

## Opinion: Preserving intellectual property barriers to covid-19 vaccines is morally wrong and foolish

Opinion by **Joseph E. Stiglitz** and **Lori Wallach**

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New covid-19 variants are spreading quickly. An outbreak anywhere could lead to a more deadly or infectious strain hopping around the globe.

So why, after three months of making great progress on domestic vaccination, has President Biden not ended a self-defeating policy from the Trump administration that hinders a global initiative to increase access to covid-19 vaccines and treatments? More than 100 countries support a temporary waiver of some World Trade Organization rules that guarantee pharmaceutical firms monopoly control over how much medicine is produced, yet the United States remains opposed.

Had WTO members agreed to waive aspects of its agreement on trade-related intellectual property for covid-related medicines when some countries proposed it last October, poor nations might not wait until 2024 for vaccines, as projected.

Waiving intellectual property rights so developing countries could produce more vaccines would make a big difference in reaching global herd immunity.

Otherwise, the pandemic will rage largely unmitigated among a significant share of the world's population, resulting in increased deaths and a greater risk that a vaccine-resistant variant puts the world back on lockdown.

Pharmaceutical corporations claim the problem is not intellectual property barriers,

but that companies in developing nations don't have the skill to manufacture covid-19 vaccines based on new technologies. This is self-serving and wrong.

Firms in the Global South are already making covid-19 vaccines. For example, South Africa's Aspen Pharmacare has produced hundreds of millions of doses of Johnson & Johnson's vaccine, even though only a fraction of those went to South Africans. Other drug corporations simply refuse to work with qualified manufacturers in developing countries, effectively blocking more production.

These companies are focused not on global access but on sales in profitable markets. This underscores why the "third way" proposal from WTO Director General Ngozi Okonjo-Iweala, in which she promotes more of the same old, industry-controlled voluntary deals, is a distraction and not a remedy.

Not one vaccine originator has shared technologies with poor countries through the World Health Organization's voluntary Covid-19 Technology Access Pool. The global Covax program, which aims to vaccinate 20 percent of developing countries' most vulnerable populations, has delivered about 38 million doses to 100 countries; meanwhile, the United States administers 3 million doses daily.

There is no way to beat covid-19 without increasing vaccine production capacity. And some production must be in the Global South for a host of reasons, including that prompt suppression of new variants is how we avoid more deaths and quarantines.

A waiver would immediately increase government leverage over vaccine makers that refuse to license the technology. Firms could choose to either expand production by negotiating with governments, alternative suppliers and global initiatives, or risk governments circumventing them and forcing the transfer of technology.

A waiver would also provide legal certainty for governments and investors that are inclined to repurpose existing pharmaceutical manufacturing or build new facilities but are fearful of intellectual property liability. And it could boost production of covid-19 treatments unavailable in much of the world, as well as diagnostic tests and vaccine supply chain products.

The principle that all countries should have access to intellectual property related to

medicines has already been accepted by the international community. In the early 2000s, as millions without access to treatments died of AIDS, WTO members clarified that countries have “flexibilities” to issue compulsory licenses for medicines. The United States itself threatened to do this for ciprofloxacin, a treatment for anthrax, during the 2001 scare. If there were ever a moment to invoke this principle, it is now.

Unfortunately, the drug companies have consistently done whatever they can to preserve their monopoly control. Even today, as they battle the waiver and argue that existing compulsory licensing rights are sufficient, they lobby the U.S. government to sanction countries that use that tool.

These corporations have also undermined this option by building “thickets” of intellectual property barriers. They fortify their monopolies by registering exclusive rights to industrial designs and undisclosed data, such as trade secrets and test data, in addition to numerous patents and copyrights for each medicine. Each element would require a license, and the WTO’s flexibilities might not even encompass all of them.

Making matters more difficult, “product-by-product” and “country-by-country” compulsory licensing is nigh impossible to coordinate across countries for medicines with complex global supply chains, such as covid-19 vaccines.

Even more absurd is the argument from pharmaceutical companies that temporarily waiving their monopolies for covid-19 medicines would undermine their ability to respond to the next health crisis. Governments transferred more than \$110 billion to pharmaceutical firms to finance research and production, so companies face little risk while earning billions on vaccine sales. The market for covid-19 vaccines is literally the entire world, so any successful vaccine maker stands to profit handsomely even with technology transfer.

Any delay in ensuring the greatest availability of vaccines and therapeutics is morally wrong and foolish — both in terms of public health and the economy. The waiver is a critical first step.