



TRIPS waiver proposal for COVID drugs and vaccines

The outbreak of the COVID crisis has given rise to a contentious issue in the multilateral fora, which is the waiver of TRIPS provisions for production and distribution of COVID vaccines, medicines, diagnostic materials and medical devices.

Developing countries such as India and South Africa have moved a proposal for waiver of obligations under the World Trade Organisation's TRIPS agreement to promote widespread access to anti-COVID drugs and therapeutic materials.

The proposal is supported by NGOs such as Mediciens Sans Frontières and World Health Organisation, besides many developing countries. These developing countries feel that the stringent provisions of the TRIPS agreement restricts production and supply of these essential medicines by protecting the monopoly rights of multinational pharmaceutical companies that invented these vaccines and drugs.

On the other hand, the TRIPS waiver proposal is opposed by some advanced countries who argue that protecting the monopoly rights of the inventors is a necessary provision to encourage research and innovation. Also, by protecting the monopoly rights of these innovators, the TRIPS agreement helps them recover the huge cost incurred on research and development. It is also argued that merely by waiving the TRIPS agreement, one cannot increase production and supply of COVID vaccines, which involves complex manufacturing procedures that requires transfer of technology.

According to India, "WTO has responsibility to ensure that any of its agreement including TRIPS do not become a barrier to accessing vaccines, treatments, or technologies in the global response to COVID-19".

TRIPS

Trade-related aspects of intellectual-property rights, known as "TRIPS" is an agreement signed by the members of the WTO and it came into effect from 1995. The agreement has provisions



for safeguarding trademarks, designs, inventions and other intangible goods in global trade.

Article IX of the WTO Agreement (also known as Marrakesh Agreement), allows member countries to apply for waiver of provisions under any agreement of the WTO under exceptional circumstances.

This is not the first time that member countries have applied for waiver of TRIPS provisions in the WTO. In 2003, WTO members reached a consensus to allow member countries producing generic version of the patented drugs under compulsory licensing regime to export them to countries that do not have manufacturing capacity.

Under the WTO Agreement, proposal for waivers should be submitted to the TRIPS Council, where members will hold formal and informal discussions to reach consensus on the proposal. After reaching consensus on the proposal, the final decision will be taken formally at the Ministerial Conference, or the General Council, which acts on behalf of the Ministerial Conference.

In case there is no consensus among the member countries on the waiver proposal, it is put for voting. The proposal has to get vote of 75% of the members to be adopted formally by the WTO.

Currently, informal and formal negotiation is going on among WTO members at the TRIPS Council. The outcome of these negotiations will be discussed at the WTO General Council, which will meet on 20-21 July, 2021. Considering the urgency to scale up manufacturing and distribution of vaccine, all the member countries should expeditiously reach consensus on this proposal, rather than waiting for the Ministerial Conference, which is scheduled to begin from November 30, 2021.

Notifications

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