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FEATURED Q&A

Will Patent Waivers Make Covid Vaccines More Accessible?



The Biden administration recently expressed its support for waiving intellectual property protections for vaccines against Covid-19 at the World Trade Organization. // File Photo: City of Oaxaca.

Q The administration of U.S. President Joe Biden on May 5 announced its support for waiving intellectual property protections for patents on Covid-19 vaccines. A proposal at the World Trade Organization would suspend some of the protections, allowing drug companies to access trade secrets on how the vaccines are made. Should the protections be lifted, and what would such a move mean for Latin American and Caribbean countries' efforts to inoculate their populations? What else can be done to boost vaccine manufacturing and supply on a global scale? What effect would such waivers have on the prevalence of counterfeit Covid-19 vaccines, and what would setting this precedent mean for the pharmaceutical industry at large? How likely is the proposal to be adopted at the WTO now that the Biden administration is supporting it, and how soon could the decision be made?

A James Fitzgerald, director of the Health Systems and Services Department at the Pan American Health Organization: "Ensuring equity in access to medicines and health technologies—including lifesaving Covid-19 vaccines—is central to ending the pandemic. To this end, it is important that we examine every possible option available to us to rapidly expand access and coverage to Covid-19 vaccines, including increasing manufacturing capacity in Latin America and the Caribbean. Current vaccine manufacturing capacity in this region is low and is concentrated in a few countries; investment in research and development has been inadequate, with insufficient priority given to establishing the enabling conditions necessary to increase the

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TODAY'S NEWS

ECONOMIC

Chile's Lower House Rejects Higher Taxes on Rich, Companies

The lower house of Chile's Congress rejected a proposal that sought to implement a wealth tax and higher corporate taxes. President Sebastián Piñera's government had opposed the measure.

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BUSINESS

Finley Resources Files \$100 Million Arbitration Claim Against Mexico

U.S. oil service group Finley Resources filed the claim, accusing Mexico of breaching investor protections.

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POLITICAL

Colombian Rebel Leader Santrich Reportedly Killed

Colombian rebel leader Seuxis Hernández, better known by his nom de guerre Jesús Santrich, was killed by Colombian troops in Venezuela, his group said.

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Santrich // File Photo: Colombian Government.

POLITICAL NEWS

Colombian Rebel Leader Jesús Santrich Reportedly Killed

Colombian rebel leader Seuxis Hernández, better known by his nom de guerre Jesús Santrich, was killed in Venezuela by Colombian troops, his rebel group said Tuesday, the Associated Press reported. Santrich's group, the Second Marquetalia Movement, said Colombian troops had illegally entered Venezuela and on Monday attacked Santrich, who was riding in a vehicle in the western state of Zulia, the wire service reported. The troops attacked the vehicle with gunfire and grenades and cut off Santrich's pinky finger before boarding a yellow helicopter and returning to Colombia, the rebel group said. Colombia did not immediately verify the claim of Santrich's death, but Colombian Defense Minister Diego Molano said the government was working to confirm it, Reuters reported. "Intelligence information signals that alias Santrich and other criminals were killed in supposed confrontations which took place yesterday in Venezuela," Molano said Tuesday in a tweet. "Information being verified. If confirmed, it proves Venezuela harbors narco-criminals." Venezuela's government did not immediately respond to a request for verification by Reuters. The New York Times also reported that Santrich had been killed, citing three senior Venezuelan government officials close to the country's security forces. The officials who spoke to the newspaper requested anonymity to discuss matters of national security. Colombian media published other versions of Santrich's death, including one that claimed that mercenaries in pursuit of a \$10 million reward offered last year by the U.S. State Department had killed him, the AP reported. Santrich was among the leaders of the Revolutionary Armed Forces of Colombia, or FARC, and helped the rebel group to reach a peace accord with Colombia's government in 2016. Santrich, who was known for wearing dark glasses due to partial blindness and frequently wore a checkered scarf, later turned against the deal and returned to arms,

The New York Times reported. The former FARC created a political party and was granted seats in Colombia's Congress under the terms of the peace accord. One of the seats went to Santrich, though he never served as authorities in Colombia and the United States had accused him of returning to drug trafficking, a violation of the peace accord, The New York Times reported.

ECONOMIC NEWS

Chile's Lower House Rejects Higher Taxes on Rich, Companies

Chile's lower house of Congress on Tuesday rejected a proposal that sought to implement a wealth tax as well as higher corporate levies, a major setback for the controversial bill that investors and President Sebastián Piñera's government had opposed, Bloomberg News reported. The wealth tax proposal needed 92 legislators to back it but only received support from 89. Separate legislation that would have hiked the corporate tax rate from 27 percent to 30 percent also failed. However, senators may still try to reintroduce the measures in coming weeks. As the Covid-19 pandemic has exacerbated economic downturns and gaps between the rich and the poor, many countries in the region have in the past months considered so-called "Robin Hood" wealth taxes, or levies that are raised on individuals with a high net worth, as well as higher corporate taxes. Amid the Covid emergency, "all efforts should be made to secure a sustainable recovery that may imply an expansive policy and thus a reduction—not a hike—in taxes," María Fernanda Valdés, coordinator of tax issues at Friedrich-Ebert-Stiftung in Colombia, told the Advisor in a [Q&A](#) published March 4. "However, most Latin American countries' debts are reaching unsustainable paths, and a wealth tax or an excess profits tax looks like a good alternative that allows countries to increase tax revenue without compromising low- and middle-class consumption," she added.

NEWS BRIEFS

Shifter to Step Down as Dialogue's President at End of Year

Michael Shifter, who has spent 11 years as president of the Inter-American Dialogue, announced Tuesday that he is stepping down from the position at the end of the year. "I have long believed that policy groups like the Dialogue periodically need and benefit from new leadership and a renewal of organizational vision in this fast-changing world," he said. Shifter, who has worked for the organization for more than 27 years, said its board of directors will soon begin a search for his successor.

Lower House of Brazil's Congress Plans Vote on Eletrobras Privatization

Brazil's lower house of Congress will vote today on a presidential decree that seeks to privatize state power utility Eletrobras, House Speaker Arthur Lira said Tuesday, Reuters reported. Legislators began debate on the issue on Tuesday afternoon. "It is important that there is a broad debate on the topic," Lira said on Twitter. [Editor's note: See related [Q&A](#) in the April 23 issue of the Energy Advisor.]

SafetyPay Launches Instant Payment Method in Brazil Using PIX

SafetyPay announced Tuesday that it has launched an instant payment method in Brazil that uses PIX, a central bank platform that allows payments through QR codes that hold customers' banking information without sharing additional information online. The feature will allow users to make transfers and payments from any mobile phone in real time every day and at all times, including holidays and weekends, the statement said. The service will benefit more than 200 million people, the company said. PIX has 134 million user accounts in Brazil.

BUSINESS NEWS

Finley Resources Accuses Mexico in \$100 Million Claim

U.S. oil service group Finley Resources has introduced a \$100 million claim in a World Bank arbitration court, accusing Mexico of breaching investor protections under the North American Free Trade Agreement by not complying with honor agreements, Reuters reported Tuesday, citing lawyers for the firms and court documents. The case, which the World Bank's International Centre for Settlement of Investment Disputes, or ICSID, registered on May 12, involves the Texas-based company, which had won two oil tenders and negotiated a third drilling service contract with Mexican state oil firm Pemex. Andrew Melsheimer, an attorney for Finley, said it sought arbitration at the international court following stalled attempts in Mexican courts to enforce the contracts. This is the first claim by a U.S. oil services firm against Mexico under the United States-Mexico-Canada Agreement, the updated version of NAFTA that went into effect last year. Mexico is currently facing 13 arbitration disputes before ICSID, 10 of which have been introduced since 2018, when President Andrés Manuel López Obrador took office. The president has made strengthening Pemex a cornerstone of his agenda, moving to roll back energy reforms under the previous administration that opened up the sector to private and international investment. Unless Mexico's Supreme Court overturns the new laws introduced by López Obrador's government, "legal fights and arbitration will follow," Lourdes Melgar, Mexico's former deputy secretary of energy for hydrocarbons, told the Energy Advisor in a Q&A published April 16. "The laws are in violation of trade deals, and of the Paris Agreement ... The dispute over energy is underway," she added. The American Petroleum Institute, the largest lobbying organization for U.S. oil and gas producers, has expressed concerns that Mexican government actions have violated regional trade deals and hurt U.S. investors, Reuters reported.

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production base, including the participation of the private sector. Technology-transfer agreements to increase capacity to date have not benefited the region as a whole. Political commitment is needed across the region to address these issues through joint action of countries, increased financing for research and development, updating and amplifying productive capacity, strengthening regulatory systems, and partnerships across health, industry and science and technology sectors, and across public and private sectors, including academia. The region is moving in this direction, and with the support of PAHO/WHO, it is exploring options to access modern adaptable vaccine development platforms that will increase capacity for the future. Access to technology will be critical to the success of this endeavor in the midterm, through more inclusive voluntary technology-transfer agreements that address regional needs, through the application of TRIPS flexibilities confirmed in the DOHA Declaration, or indeed through an alternative process that waives existing regulations through the World Trade Organization. This pandemic clearly shows us that the world needs a new treaty that can guarantee equitable access to vaccines, medicines and other tools that countries need to respond appropriately. Working together, we can be better prepared for the future, we can generate capacity for the future and we can ensure greater equity in our collective response against future pandemics."

A **Rolf Hoenger, area head for Latin America at Roche Pharma:** "In less-developed regions such as Latin America, health systems face infrastructure deficiencies that affect the delivery of essential health services to all, ranging from restricted supply chains to a shortage of trained professionals. These are the same challenges that are interfering with Covid-19 vaccines and many other innovations getting to people faster, and suspending patent rights won't solve such a

complex issue. The developer of an innovation has the established production facilities as well as the technical and medical know-how to ensure high-quality products and patient safety, even when responding to emergency situations. Waiving patent protections for difficult-to-make pharmaceutical products in a scenario of strained supply chains can lead to a disrupted, rather than

“ Instead of looking at patents, we should focus on enabling more public-private partnerships.”

— Rolf Hoenger

increased, supply of safe products. Such a decision for Covid-19 vaccines can also set a dangerous precedent for the industry, disincentivizing the innovation we need to solve unmet medical needs. As economics teaches us, providing incentives is an effective way to boost manufacturing and supply of vaccines and other innovations. Instead of looking at patents, we should focus on enabling more public-private partnerships. This has been our approach at Roche to contribute during the pandemic: we quickly reacted to develop Covid-19 tests, explore the potential of our portfolio to treat the virus and help scale production, including collaborations with other laboratories such as Regeneron and Novartis, and we continue working with health care providers, authorities and other organizations to ensure we can meet the demand for our products and patients are getting the care they need."

A **Núria Homedes, executive director of Salud y Fármacos:** "Everybody agrees that the Covid pandemic will not end until everyone is vaccinated and the emergence of virus variants is contained. A more difficult question is how to get there. WHO and other

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global players established mechanisms to share intellectual property and funds to ensure that low- and middle-income countries would have access to Covid vaccines and treatments, but they failed to earn meaningful support from most advanced economies and the pharmaceutical innovative industry. It might be that relying on volunteerism can't work when there are large profits to be made and governments feel the urge to respond to the short-term needs of their constituencies.

“Waiving IP rights is one step in the right direction, but it might be too late for it to have a meaningful effect.”

— Núria Homedes

However, the response to the pandemic is reminiscent of what happened to the AIDS community in the 1990s and has tragically exposed the failure of the current pharmaceutical development and production model to provide equitable access to lifesaving treatments, even when doing so would be in everybody's best interest. Waiving IP rights is one step in the right direction, but it might be too late for it to have a meaningful effect. Sadly, it will take months for countries within the WTO to negotiate the final text, and it is doubtful that powerful countries that house big pharmaceutical companies will support the initiative. On the bright side, the waiver signals to local manufacturers that they could have a market, which might spark their interest in updating their plants and technology. Their success will also require a major global effort at technology transfer and the elimination of access barriers to raw materials. Hopefully, we can extract some lessons and develop pharmaceutical policies more responsive to basic ethical standards. Profits cannot be made at the expense of avoidable deaths.”

A **Brian Toohey, senior vice president for international advocacy at the Pharmaceutical Research and Manufacturers of America**

(PhRMA): “Biopharmaceutical manufacturers are fully committed to providing global access to Covid-19 vaccines. After more than 200 clinical trials and nearly 300 partnerships and collaborations among manufacturers worldwide, global production has increased in just a few months from zero to 2.2 billion Covid-19 vaccine doses by the end of May, with an estimate of approximately 11 billion doses by the end of 2021. But there is an urgent need for solutions to meaningfully promote vaccine equity, especially in some countries throughout Latin America. What will not address the underlying causes of vaccine inequities is undermining intellectual property protections through any waiver of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). A waiver would sow confusion, further weaken already strained supply chains and foster the proliferation of counterfeit vaccines. There are real challenges to getting more shots in arms, including last-mile distribution and the free flow of inputs and finished products, and these won't be addressed by an IP waiver. We all must work together to address these barriers. While officials in Geneva debate anti-innovation policies that won't help save lives now in Latin America or beyond, the biopharmaceutical sector will remain focused on the shared objective of vaccinating people around the globe as quickly as possible and ending the pandemic. We've seen more American vaccine exports in recent days, increased production targets from manufacturers and new commitments to Covax. We all must continue working together to beat Covid-19.”

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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