

IP waiver for COVID-19 vaccines

May 12, 2021

In news: The United States announced support for waiving intellectual property protection for Covid-19 vaccines.

More information-

- The US is in the process of pursuing **“text-based negotiations”** on the waiver at the World Trade Organization (WTO).
- Text-based negotiations involve negotiators exchanging texts with their preferred wording and then thrashing out a consensus on the working.
- All **164 WTO members must agree** on the draft, and any one member can veto it.
- The IP waiver might **open up space for production of Covid vaccines with emergency use authorisations (EUA)** on a larger scale in middle-income countries.
- Countries including Canada, South Korea, and Bangladesh have shown interest in making Covid vaccines if they can get a patent waiver.
- The US support for an IP waiver stems from a **proposal by India and South Africa** in the WTO in 2020 to waive certain conditions of the TRIPS agreement.
- The proposal had called for a waiver on all Covid interventions, including testing diagnostics and novel therapeutics.

Deterrents for the waiver-

- Pharma companies had opposed the proposed waiver as eliminating IP protections would “undermine the global response to the pandemic”, including the ongoing efforts to tackle new variants.
- Eliminating protections would not speed up production.

- It would not be feasible for a company to move vaccines to a developing nation.

Patents-

- A patent represents a powerful intellectual property right, and is an **exclusive monopoly granted by a government to an inventor** for a limited, pre-specified time (**20 years**).
- It provides an enforceable legal right to prevent others from copying the invention.
- Patents can be either **process patents or product patents**.
- A **product patent** ensures that the rights to the final product is protected, and anyone other than the patent holder can be restrained from manufacturing it during a specified period, even if they were to use a different process.
- A **process patent** enables any person other than the patent holder to manufacture the patented product by modifying certain processes in the manufacturing exercise.
- India moved from product patenting to process patenting in the 1970s, which enabled India to become a significant producer of generic drugs at global scale.

However, India amended the **Patents Act in 2005**, and switched to a product patents regime across the pharma, chemicals, and biotech sectors.