

WORLD

# Prospects of Intellectual-Property Waiver on Covid-19 Vaccines Fade

Agreement to waive IP looks increasingly unlikely, with U.S. not acting to bridge gap between supporters and opponents



Campaigners in London protested in October against the U.K.'s blocking a waiver for Covid-19 vaccine patents.

PHOTO: AARON CHOWN/ZUMA PRESS

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An agreement to waive the intellectual-property rights underpinning Covid-19 vaccines—a prospect poor countries have hoped would ease supplies to the developing world—is becoming increasingly unlikely, say people familiar with the situation, with the U.S. not acting to bridge disagreements between developing world countries and those opposing such a measure.

In May, the Biden administration said it would support temporarily suspending patents and other IP linked to the shots to allow developing countries to produce the Covid-19 vaccines created by big drug companies.

The U.S. was under pressure to help get vaccines to poor countries, which have suffered severe shortages. Confirmed deaths from Covid-19 in the developing world have far outstripped those in rich countries this year.

However, people close to negotiations at the World Trade Organization, the forum for discussions on the waiver, say the U.S. hasn't offered proposals to close the broad gap between the positions of the poor countries and those who oppose a broad waiver. A waiver is unlikely without U.S. involvement, they say. The WTO, with 164 member countries, needs a consensus to make a decision.

A group of more than 60 developing countries, led by South Africa and India, has proposed a far-reaching waiver that would lift protections for IP linked to Covid-19 treatments, tests and vaccines.

The European Union, home to some big pharmaceutical companies, opposes a full waiver, but says it is open to easing some of current rules on Trade-Related Aspects of Intellectual Property Rights, or TRIPS. Earlier this year, the EU presented an alternative proposal that would lift export restrictions on vaccines and their raw materials, expand manufacturing capacity and make it easier for countries to use existing rules to override patents in some cases.

Drug companies have opposed a waiver, saying it wouldn't ease the vaccine shortages in the short term, citing the complexities of making the new shots.

The Biden administration's announcement of its position this spring jump-started months of negotiations at the WTO. Poor countries hoped a waiver agreement could be reached during the biennial meeting of WTO trade ministers, which kicks off on Nov. 30.



Nicaraguans waited to receive vaccines in October. Poor countries have hoped for an agreement at the WTO that could expand supplies.

PHOTO: ANDRES NUNEZ/ASSOCIATED PRESS

But in closed-door talks at the WTO in recent months, U.S. delegates haven't specified which measures Washington is willing to support, disappointing officials from poor

countries who hoped the U.S. could put its weight behind a deal. That has stalled negotiations, people close to the talks say.

“The U.S. has really been nowhere in the debate,” said an official from a developing country that supports the waiver. “The U.S. has been constantly saying, ‘Yes, we need an outcome’ but not saying anything on how that can be achieved.”

Informal discussions are continuing, people familiar with the talks say.

U.S. officials have said that the administration’s support for an IP waiver accelerated conversations at the WTO and that the U.S. has helped facilitate talks among the members. The U.S. is hoping other countries can find a consensus without itself taking charge of the debate.

“We said that we support the waiver and the waiver components and that we were prepared to...play our role at the WTO to facilitate text-based negotiations because that’s how the WTO works,” U.S. Trade Rep. Katherine Tai told reporters recently. “That is the role that we have been playing, that we will continue to play.”

She added: “You never put a proposal out there expecting that that is the thing that’s going to come out of the process, because it’s got to get through 164 members.”

Ms. Tai noted that the waiver talks reflected developing countries’ powerful message that they needed relief from the pandemic through medical treatments and vaccines. She added, however, that some developing nations felt a waiver wouldn’t necessarily help them access shots quickly.

The U.S. hasn’t submitted any proposal of its own on a vaccine waiver, Ms. Tai said, but would “bring our best game” to the WTO and try to facilitate a plan its members could accept.

An EU spokeswoman said the bloc was actively engaging with both proponents of a waiver “to find solutions that are meaningful for increasing the production of Covid-19 vaccines and medicines while maintaining incentives for innovation.” A representative of South Africa’s trade ministry said the country, along with other cosponsors of the waiver proposal, was continuing to press for an acceptable outcome at the ministerial meeting.

Since May, the U.S. has embraced other measures to boost vaccine supplies to the world’s poorest countries. It has pledged to donate at least 1.1 billion shots by next September and has invested in manufacturing facilities in South Africa, Senegal and India. On Wednesday, it said it would spend billions of dollars to help drugmakers increase vaccine production in the U.S.

In recent weeks, more doses have been flowing to developing countries. Pharmaceutical companies and other opponents of a waiver say that is a sign that they have been able to boost production with IP protections in place.

But backers of the waiver say increased global production still leaves poor nations vulnerable to shortages if rich countries mandate multiple booster shots or if new coronavirus variants require updated vaccines. They also say passing a waiver now would set a powerful precedent for how to ensure access to lifesaving medicines in future health crises.

The U.S. reluctance to take a firm position in the waiver talks appears to be driven in part by divisions in Washington on how best to expand vaccine availability in poorer nations, people close to the WTO negotiations say.

Several Republicans in the Senate, where Democrats hold a thin majority, have opposed a waiver, saying it could let China copy American innovations. There are also divisions within the Biden administration on how forcefully to encourage pharmaceutical companies to share the IP and other technology needed to make the vaccines, while some influential U.S. progressive groups are pushing hard for a waiver.

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