

# INDIA RISKS BEING EDGED OUT OF PATENT WAIVER PLAN AT WTO

Relevant for: International Relations | Topic: World Trade, WTO and issues involved

Indian drug firms say technology transfer can benefit vaccine production.

India runs the risk of being excluded from a proposal it co-authored at the World Trade Organisation (WTO) negotiations, in 2020, to “temporarily waive” intellectual property rights (IPR) held, by primarily Western countries, on vaccines, therapeutics and diagnostics for covid-19.

Geneva Health Files, a Switzerland-based newsletter portal that tracks developments in intellectual property, first reported on Friday that “a small group” of WTO members were “discussing suggestions” to exclude drug manufacturers in India and China — two major, global suppliers of medicine — from prospective waivers to IPR obligations that result from the Trade Related Intellectual Property Rights (TRIPS) which WTO members are committed to uphold.

*The Hindu* has independently confirmed these developments, though sources add that these talks are far from being concluded and outcomes could dramatically change.

India and South Africa had jointly sponsored a proposal in October 2020 and this was updated, with representation from several low- and middle-income countries — though with the notable omission of China — to expand the scope of the waiver to “all health products and technologies” and to have the waiver in place for at least a year.

Sources told *The Hindu* that the negotiations began after India sent a letter to Director General of the WTO Ngozi Okonjo-Iweala on December 23 asking for a virtual, ministerial conference to be held on the TRIPs waivers.

There has since been a four-way, ministerial consultation in January, and meetings by officials of key players — the United States, the European Union, India and South Africa — are now under way to look at counter proposals, of which the U.S.-E.U. proposal for “geographical exclusions” are high on the agenda. Indian officials have formally opposed the geographic exclusion proposal.

## Part exemptions

Apart from the proposal on geographical exclusions to cut Indian and Chinese companies out of the waivers, other proposals, sources suggest, include limiting the kind of medical products to counter the pandemic that would be on the list of waivers, as well as restricting the waivers to a certain part of the Intellectual property (IP), and not a full product and patent waiver.

The Commerce Ministry and the Ministry of External Affairs that are coordinating India’s position declined to comment on the negotiations, which official sources said are at a “critical and sensitive” stage in Geneva.

Officials said it seemed clear that the Western trade negotiators wanted to “limit” any benefits of the waiver only to African countries, and not pave the way for Indian manufacturers who, with their large production capacities, would easily undercut Western competitors.

Pharmaceutical bodies in India have been divided on the question of a waiver. The Organisation of Pharmaceutical Producers of India (OPPI), made up of Indian subsidiaries of Western pharmaceutical companies, has been critical of a waiver.

“Waiving of intellectual property rights will neither lead to increased production of vaccines or increased deployment nor practical solutions to fight the virus of COVID-19 vaccines since IP is not the barrier...waiving of intellectual property rights could impact patient safety by opening doors for counterfeit vaccines to enter the supply chain,” said a statement issued in May 2021. “Our top most priority should be to address the supply side constraints, including IP barriers, to augment the manufacturing of vaccines, therapeutics and diagnostics, essential for treatment, prevention and control of the ongoing pandemic.”

The Indian Drug Manufacturers Association on the other hand has supported, with a caveat, the waiving off of intellectual property rights for COVID drugs to expand availability.

“What is more important is grant of voluntary licences by the patent holders to Indian companies with sufficient expertise in this field and similarly transfer technology to Indian companies against reasonable royalties,” the organisation said in a position paper last May.

### **Voluntary transfer**

Bharat Biotech, makers of Covaxin, told *The Hindu* in a statement that it supported “voluntary” technology transfer partnerships. “Vaccines unlike small molecule pharmaceuticals cannot be manufactured with just patent waivers.

Active technology transfer partnerships are required to develop, manufacture, test and release vaccines. Bharat Biotech had led the way through technology transfer partnerships with four companies in India. One of them is already manufacturing the active ingredient for Covaxin,” it said.

“It does not surprise me that Western developed countries would try to squeeze Indian manufacturers in this way — as they don’t have the low cost manufacture base that Indian pharma companies do, with our abilities to provide the combination of affordability, accessibility and quality,” said Dinesh Dua, Chairman of Pharmexcil, a body of Pharmaceutical exporters.

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