

A patent waiver on COVID vaccines is right and fair

Wealthier countries must recognize that everyone benefits if vaccine manufacturing is distributed evenly around the world.

Every country should have the right to make its own vaccines during a pandemic. That's the principle underpinning the campaign to temporarily waive intellectual property (IP) protection on coronavirus vaccines. The campaign was initiated by India and South Africa, and is being backed by more than 100 countries, along with international organizations including the World Health Organization and the United Nations AIDS charity, UNAIDS. The goal is to reduce the barriers to countries producing their own vaccines – particularly for the lowest-income nations.

At present, the proposal does not have the support of the pharmaceutical industry, nor that of most high-income nations. Instead, these countries are pledging to share more of their own vaccines with low-income nations and to provide more funding to charitable vaccine-provision schemes such as COVAX. However, in a surprising and welcome move earlier this month, the United States, Russia and China came out in support of an IP waiver on vaccines.

The significance of the US decision in particular cannot be overstated, because the country is the world's largest market for pharmaceuticals. For decades, US governments have worked with industry, universities and other research-intensive nations in setting – and enforcing – IP rules, most recently through the World Trade Organization (WTO), where the IP waiver proposal is being discussed. Even a few months ago, the mere idea of the United States taking this position would have been unthinkable. Now that it has done so, those countries still holding out – notably Japan, South Korea, the United Kingdom and European Union member states – need to follow suit.

One of the biggest concerns about IP waivers is that they provide a short-cut to competitors looking to acquire expensive technology. Companies also say that IP relief will not accelerate vaccine manufacturing, because materials are in short supply and it can take several years to build up capacity from scratch.

Moreover, the governments opposing the waiver argue that current WTO rules already allow countries to apply for 'compulsory licensing' to override IP during emergencies. Right now, for example, Bolivia is applying to the WTO to use this process to allow it to import COVID vaccines. However, a group of researchers in the United Kingdom who study patent law point out in a draft paper on the waiver proposal that compulsory licences are extremely

“Africa imports 99% of its vaccines and African countries lack the pre-order purchasing capacity of richer nations.”

complex and time-consuming to apply for (S. Thambisetty *et al.* Preprint at <https://ssrn.com/abstract=3851737>; 2021).

The EU has also pointed out that the United States has been blocking exports of COVID-19 vaccines and their components. It is right that this be called out. The easing of such restrictions is essential in a pandemic.

These are important arguments, and need to be addressed. But they are not, in themselves, reasons for denying IP relief. If anything, as the pandemic wears on, the reasons to allow a waiver grow stronger.

The core problem is that vaccine manufacturing, research and development is too heavily concentrated in a small group of high- and middle-income countries. Companies in these countries, which are also the main IP holders, have sold the majority of available vaccine doses to their own governments, and to governments of other high-income nations. Some 6 billion doses out of the 8.6 billion confirmed purchases so far have been pre-ordered by governments in high- and middle-income countries.

According to pharmaceutical-industry data, the industry expects to have made a total of about ten billion vaccine doses by the end of 2021. But on the basis of current trends, this is unlikely to happen, according to researchers at the International Monetary Fund in Washington DC. In a paper published on 19 May, they report that the industry is likely to have produced around six billion doses by the end of 2021 (see go.nature.com/2tchn13). This potential shortfall increases the risk that people in low-income countries will need to wait even longer for their first doses.

As *Nature* went to press, the number of vaccines given so far in Africa amounted to little more than one dose per person for some 2% of Africa's 1.2 billion people. This is, among other factors, because the continent currently imports 99% of its vaccines, and because African countries lack the pre-order purchasing capacity of richer nations. It is why the African Union has announced a plan for 60% of Africa's vaccines to be manufactured on the continent by 2040.

At the Global Health Summit in Rome last week, ahead of this week's World Health Assembly in Geneva, Switzerland, European nations promised to share more vaccine doses with low- and middle-income countries. European Commission president Ursula von der Leyen is also proposing to 'clarify and simplify' the existing ways in which countries can implement compulsory licensing. And there is a strong possibility that the G7 group of the world's biggest economies will pledge more funding for vaccination when member countries meet in the United Kingdom next month.

These commitments are crucial in the race to end the pandemic. But they do not deal with the systemic issue – countries backing the IP waiver are not asking for charity, but for the right to develop and make their own vaccines, free from the worry that they will be sued by patent holders.

Those backing the COVID IP waiver understand this core principle. The leaders of countries that are not currently in favour of the patent waiver must recognize it, too. As John Nkengasong, director of the Africa Centres for Disease Control and Prevention, says: they need to be on the right side when the history of the pandemic comes to be written.

Correction

This editorial erroneously stated that Bolivia made a request to manufacture a COVID vaccine. Instead, it applied to the WTO to import a vaccine made under compulsory license in Canada.