

Many developing countries have expressed serious concerns over the barriers imposed to temporarily waive intellectual property rights on COVID-19 vaccines, saying the proposal under discussion at the World Trade Organization hangs in the balance.

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver was intended to allow COVID-19 vaccines to be manufactured in developing countries without infringing patents held by big pharmaceutical companies, mostly in the global North.

Only 16 per cent of people in low-income countries have received a single vaccine dose, compared to 80 per cent in high-income countries, according to the World Health Organization.

Winnie Byanyima, UN under-secretary-general says, “Hoarding the rights and recipes to life-saving, pandemic-ending medicine means letting people die and leading to a more divided world.”

A waiver was first proposed by India and South Africa in October 2020 and a new draft agreement was circulated in early May this year after negotiations between the two proposers and the European Union (EU) and the United States.

The forthcoming WTO ministerial conference in Geneva which started on 12-15 June was expected to finally broker a deal on the waiver.

However civil society organizations under the umbrella of the People’s Vaccine Alliance have termed the process “flawed” and “untenable”.

“As civil society we disapprove of the WTO text that is being rammed through in undemocratic process where we have been given arbitrary deadlines to arrive at some consensus agreement that’s not really meaningful,” said Fatima Hassan, founder of the South Africa-based Health Justice Initiative, at a virtual briefing organised by the Alliance to comment on the texts of the negotiations last week.

At the centre of the controversy is an EU attempt to introduce amendments to the WTO text that critics see as out of step with the original India-South Africa proposals made at the beginning of the pandemic.

The text focuses on use of the compulsory licensing system, whereby governments can permit the manufacture of vaccines and other medicines without infringement

of intellectual property (IP) rights during an emergency such as a pandemic.

The draft text is seen by opponents as too narrow in scope because it covers only vaccines and fails to include treatments, diagnostics or other COVID-19 technologies, the news conference heard.

There are also concerns that proposed new wording might prevent China and some other partly industrialized countries capable of producing vaccines from exporting to countries that need them.

Switzerland and the United Kingdom were singled out for introducing new wording to the text that seems to “smack of an attempt to further delay any kind of consensus on a vaccine waiver, including further narrowing the flexibilities in the original WTO text,” according to Hassan.

“It’s not a credible text. It should not be agreed to by countries in the global South,” Hassan said.

“We have asked South African and Indian governments not to sign onto this text because it’s a worse deal which will tie our hands for future purposes.”

She challenged countries from the global South to “step up and propose textual amendments to uphold the original proposals made by India and South Africa, which includes waivers for vaccines, therapeutics, diagnostics and medical technologies.

None of the countries involved have yet endorsed the document which was released by the WTO director-general.

Joseph E. Stiglitz, Nobel laureate and economics professor at Columbia University, US, told the virtual briefing that the current intellectual property framework was “a failure” and called for the draft text to be rejected.

“No-deal is better than a bad deal,” he said. “There’s too much ambiguity in the WTO text, and some of the proposals are a step backwards which do not prepare us for the next pandemic.”

He said that two years into the pandemic and after 20 million deaths, the WTO barriers remained an obstacle to global production as well as access to COVID-19 vaccines medicines and tests.

“There would have been an increase in supply had the IP been waived in line with South Africa and Indian proposals at the beginning of the pandemic,” he added.

“But the pharmaceutical industry has been undermining the process by foot-dragging and by increasing the transaction costs and making it very slow and difficult and that’s why there was such a clamour for a waiver.”

Winnie Byanyima, UN under-secretary-general, executive director of UNAIDS and co-chair of the People’s Vaccine Alliance, said it was disappointing that the WTO had not reached an agreement on a TRIPS waiver. She said South Africa and India, backed by 100 countries, had called for a simple waiver on COVID-19 vaccines treatments and tests, which could have led to their manufacture in developing countries.

“Negotiations have been delayed by a number of rich countries. Millions died but they chose profits over people,” said Byanyima.

Referring to discussions over which countries should be eligible for the waiver, she said: “You have to ask, is the biggest problem we face that too many countries might work together to ensure affordable vaccines, medicines and treatments? Not really. This system is broken. In a pandemic, sharing technology is life or death and we’re choosing death.”

She said rich countries had an opportunity to do the right thing in the coming weeks, adding: “I implore them to put people ahead of profits. Hoarding the rights and recipes to life-saving, pandemic-ending medicine means letting people die and leading to a more divided world.”