



ROUND TABLE:

INTELLECTUAL PROPERTY HIGH LEVEL PANEL PAPER

WAITRO

World Association of Industrial & Technological Research Organizations
with the support of the

NWU

North West University, WAITRO Regional Focal Point Africa

AEIP

Africa Europa Innovation Partnership

RFI

Research Fairness Initiative



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“Those relatively few in our world who see hope for a return to normality through mass vaccination in their societies must not forget the many who see no such clear path to safety.”



- HRH Princess Sumaya Bint El Hassan, WAITRO President

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1. Preamble

It has only been 21 months since the director of the World Health Organization declared a “public health emergency of international concern” due to the Covid-19 outbreak on January 30, 2020 (cf. Jerving, Ravelo 2020). It is remarkable how shortly thereafter vaccines were developed around the world. The first vaccine was approved at the beginning of December 2020 and others quickly followed (cf. *ibid.*). This was only possible through the power of global collaboration. However, the development of the vaccines quickly led to displays of nationalism and isolationism. We are currently in a situation where a high percentage of the populations in high-income countries are fully vaccinated, while the overwhelming majority of people in low-income countries are yet to be offered their first dose. While the WHO initiative COVAX is a political response to the vaccine needs of poorer countries, it has had limited impact on those countries needs and can be stifled by national political demands in donor countries. In October of 2020, India and South Africa submitted a proposal to the World Trade Organization (WTO) to waive obligations of WTO members to implement or apply certain provisions of the TRIPS agreement for the duration of the pandemic. The debate on this proposal heated up again, when the US and France declared their support for discussing the waiver in May and June, respectively. (cf. *Ibid.*)

It is clear that the current vaccine distribution is extremely inequitable. However, some argue that an IP waiver is not the best solution to this issue and that IP has to be protected to foster innovation.

On June 30th the Africa-Europe Innovation Partnership (AEIP), the Research Fairness Initiative (RFI), North-Western University (NWU) and the World Association of Industrial and Technological Research Organizations (WAITRO) jointly hosted an online roundtable on “Vaccines and Patents – a spotlight on equitable access to medicines during a global health crisis and thereafter”. Four experts discussed the roles of Intellectual Property (IP), in particular patents in the context of vaccine distribution and access. This paper summarizes the outcomes of the event and resources on ensuring equal access in future global health emergencies.



2. Objectives of the Event

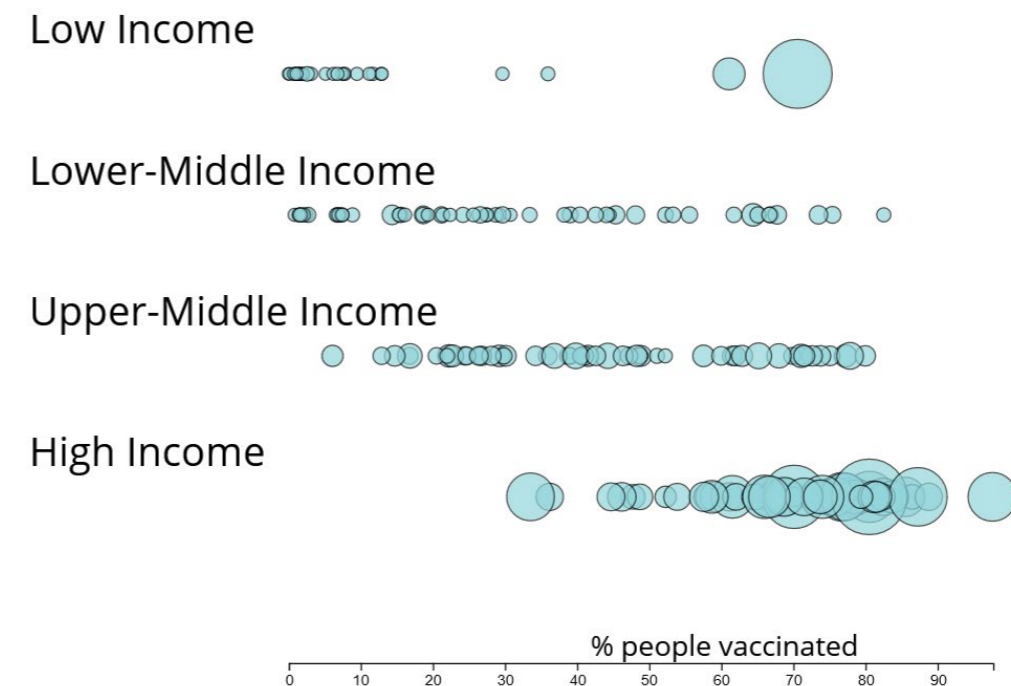
“51.2% of the world population has received at least one dose of a COVID-19 vaccine. 7.34 billion doses billion doses have been administered globally, and 28.14 million million are now administered each day. Only 4.2%% of people in low-income countries have received at least one dose” (Our world in data, 2021)

WAITRO’s vision is to create “A global innovation ecosystem, in which research and technology organizations (incl. universities) collaborate, share knowledge, develop, and disseminate innovative technologies in partnership with the private and public sector to deliver sustainable impact to societies and economies.” This is why WAITRO partnered with the Research Fairness Initiative and the Africa Europe Innovation Partnership, as they share in and actively work to turn this vision into a reality.

The RFI aims to “endeavour for standards describing the best practice in research & innovation collaborations that helps partners to build a transparent governance system for better social benefit, health, global learning and sustainable development worldwide.” The AEIP project seeks to “build mutually beneficial partnerships and networks.”

All three of our organizations see the Sustainable Development Goal 17 “Partnerships for the Goals” as the basis of everything that we do. Working at the heart of international Science, Technology and Innovation, it became clear that a stage had to be provided to encourage constructive discourse on equitable access to medicines during a global health crisis, as the disparities remain significant.

This graphic shows clearly how inequitably vaccines have been distributed throughout the pandemic.



To see the interactive map click here <https://members.waitro.org/>

2021 is the year of equitable partnership, yet the pandemic showed once more how unequitable international collaboration can be, especially in the field of equitable access to medicine. Hence, we decided to give voice and discuss lessons learned to be better prepared for the next health crisis.

source https://ourworldindata.org/covid-vaccinations?country=OWID_WRL

3. Outcomes

The event was moderated by AEIP team member Thyra de Jongh and opened by the president of WAITRO, HRH Princess Sumaya bin El Hassan. Four panelists were carefully selected to represent the different perspectives on this complex challenge.

Fatima Hassan, human rights lawyer, HIV/AIDS and social justice activist, founder and director of the Health Justice Initiative emphasized how the debate on IP has slowed down progress in overcoming the global crisis. There have been over a million Covid-19 deaths in some of the world's poorest nations since the G7 meeting that blocked the waiver of intellectual property rules to increase access to vaccines in low income countries. In her view, an IP waiver could make the necessary difference to remedy what she referred to as "vaccine apartheid". She argued that most citizens in the G7 support the idea of the patent waiver, with polling indicating that 70% of people believe governments should ensure pharmaceutical companies share their formulas and technology, so that qualified manufacturers around the world can help increase the supply. She urged the G7 to get on board and also support efforts by the World Health Organisation to share vaccines technology, know-how and intellectual property. She warned that every day of delay was a day when more lives could be saved.

Hans Georg Bartels is a **senior program officer at the World Intellectual Property Organization (WIPO)**, a U.N. Specialized Agency. He said that IP rules promote innovation and development and can play an important part in access to health technologies. The solid understanding of the functioning of the IP system is essential for the ability to use the system. The international IP framework is defined by WIPO administered treaties and the WTO TRIPS Agreement. Their provisions need to be implemented into domestic law. Countries have considerable flexibility for this implementation. This concept allows to comply with international agreements and to accommodate domestic policy goals, such as equitable access to health technologies, when designing an IP system that functions in the public interest. IP rights are policy tools that can contribute to creating and maintaining an enabling environment for innovation, research, development, production, trade, investment, commercialization and distribution. It is from this perspective that IP is able to support access to health technologies along the entire value chain. IP rights can be licensed and play an essential role in collaboration agreements as well as in technology transfer license agreements.

Pascale Boulet, Intellectual Property and Policy Advisor at Drugs for Neglected Diseases Initiative (DNDi) urged to accelerate actions to share the supply of vaccines and ensure equitable allocation to countries in need, with a focus on the populations at highest risk. To do so, she made key recommendations: support IP pooling and technology transfer mechanisms, invest in manufacturing capacity hubs in LMICs and support the work of the WHO and partners on patent databases. She suggests a re-thinking of the management of intellectual property as a system that prioritizes equal access. It is vital to support regional and national regulatory agencies, to strengthen regulatory systems, including collaborative regulatory and clinical trial registration processes to ensure timely registration of safe and effective health technologies. Another important aspect is transparency throughout the pharmaceutical development chain to inform public investments and strategies.

Andre Maré is an **IP director at ENSafrica**, specialized in commercial and transactional IP matters. He emphasized the many other consequences of IP beyond fostering innovation. Some of the unintended but expected outcomes of patent protection are overpricing, inelastic demand and limited supply. Especially the latter is what is happening right now in respect of Covid-19 vaccines, where

many countries' ability to vaccinate their populations is restricted by the availability of supply.

Recognizing that IP may well be abused, TRIPS allows countries to adopt public health safeguards and flexibilities. But change remains elusive. Far too few countries have amended their domestic laws to take full advantage of the public health safeguards and flexibilities. In Maré's opinion what is needed is a temporary waiver of the global rules, followed by widespread legislative and executive action to translate the new rules into domestic law. And of course, a ramping up of manufacturing capacity, and the sharing of know-how. However, the timelines needed are a big challenge and it is doubtful whether upscaling the production of vaccines at short notice is possible. But it is his hope that in the medium to long term it will be possible and make a difference beyond Covid-19.



4. Challenges

As seen in the summary of the event, the issue of equal access to medication and IP is an extremely complex topic. There is not one clear answer on how this should or even could be handled. Due to the broad variety of stakeholders involved in this process, from governments to researchers, to companies, to financiers to the community that participates in the clinical trials, there are so many different interests that often appear to be at opposite sides of the spectrum. Nevertheless, there is a point made by some speakers. There is much room to improve global access to medication and vaccines. While IP has its place, existing mechanisms may be hindering equitable access to medicines and vaccines during a global health emergency.



5. Conclusion

To conclude, more effort has to be made in response to the pandemic and to ensure access for the Global South. Here are the key issues from the round table:

- IP options need to be examined and potential changes implemented urgently to support the fight against the Covid-19 pandemic
- The implementation of TRIPS flexibilities in national legislation
- Patent databases and pooling by the WHO and partners should be supported
- Manufacturing capacity needs to be increased and mutualized across disease areas
- The resolution on strengthening local production of medicines and other health technologies by the WHO needs to be supported
- Transparency throughout the pharmaceutical development chain to inform public investments and strategies

6. Resources

Study by WIPO, WTO, WHO:

“Promoting Access to Medical Technologies and Innovation - Intersections between Public Health, Intellectual Property and Trade”

Download here

WHO, WIPO, WTO publication:

“An integrated health, trade and IP approach to respond to the COVID-19 pandemic”

Download here

WIPO Academy Distance Learning Course

“Promoting Access to Medical Technologies and Innovation - WHO, WIPO, WTO Executive Course on the intersections between public health, intellectual property and trade”

See Academy Program here

7. Works Cited

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