

India risks being left out of TRIPS waiver

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

About TRIPS waiver proposal-

- **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 to expand the scope of the waiver to “all health products and technologies (especially related to Covid-19)” and to have the waiver in place for at least a year.
- **The core idea behind the proposal was** that IPR such as patents should not become a barrier in scaling up the production of medical products like vaccines, diagnostics and therapeutics essential to combat Covid-19.
- **These negotiations began after India sent a letter to the Director General of the WTO** 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. proposals for “geographical exclusions”** are high on the agenda.
- **Indian officials have formally opposed the geographic exclusion proposal.**
- Apart from the proposal on geographical exclusions to

cut Indian and Chinese companies out of the waivers, **other proposals, 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.

- 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.

Domestic factors that impacted India’s global campaign are-

- During the entire pandemic, India rarely made use of the existing flexibilities under the Indian Patent Act, such as compulsory licenses (CL), which are consistent with the TRIPS agreement, to increase the supply of Covid-19 medical products.
- India did not proactively develop a national strategy to implement the TRIPS waiver as and when it was adopted.
- The government failed to get the Indian pharmaceutical industry on board.
- Though India is one of the few countries that has successfully developed a fully indigenous Covid-19 vaccine, Covaxin, it failed to unlock its technical know-how to the world.

About TRIPS-

- **The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)** is an international legal agreement between all the member nations of the WTO.
- The TRIPS Agreement, which **came into effect on 1 January 1995, is** to date the most comprehensive multilateral agreement on intellectual property.
- This Agreement, pushed by knowledge-based economies like the United States and the multinational, research-

intensive pharmaceutical industry, imposed a base of protections for intellectual property rights, from patents to copyrights.

- Before this was negotiated, more than 50 countries did not recognize patent protection on pharmaceutical products.
- The TRIPS Agreement changed that, and after a transition period of 10 years, ratcheted up these requirements on all but the least developed countries.
- Middle-income countries like India came into compliance by 2005.

TRIPS waiver for COVID vaccines-

- The TRIPS waiver refers to a proposal to the WTO to waive IPR protection for technologies needed to prevent, contain, or treat COVID-19 “until widespread vaccination is in place globally, and the majority of the world’s population has developed immunity.”
- The TRIPS waiver just seeks to temporarily suspend these protections until the pandemic has ended, so the world can better access the knowledge needed to combat the worst pandemic in a century.

Further

reading:

<https://journalsofindia.com/waiving-intellectual-property-ip-protection-for-covid-19-vaccines/>