

Urgent Call for Action on Covid-19 technologies Statement by People's Health Movement

14 October 2020

The People's Health Movement supports the call by the Governments of India and South Africa¹ for the World Trade Organization to waive certain provisions of the WTO's TRIPS Agreement² so as to enable countries to scale up the manufacture of promising vaccine candidates, medicines and diagnostics.

PHM calls upon members and friends, country circles, regional networks, civil society organisations and social movements to assemble, organize, advocate and campaign in support of the India South Africa proposal. See below.

Background

The Covid pandemic has devastated families and communities and disrupted societies and economies. It has caused over 1 million deaths globally and left a disturbing burden of chronic morbidity.

From the beginning of the pandemic the WHO Director General emphasised 'solidarity' as the key to the global response. The principle of solidarity was expressed in the WHO sponsored Covid Technology Access Pool (C-TAP) which would have allowed for rapid and widely based production of vaccines and medicines through the sharing of intellectual property and knowhow. However, the C-TAP was scorned by the manufacturers and disparaged by rich country governments.

WHO also proposed a program of 'solidarity' trials; clinical trials for medicines and vaccines which would allow for comparative studies of the effectiveness of candidate medicines and vaccines. While some progress has been made in relation to medicines, no such trials for vaccines have yet been organised.

In late April negotiations around global cooperation for diagnostics, medicines and vaccines moved from WHO to the G20-sponsored 'Access to Covid Tools Accelerator', a new 'multi-stakeholder partnership'. The Accelerator would draw on donor funding to secure supplies of diagnostics, medicines and vaccines for low and middle income countries to ensure 'equitable global access' to Covid related technologies. The 'Accelerator' comprises four 'pillars', one each for vaccines, medicines, diagnostics and health system development.

The sponsors of the Accelerator have refused to impose conditions on the privatized intellectual property generated through its funding support. There may be soft restrictions on price for the most urgent population groups but once those needs have (barely) been met there will be no restrictions on business as usual by big pharma.

By July, it was becoming clear that massive advanced purchases, in particular by the US, UK and EU, would reserve most of the early supply of effective vaccines and medicines and would jeopardise the

1. <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True>

2. TRIPS: Agreement on trade related aspects of intellectual property rights

fund-raising for the Accelerator. Rich country governments have transferred billions of dollars to pharmaceutical companies with no conditions regarding wider access to the technologies being developed or with regard to price.

The rejection of technology pooling, the rise of 'vaccine nationalism', and the underfunding (and under-supply) of all four pillars of the Accelerator look set to seriously compromise access for low and middle income countries, particularly during the first several years of the pandemic.

Avoidable delays in accessing cheap and effective diagnostics, medicines and vaccines will prolong the pandemic and will lead to millions more cases and tens of thousands of deaths in those countries and populations who are denied such access.

The South Africa / India document¹ includes first, a memo explaining the need for the waiver and then a draft resolution for the consideration of the TRIPS Council of the WTO and then the General Council which is the governing body of the WTO.

The India South Africa proposal is necessary but needs to be followed up with domestic and international action. Scaling up local production of vaccines, medicines and diagnostics requires access to intellectual property (including patents, trade secrets, and industrial design) but this is not enough. Establishing new production lines will also need access to tacit technical knowhow and to formulae and trial data. If such additional data are not provided by originators they will need to be re-discovered; a process which would need further cooperation and sharing. Urgent action is called for to support organized technology transfer, including South South transfer. The UN's Technology Access Partnership needs to encompass medicines and vaccines³.

Many of these wider issues were canvassed by South Africa in an intervention in TRIPS Council discussions in July 2020⁴.

PHM calls upon national governments to immediately support the India South Africa proposal for the Waiver of TRIPS provisions in the forthcoming WTO meetings

PHM further calls upon national governments and international agencies to adopt and progress the following policies for equitable access to vaccines, medicines and diagnostics:

- The rapid expansion of local production in low and middle income countries (L&MICs); including through the waiving of TRIPS provisions as proposed by India and South Africa; complemented by organized programs of international cooperation around technology transfer; and, in the longer term, scaling up public sector manufacturing and innovation capacity in L&MICs and revoking trade provisions which drive the privatization of such public assets;
- A robust exploration of the potential of the TRIPS Agreement to facilitate the immediate and mandatory pooling of intellectual property and technical knowhow; in the longer term

3. <https://techaccesspartnership.net/posts/covid19-un-launches-platform-for-manufacturers-to-share-tech>

4. <https://www.keionline.org/33593>

- reforming the TRIPS Agreement to facilitate compulsory licensing for export and to remove any barriers to mandatory technology pooling in future pandemic emergencies;
- Review and revision of domestic legislation regarding intellectual property to ensure that countries are able to fully deploy the flexibilities provided for in the TRIPS Agreement; including in particular the Article 73 emergency provisions which authorizes the suspension of IPRs at the national level;
 - Reform of the International Health Regulations to give WHO the power to trigger mandatory technology pooling and mandatory participation in comparative clinical trials ('Solidarity trials') in public health emergencies of international concern;
 - Global moratorium on the use of investor state dispute settlement provisions (ISDS) in trade and investment agreements in ways which jeopardise public health (as provided for in the Doha Declaration on Trade and Health); and in the longer term the removal of such provisions;
 - Global moratorium on all provisions in trade and investment agreements, current and planned, which may obstruct access to healthcare and health technologies;
 - A global research and development treaty including provision for full transparency, open licensing and delinking the cost of innovation from the price of medicines and vaccines;
 - A global moratorium on the repayment of oppressive sovereign debt carried by many low and middle income countries to release funds for income security and health system development in the context of the Covid pandemic.

PHM⁵ has assembled a collection of useful resources regarding different aspects of the challenge of equitable access with links to further resources.

PHM calls upon members and friends, country circles and regional networks, civil society organisations and social movements to assemble, organize, advocate and campaign in support of the India South Africa proposal and other reforms needed to ensure equitable to Covid health technologies

The form which such campaigning might take will vary according to capacities and settings. Some possible actions include:

- Urge your government (trade officials) to support the India/South Africa proposal;
- Document and communicate the threat of delayed access in your country and for various segments of the population; consider joining PHM's EACT project⁵;
- Promote the review and revision of intellectual property laws in your country to ensure you are fully able to use the flexibilities provided for in the TRIPS Agreement⁶;
- Urge the full deployment of TRIPS flexibilities in the Covid context as needed in your own country;

5. See <https://phmovement.org/eact> (promoting equitable access to medical technologies in the context of COVID 19); see the EACT resources page.

6. Consider participating in one of PHM's Access to Medicines short courses. See <https://phmovement.org/online-course-announcement-the-struggle-for-health-and-access-to-affordable-medicines/>

- In those countries which have committed to not using Article 31bis for compulsory licensing for export, urge the revocation of such commitments;
- Advocate for the imposition of conditionalities on the public funding of research in universities and private enterprises including in particular full transparency and open licensing;
- Protection of the multilateral member-state fora such the UN and the WHO where L&MIC voices can be heard and which can provide leadership in institutional reform;
- Challenge the power of the Gates Foundation to determine global health policy;
- Community mobilization around single payer and publicly administered universal health care including equitable access to affordable, effective medicines and vaccines.