities were included in the Doha Development Agenda in order to safeguard LMICs from the adverse impact of patent regime. However, it has been effective only on a few occasions because of arm-twisting tactics of the big pharma, operating in cahoots with the rich country governments through bilateral pressures on countries as also lobbying by the big pharma against generic drugs. Also, the rules for compulsory licensing apply only on a case-by-case and product-by-product basis, which slows down the ability of countries to scale up production. Even Article 31bis, a mechanism to supply countries with insufficient manufacturing capacity, is limited in its application. TRIPS obligations, furthering the IPR regime, would only exacerbate the crisis.

Global Solidarity – A Farce!

The WHO has got little support by pharma industry for its Covid-19 Technology Access Pool (C-TAP) initiative (<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/global-research-on-novel-coronavirus-2019-ncov/covid-19-technology-access-pool>), aiming at voluntary contribution of IP, technologies and data to support global sharing and scale up of manufacturing and supply of COVID-19 health technologies. Voluntary cooperative approaches such as the COVAX are only a short term solution and only work towards maintaining the current business models of big pharma. The GAVI-CEPI initiative has refused to address the issue of patents and other intellectual property rights even on the issue of Covid-19 preferring to work with global pharma MNC’s on vaccine development and pooling philanthropic resources for the poorer countries. Such philanthro-capitalist measures only deepen the structural inequalities in global health architecture.

The need of the hour is to dismantle, or at least limit the IPR regime, which promotes profits for a few at the cost of lives of the people. With the world facing such unprecedented public health crisis, it is important that the TRIPS obligations are waived off, at least until the situation comes under control, as mentioned in the India-South Africa proposal. A collective global struggle is required towards ensuring that the interests of people are given precedence over profits and the greed of capital!