

International Affairs

Intellectual Property Rights, Globalization, and Access to Medicine: A Study in the Context of the COVID-19 Pandemic

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This article will examine the effects of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS Agreement) on economic globalization and global access to products, specifically medical products and in the context of the COVID-19 pandemic. This article argues economic globalization as essential to the increase of global prosperity. Intellectual Property Rights (IPRs), however, are barriers on globalization because they practically exclude the Global South from global economic interactions. meaning that IPRs also hinder the global access to life-saving medical products, a matter that becomes of grievous importance in the context of the COVID-19 pandemic. Therefore, this article urges the adaptation of the TRIPS waiver proposal to end the COVID-19 pandemic and the reconsideration of many TRIPS regulations.

What the TRIPS Agreement is

Issued by the World Trade Organization (WTO), an active supranational organization responsible for the regulation of global trade, the 1995 TRIPS Agreement essentially protects the IPRs of the member nation-states of WTO. This agreement regulates IP related matters such as copyright, patents, trademarks, and trade secrets. The main purpose of the agreement is to “reduce distortion ... [in] international trade and to do so in a manner conducive to social and economic welfare.”

TRIPS Regulations and Global Trade: who is winning?

Defining globalization as “a multifaceted concept that represents the increasing integration of economics... across [all] national boundaries”, IP regulations on global trade only hinder globalization by legalizing the exclusion of the Global

South from the global economic integration.

Most global trade, transactions, and flow of wealth occur between states in the Global North as opposed to between the Global North and the Global South. 90% of manufactured goods are exported by countries in the Global North and the Global South only covers 30% of all global exports. Furthermore, the Global South's economy is primary-commodity-based and the prices of primary goods are naturally low and fluctuating. As a result, since the Global South does not generate enough income for its population, their purchasing power weakens, and large multinational corporations refuse to invest in the Global South which further reinforces the Global South economic disadvantage. IPRs encourage economic globalization by allowing those with purchasing power in the act of exchange of wealth for technology. However, IPRs leave out those states that do not possess the adequate purchasing power to engage in such transactions. As a result, IP regulations result in low-standard social conditions in the economically dependent states of the Global South, including "poor health care, limited education, lack of safe drinking water, inadequate nutrition" and inadequate and/or low-quality medical products.

Global Economy and Globalization in the Context of the COVID-19 Pandemic

Globalization is both the cause of global pandemics and the cause of transnational trade that allow for global cooperation. COVID-19 has imposed a unique challenge to global trade and economic globalization. At a domestic level, COVID-19 social distancing measures and stay at home orders forced businesses to shut down or restrict their activities and sales, resulting in mass layoffs. As a result of job loss, many people lose their purchasing ability. This, in addition to sales restrictions imposed on businesses, further fuel the cycle of economic decline. At the international level, COVID-19 also resulted in the closure of international borders and restrictions on human movements and multinational corporations. Thus causing further decline in global investments and knowledge exchange. In short, the world is currently experiencing an economic recession as a result of the pandemic and economic restrictions on globalization.

For the Global South, export restrictions on already inexpensive commodities resulted in even lower incomes and, subsequently, even weaker purchasing power. In addition, the producers of pharmaceuticals are mostly located in the Global North and patented under

IPRs. The Global South can neither manufacture essential COVID-19-related medical facilities nor purchase them for a price kind to its economy, while in comparison the Global North can survive on their domestic economies without suffering such severe negative effects.

TRIPS waiver proposal: A Fast Solution

Proposed by India and South Africa in October 2020, the TRIPS waiver proposal's main argument is that IP rights are barriers to the fast global distribution of crucial COVID-19-related medical products, most importantly vaccines. The waiver contends that IP regulations on pharmaceutical products exacerbate the decline of the already declining global economy, thereby causing severe socioeconomic problems especially in the Global South. The waiver thus asks for the temporary revoke of certain sections of the TRIPS agreement that protect IP rights such as "patents, industrial designs, copyright and protection of undisclosed information."

The importance of the TRIPS waiver proposal comes to light in relation to COVID-19 vaccine distributions. The fastest and only effective way to put an end to the pandemic is through vaccinating the global population as *soon as possible*. However, not every country has the legal or economic power to produce vaccines. Given that current

IPRs prevent countries of the Global South from developing their own vaccine, non-vaccine producing-states must rely on international donations or buy vaccines from vaccine-producing states. If the Global South continues importing vaccines instead of manufacturing them, it will always remain as the second priority to vaccine producing countries. Resulting in the working population of high-income countries going back to work while in the Global South economic activity are still restricted. Furthermore, a less economically active Global South means lower trade rates on their part and thus fewer customers for the products of the Global North. Even if the entire Global North is fully vaccinated, the world will still lose \$292bn a year in real GDP. That is \$65bn a year for low- and middle-income countries. Waiving IPRs for COVID-19 vaccines will allow for vaccine manufacturing and sale on a global scale, an increase in the quantity of vaccines, and consequently faster vaccination across the Global South. This will not only introduce life-saving technology to the South, but it will also allow the South to generate income off the production of vaccines.

Conclusion

It is still important to note that if IPRs are temporarily waived and the pandemic is over, IPRs will continue to restrict the access of the Global South to basic and

essential medical facilities. Despite containing the majority of the world's population, the Global South currently receives a small share of global medical products because the Global North restricts their medical production abilities legally and economically. As the Global North continues to produce advanced technology and medical products, they accumulate additional global wealth which widens the economic gap between the Global North and the Global South. This resulting in the Global South suffering from more "disease, malnutrition, and death", translating into different kinds of human rights violations, government corruption and migration on a global scale for decades to come.

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