



## BRIEFING PAPER

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Februari 2021

# STOP IPR (INTELLECTUAL PROPERTY RIGHTS) MONOPOLY AGAINST COVID-19, IMPLEMENT TRIPS WAIVER

*Monopoly in patent rights must definitely be challenged by competition, hence production can be conducted on a larger and wider scale in order to produce cheaper and more affordable prices. With a patent right, there will be no other company that can produce generically for sure. Eventually, the IPR monopoly in the health sector will encourage open commercialization of basic needs in the people's lives.*

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## INTELLECTUAL PROPERTY RIGHTS MONOPOLY & PUBLIC SECTOR COMMERCIALIZATION<sup>1</sup>

### INTRODUCTION

*Intellectual Property Rights protection provisions have encouraged the practice of knowledge monopoly which is fully controlled by the pharmaceutical industry in developed countries. This is a form of abuse of IPR protection by corporations applying IPR Law to prevent other people from producing and trading products whose technology is requested protection in an effort to keep profits in the hands of the IPR holder.*

*On the issue of health and medicine access, patent rights protection will establish uncertainty and increase costs, delay competition and keep*

*prices high for low- and middle-income countries, and ultimately block public access to medicines, medical equipment, including vaccines, which is urgently needed by the public especially in the course of a pandemic.*

*Monopoly in patent rights must definitely be challenged by competition, hence production can be conducted on a larger and wider scale in order to produce cheaper and more affordable prices. With a patent right, there will be no other company that can produce generically for sure. Eventually, the IPR monopoly in the health sector will encourage open commercialization of basic needs in the people's lives.*

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1. This paper is written from the previous several IGJ publications, including the sources' exposures in the webinar hosted by IGJ regarding the issue of Knowledge Monopoly and Vaccine Diplomacy in 2020.
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ISSUE 1

**INTELLECTUAL  
PROPERTY  
MONOPOLY  
IN HANDLING  
THE COVID-19  
PANDEMIC****Protection of IPR as a business commodity**

Since at the very beginning the Corona virus was designated as a Pandemic, obstacles regarding access to medicines, PPE, and treatment are believed to be a serious challenge. Some developing countries at the beginning of the pandemic experienced a shortage of PPE stocks and even until now lacking in ventilators (respiratory devices) needed to save patients of COVID-19 remains to be such a serious threat.

In handling COVID-19, almost everything is related to issues of protection of intellectual property rights (IPR). That almost all health products in handling COVID-19, such as test kits, diagnostics, masks, medicines, vaccines and ventilators are protected under patents, trade secrets and industrial designs. This in turn opens up opportunities for the pharmaceutical industry to take advantage of a pandemic situation to extract as much profit as possible from the abuse of IPR protection and encourage monopolistic practices of knowledge, production, price, and distribution (supply). Pharmaceutical corporations still employ the business-as-usual scheme approach in responding to the needs of handling the pandemics in the world.

**Vaccine Nationalism & Its Impact on Inequality of Vaccine Access**

When the number of cases is soaring sharply, the country must prevail as hard as possible until a vaccine is found. Vaccines are believed to be one way to achieve global immunity. Various pharmaceutical companies, supported by funding from developed countries, are competing to find effective vaccines

Figure 1 - Intellectual Property Rights Protection in Handling COVID-19

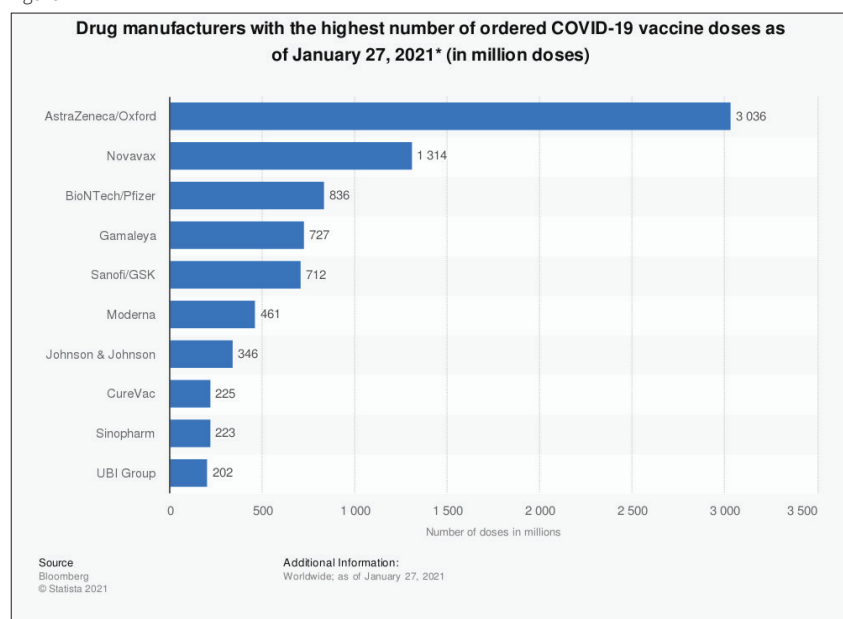
Health Product(s)	Type(s) of IPR
Test kits, diagnostics	Patent rights, trade secrets
Masks (esp. N95 respirator)	Patent rights, industrial designs
Medicines	Patent rights
Vaccines	Patent rights, trade secrets
Ventilators Ventilators – ventilator valves, programs, machines, software, etc.	Patent, trade, secrets, industrial designs, copyrights, and others <a href="https://www.medicaldevice-network.com/news/3d-printed-valves-covid-19-italy/">https://www.medicaldevice-network.com/news/3d-printed-valves-covid-19-italy/</a>
Artificial intelligent	

Source: Lutfiyah Hanim's presentation, TWN, 2020.

and produce them to deal with the COVID-19 pandemic, such as Pfizer, Moderna, Johnson & Johnson, Sinopharm, and many more (See Figure 2). Including, efforts at the national level such as what happens in Indonesia, with the red and white vaccine (*vaksin merah putih*).

The race to find an effective vaccine can certainly open up huge business gaps in the health sector. In fact, however, the big pharmaceutical companies are showing little interest in the race for vaccines. This is due to the past experience, making vaccines, especially in acute health emergencies, has not been shown to be beneficial. The discovery process takes time and is far from assurance. Moreover, poor countries need large supplies yet cannot afford high prices. Further, vaccines usually need to be given only once or twice. Only when

Figure 2 -



<https://www.statista.com/topics/6172/coronavirus-covid-19-vaccines-and-treatments/>

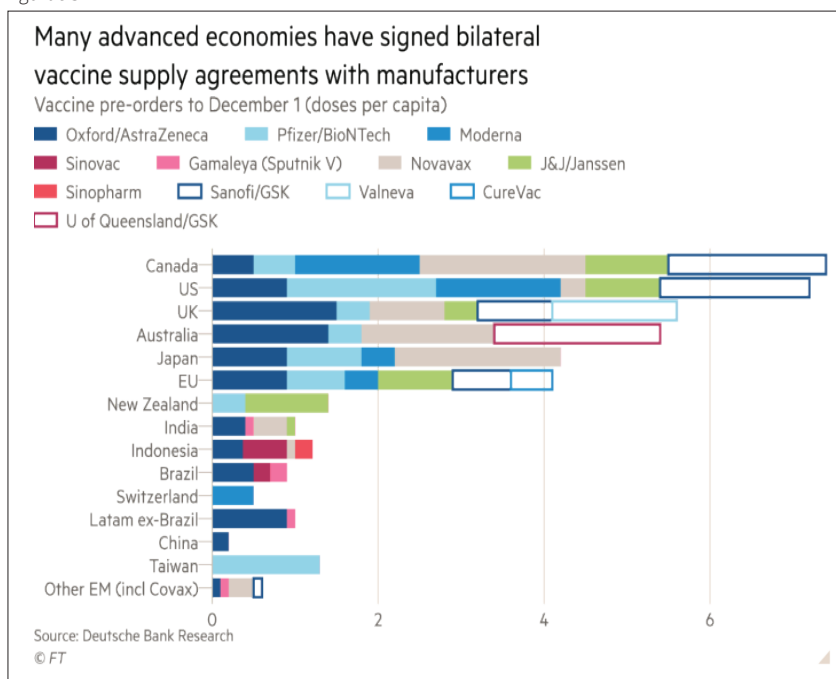
governments and international agencies step in with funding agreements, that is when they can work on it. Governments and multilateral organizations have agreed to buy billions of doses at fixed prices. Pharmaceutical companies selling to wealthy countries will certainly be able to start seeing returns on their investments.<sup>(4)</sup>

With this kind of market approach, it has resulted in inequitable access, especially to developing and poor countries, to the medicines needed to handle the COVID-19 pandemic. Wealthy

4. <https://www.bbc.com/news/business-55170756> Direktur Eksekutif IGJ

countries are able to finance the manufacture of vaccines which then get priority for the supply of vaccines produced by large pharmaceutical companies based on bilateral business deals. This practice is known as vaccine nationalism (See Figure 3). Whereas, in order to break the chain of the pandemic,

Figurae 3 -



Source: downloaded from <https://www.ft.com/content/3a37c3f5-20fc-4d1f-8dd4-2fd966c27542>

all countries must receive vaccine rations, especially for the vulnerable countries. Without equal access, global immunity will be difficult to achieve.

The impact of a bilateral agreement between richer governments and producers of the coronavirus vaccine (*read: vaccine nationalism*) has raised concerns over rising prices and a lack of supply for low- and middle-income countries. This is where the big pharmaceutical companies have a chance to take advantage of the price game.

Last January 2021, The Guardian reported on the issue of inequality regarding vaccine prices experienced by South Africa. In its article, it was stated that South Africa paid 2.5 times more than the European Union for the vaccine. South Africa has ordered 1.5 million doses of vaccine from the Serum Institute of India (SII) with a price per dose of around 4.32 Euros, which is compared to the price per dose obtained by the European Union which is only around 1.78 Euros. In fact,

5. <https://www.theguardian.com/world/2021/jan/22/south-africa-paying-more-than-double-eu-price-for-oxford-astrazeneca-vaccine>





it is claimed that the lower price obtained by the European Union than South Africa is because the European Union has invested in vaccine research and development activities, therefore the price is discounted.<sup>5</sup>

### **Disclose Transparency**

The price differences in bilateral agreements arise due to the trade secret protections that pharmaceutical companies implement with the state. This causes the enclosure of all information required by the public, such as prices given, quantity of supplies, including delivery schedules. The issue of transparency related to bilateral agreements made by pharmaceutical companies has become a demand urged by the public around the world.

Inequality of access due to the practice of vaccine nationalism is increasingly becoming real and will have an impact on the supply of vaccines for developing and poor countries. This is evident when the European Union plans to restrict exports related to vaccines to countries outside the European Union by pharmaceutical companies. The European Union will require pharmaceutical companies such as Pfizer and AstraZeneca to register their vaccine exports from EU territory. This is done to ensure that the distribution of vaccines by the two pharmaceutical companies still prioritizes the needs of the European Union, which has previously ordered and paid for millions of doses.<sup>6</sup>

The previously mentioned policy was taken by the European Union due to the delay in Pfizer and AstraZeneca in supplying vaccines to all of its members from a predetermined time. In fact, Italy plans to take legal action against Pfizer and AstraZeneca over the delay in vaccine supply. However, what the European Union is doing as wealthy countries will only hamper the fulfillment of vaccine supplies which are urgently needed by developing and poor countries as well.

### **Production Control of Pharmaceutical Companies**

IPR protection regulation provides pharmaceutical companies monopoly rights to regulate production, distribution, and fix prices in order to accumulate profits. Therefore, large pharmaceutical companies which have succeeded in

5. [https://www.reuters.com/article/uk-health-coronavirus-eu-vaccineexport/eu-to-monitor-vaccine-exports-but-says-its-not-a-ban-idUSKBN29V100?fbclid=IwAR3LUNs\\_03b0Ra3k9EM9Q6xvVf47GbFW-1YMQ92B9RCzKFSMQGk\\_RruzUp-4](https://www.reuters.com/article/uk-health-coronavirus-eu-vaccineexport/eu-to-monitor-vaccine-exports-but-says-its-not-a-ban-idUSKBN29V100?fbclid=IwAR3LUNs_03b0Ra3k9EM9Q6xvVf47GbFW-1YMQ92B9RCzKFSMQGk_RruzUp-4)



developing vaccines will certainly ensure their protection, either with patent rights, industrial designs, or trade secrets.

In the context of vaccine price controls, there is a view that the profits a pharmaceutical company will get from selling vaccines will be temporary. Although the pharmaceutical company is reluctant to share its intellectual property. This is due to there are already more than 50 vaccines in clinical trials around the world, and within two years, there will probably be 20 vaccines on the market. Therefore, it will be difficult for pharmaceutical companies to set premium prices.<sup>7</sup> This is what then drives the race for pharmaceutical companies to be able to immediately complete clinical trials, even though there are often unilateral claims from pharmaceutical companies competing to state that the vaccines they find have up to 90% effectiveness. This is definitely part of their efforts to seize the huge vaccine market.

The large pharmaceutical companies do certainly not want to lose their rights to continue to exercise control over production and prices. The delay in supply that occurred in the European Union should be a strong momentum for the public to protest against the business-as-usual practices applied by pharmaceutical companies and developed countries amid today's humanitarian issues.

One of the reasons that AstraZeneca cited for the delay in supply to meet vaccination needs in the European Union was due to lower than expected production output at manufacturing locations in European supply chains. This is because the vaccine is a complex biological product, where the production process does not always produce the number of vaccines that can be used are the same. Regarding production capacity, this is certainly a challenge in meeting world demand for the COVID-19 vaccine.<sup>8</sup>

In order to send billions of vaccines globally, the production capacity must be massive. At present, the demand for the COVID-19 vaccine is much higher than the supply. This is the challenge. Supply shortages will impact many countries, especially developing and poor countries will not have broad access to vaccines by 2021. The uncertainty of production supply will encourage vaccine protectionism in order to ensure only domestic needs. The business-as-usual approach by conducting a monopoly will not possibly be able to solve

7. <https://www.bbc.com/news/business-55170756>
8. <https://theconversation.com/covid-vaccine-supply-is-causing-an-eu-crisis-so-whats-being-done-to-speed-up-production-154153>



the COVID-19 pandemic.

It takes a strong commitment from Pfizer or AstraZeneca, including other large pharmaceutical companies to open up opportunities for other countries or producers to produce their vaccines. It is almost certain that sharing intellectual property is the key.

### **The question is, are large pharmaceutical companies willing to voluntarily share their knowledge?**

Regarding this, the Doctors Without Borders organization (Medicines Sans Frontiers/MSF) reported that pharmaceutical companies have collectively decided not to get involved with the initiative Technology Access Pool (C-TAP) COVID-19 WHO which encourages their voluntary contributions of IP, technology, and data to support global benefit sharing and scale-up of production and supply of COVID-19 medical products.<sup>9</sup>

Access to COVID-19 Tools (ACT) Accelerator is a global collaborative initiative to accelerate the development of production and equitable access to COVID-19 test kits, treatments, and vaccines. There are several parties involved, including WHO, Gavi, CEF, Unitaid, Bill & Melinda Gates Foundation, Wellcome, World Bank, The Global Fund, and Find. Especially for vaccines, it is discussed in one pillar called the COVID-19 Technology Access Pool (CTAP). CTAP as a forum for sharing voluntarily shares knowledge, intellectual property, and data related to COVID-19 health technology.<sup>10</sup>

The control of pharmaceutical companies over vaccine production cannot be separated from licensing practices that are often implemented in the midst of a pandemic. According to MSF, companies holding IPR protection can apply licensing terms to other licensed producers, such as limiting supply to a limited geographic range and other conditions that limit the benefits of global competition and supply. This licensing practice is definitely implemented with an agreement that is highly confidential in nature.

For example, AstraZeneca has signed licensing agreements facilitating technology transfer to COVISHIELD – one of the first vaccine candidates to reach phase III – with producers in Argentina, Brazil, China, India and Indonesia, and these agreements are shrouded in secrecy. Including, AstraZeneca's license is limited only to the Serum Institute of India (SII). Furthermore, SII is

9. MSF Report, "WTO Covid-19 TRIPS Waiver Proposal: Myths, realities and an opportunity for governments to protect access to lifesaving medical tools in a pandemic", hal.4, 2020, diakses dari website MSF.
10. <https://igj.or.id/diplomasi-vaksin-covid-19-indonesia-tantangan-akses-publik-atas-vaksin-dan-layanan-kesehatan-berkeadilan/>
11. MSF Report, "WTO Covid-19 TRIPS Waiver Proposal: Myths, realities and an opportunity for governments to protect access to lifesaving medical tools in a pandemic", p 4, 2020, accessed from MSF website.
12. MSF Briefing Document: India and South Africa proposal for WTO waiver from intellectual property protections for COVID-19-related medical technologies", 18 November 2020



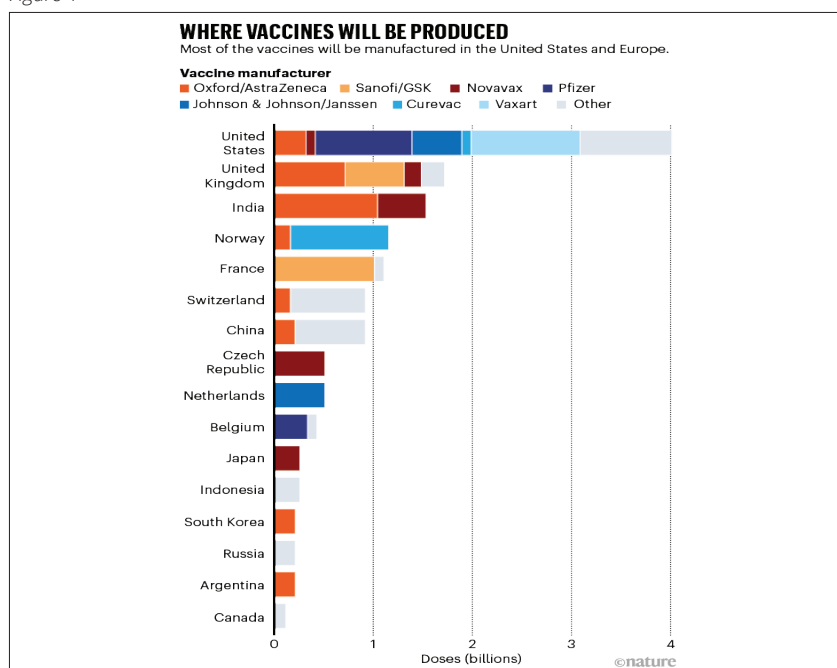
prohibited from supplying middle to upper-income and high-income countries, the most lucrative markets for AstraZeneca.<sup>(11)</sup>

In fact, despite receiving at least US \$ 70.5 million in public funding to develop Remdesivir (one of the medicine candidates for the treatment of COVID-19), the pharmaceutical company Gilead has signed secret bilateral deals with generic companies of its choice that exclude nearly half of the world population from its license area.<sup>(12)</sup>

Furthermore, this licensing practice by pharmaceutical companies ultimately limits manufacturing production capacity by exclusively selecting which producers and countries can produce vaccines. Evidently, most vaccine production can only be produced in the United States, the European Union, and India (See Figure 4).

This will certainly hamper large-scale vaccine production in order to meet worldwide vaccine supplies. Moreover, many doubts that in 2021 world supply can be fulfilled in accordance with the promise of pharmaceutical companies. Airfinity, London's life science market analysis firm, currently projects that only one billion doses will be available by the fourth quarter of 2021, and this is far from the required supply figures, whereas CEPI itself

Figure 4 -



Source: <https://www.nature.com/articles/d41586-020-02450-x>

confirmed that until the end of 2021, only 3 will do.<sup>(13)</sup>

13. <https://www.nature.com/articles/d41586-020-02450-x>



ISSUE 2

## PROCUREMENT OF VACCINES IN INDONESIA

At the end of 2020, President Jokowi stated that Indonesia had ordered 329.5 million doses of vaccine from five companies. Out of these, as many as 3 million doses of the vaccine came from Sinovac. The government plans to add 122.5 million doses of this vaccine. Then, 50 million doses of vaccine were ordered from Novavax, 54 million doses of vaccine from Covax/GAVI, 50 million doses of vaccine from AstraZeneca, and 50 million doses of vaccine from Pfizer.<sup>(14)</sup>

In the first phase, 3 million doses of Sinovac vaccine have been sent and used for the first stage of vaccination in Indonesia for the group prioritized by the Government of Indonesia, namely 1319 million health workers, including assistant health workers, support staff and students who are currently undergoing medical professional education who work for Health Service Facilities (Fasyankes), and 195 thousand essential public service officers as the front guard, such as the Indonesian National Police, Public Order Agency, public transportation service officers (airport, port, train, MRT, etc.) including community and religious leaders throughout Indonesia.<sup>(15)</sup> The first phase of vaccination is conducted in January-April 2021 with two injections program.

The Sinovac vaccine is ordered by the Government of Indonesia with a business cooperation model between Sinovac and PT BioFarma. The collaboration between the two companies is to ensure the supply of vaccine raw materials from Sinovac to be produced by BioFarma in order to meet Indonesia's domestic needs. It was stated that Sinovac is committed to providing bulk vaccine supply of up to 40 million doses of vaccine from November 2020-March 2021. Then it is followed by Sinovac's commitment to supply bulk vaccine to meet the needs by the end of 202.<sup>(16)</sup>

Regarding vaccine orders from Pfizer, AstraZeneca or Novavax, these will enter the second quarter of 202.<sup>(17)</sup> However, ordering the Pfizer vaccine in particular poses quite a challenge for PT BioFarma because it requires special handling. The Pfizer-BioNTech vaccine should indeed be kept below minus 70 degrees. This is the reason why it is needed a special box; thus, the quality is maintained. Therefore, ordering from Pfizer is also accompanied by logistical cooperation related to the provision of special storage for ultra-low temperature freezers (*special refrigerators*).<sup>(18)</sup>

14. <https://nasional.kompas.com/read/2021/01/06/12204611/jokowi-indonesia-telah-memesan-3295-juta-dosis-vaksin-covid-19?page=all>
15. <https://sehatnegeriku.kemkes.go.id/baca/umum/20201231/1236105/mulai-hari-kemenkes-kirim-sms-blast-kelompok-prioritas-penerima-vaksin-covid-19/>
16. <https://nasional.kontan.co.id/news/bio-farma-dan-sinovac-teken-kerja-sama-ketersediaan-40-juta-dosis-vaksin-covid-19>
17. <https://www.cnbcindonesia.com/news/20201224175620-4-211446/vaksin-astrozeneca-novavax-pfizer-masuk-ri-kuartal-ii-2021>
18. <https://www.cnbcindonesia.com/tech/20201230154323-37-212610/akhimya-ri-bisa-pakai-vaksin-covid-pfizer-ini-rahasianya>

## EU Vaccine Export Restrictions & Supply Guarantee

However, it is not certain when these vaccines will be able to immediately supply Indonesia's needs. Given that, currently Pfizer and AstraZeneca are facing problems with the European Union regarding the guaranteed supply of vaccines for the two major pharmaceutical companies. The European Union asked the two vaccine companies to prioritize their production and distribution for the European region and forced them to sign an agreement to limit the export of vaccines outside the European Union countries. Although later the European Union stated that there are exemptions from special export restriction measures for countries such as: vaccine donations to Covax, a global scheme to help poor countries; and exports to Switzerland, countries in the western Balkans, Norway, and North Africa, including other Mediterranean countries such as Lebanon and Israel.<sup>19</sup>

However, it seems that these exceptions will be meaningless given the pharmaceutical companies have problems with their production capacity to meet global needs today. As explained in the previous section, this limited production capacity cannot once again be answered in the business-as-usual way where a pharmaceutical company enters into a business agreement with a state or state-owned company of a country. This is because, pharmaceutical companies control production through licensing practices which they monopolized themselves by secret agreements.

Therefore, Vaccine Nationalism and Production License Control by Pharmaceutical Companies will cause uncertainty impact on the guaranteed supply of vaccines that have been ordered by the Government of Indonesia for the vaccination program of all Indonesian people.

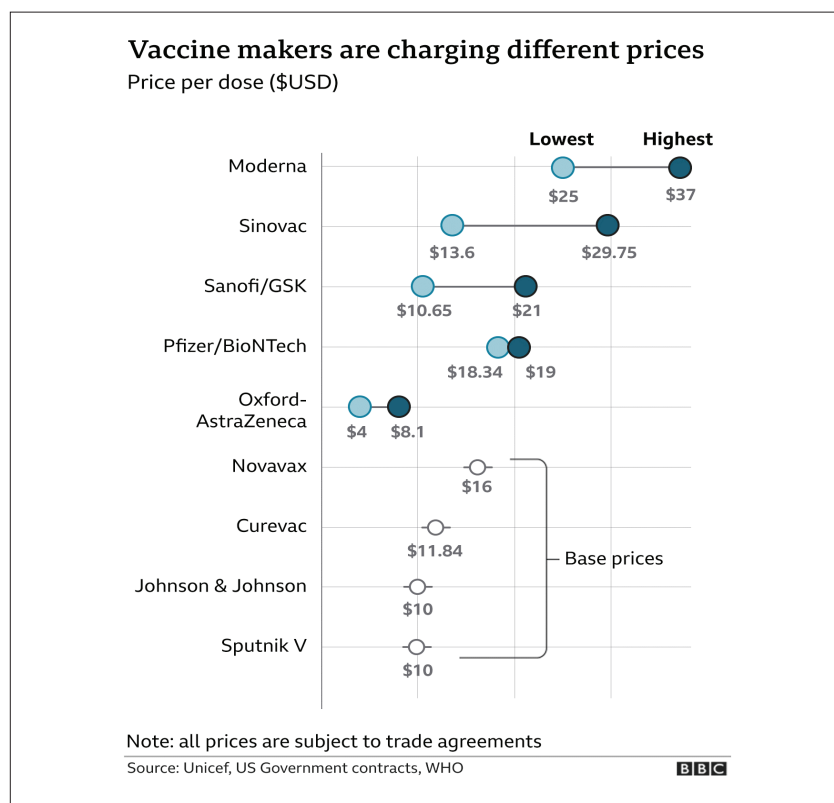
## Free Vaccine, Is It Possible?

Reflecting on the current issue of vaccine nationalism, the issue of a country's ability to be able to buy and provide vaccines to meet its national needs is an utmost important issue to respond to. Previously, the difference in the purchase price by South Africa, which was twice as expensive as the price the European Union bought from AstraZeneca, has set a bad precedent amid today's humanitarian issues. (See Figure

19. <https://www.bbc.com/news/world-europe-55860540>

5 Difference in Price of Vaccine Companies). For Indonesia, the purchase price for 3 million doses of Sinovac vaccine that has been sent is known to be Rp 211,282 per dose or the equivalent of US \$ 14. Then, at the very least the Government of Indonesia should prepare a budget of Rp 57,1 trillion for the purchase

Gambar 5



Source: <https://www.nature.com/articles/d41586-020-02450-x>

of 3 million doses of the vaccine Sinovac.<sup>(20)</sup> In fact, for the procurement of 1.2 million doses of vaccine at a later stage, the Minister of Finance, Sri Mulyani, has prepared a budget of Rp 18 trillion. The budget was taken by the government from the budget for the COVID-19 handling program and National Economic Recovery (PC-PEN), which totaled Rp 695.2 trillion. Of the total funds, as much as Rp 35.1 trillion is specifically for the procurement and distribution of vaccines.<sup>(21)</sup>

**Nonetheless, the Indonesian government has determined that vaccines will be provided free of charge to the public.**

The Minister of Finance, Sri Mulyani, said that the government has projected the budget for the coronavirus vaccine in 2021 to reach more than Rp 74 trillion and this figure has prompted a budget increase of 26.48% from the previous estimated

20. <https://nasional.kontan.co.id/news/vaksin-covid-19-gratis-ini-biaya-jika-harga-sinovac-rp-211282-per-dosis>

21. <https://www.cnnindonesia.com/ekonomi/20201207125547-532-578883/sri-mulyani-siapkan-rp605-t-untuk-vaksin-corona-di-2021>



budget for the corona virus vaccine, which was Rp 54.4 trillion. To fulfill the procurement of vaccines and vaccinations, in the 2021 state budget the government has budgeted Rp 18 trillion and Rp 36.4 trillion from the remaining funds for health care in the 2020 National Economic Recovery program. This means that there is still a shortfall of Rp 19.6 Trillion.<sup>(22)</sup>

### **However, the question is, how can the Government of Indonesia meet the expensive financing needs? Will there be a public budget imposition?**

In fact, the Government of Indonesia has limited financial capacity. The limited ability of the state to meet the needs of vaccines and vaccinations in Indonesia must again be implemented using business-as-usual methods, namely business agreements and debt binding.

Reported from various media information, one of the efforts made by the state to finance this need is by launching the ORI019 series (Retail State Bonds), which later, all funds obtained from the issuance of ORI019 will be used to meet the 2021 state budget financing target, including for efforts to handle and recover from the impact of the COVID-19.<sup>(23)</sup>

Another strategy that is also being implemented is through financing to PT BioFarma by banks. This refers to the business cooperation model conducted by PT BioFarma with pharmaceutical companies such as Sinovac, PfiZer, and many more. This banking financing has been implemented by PT Bank Maybank Indonesia Tbk (BNII) – Maybank to PT BioFarma which received from Maybank Indonesia Sharia Business Unit financing of US \$ 185 million or equivalent to Rp 2.68 Trillion. This step will also be followed by Bank BCA which will provide credit facilities to PT BioFarma for handling COVID-19.<sup>(24)</sup>

In fact, the Government of Indonesia is currently considering opening up the possibility of independent vaccination which encourages the private sector to be able to take full roles in meeting the needs of their employees. The cost burden of this independent vaccination will be borne entirely by the company.<sup>(25)</sup> However, once again the independent vaccination option will certainly lead to market anarchy which will once again have an impact on supply and market discrimination. In

22. <https://nasional.kontan.co.id/news/menkes-sebut-sumber-anggaran-vaksin-covid-19-masih-dalam-pembahasan>
23. <https://www.cnnindonesia.com/ekonomi/20210125102424-532-597931/pemerintah-luncurkan-ori019-untuk-biaya-vaksin-covid-19>
24. <https://keuangan.kontan.co.id/news/sejumlah-bank-bersiap-kururkan-pembiayaan-pengadaan-vaksin-covid-19>
25. <https://nasional.kompas.com/read/2021/01/25/18323741/pemerintah-pertimbangkan-vaksinasi-mandiri-oleh-perusahaan-asal-tidak-bebani?page=all>



fact, in the current pandemic situation the market mechanism cannot be applied, and the state should take over all control of supply, price and distribution by eliminating the cost burden to the people.

At another level, the Covid19 financing is also prepared with a debt scheme that will be disbursed by the World Bank and IMF. Last year, the World Bank approved US \$ 12 billion or Rp 176.76 trillion in financing for developing countries to finance the purchase and distribution of COVID-19 vaccines, tests and treatments. In implementing the program, the World Bank will support the multilateral efforts currently led by WHO and COVAX.<sup>(26)</sup> In Indonesia, the World Bank has approved funding of US \$ 700 million to improve the social protection system and strengthen the financial sector in dealing with the impact of COVID-19 in Indonesia (*See Box1*).

This financing burden will certainly be lighter if the price of

Box 1 - World Bank Loans for Indonesia

## WORLD BANK LOANS FOR INDONESIA

- The first project approved for this funding was additional financing for social reform program assistance worth US \$ 400 million. This financial assistance can help overcome the COVID-19 pandemic which has a major impact on the poor and vulnerable as well as informal workers. The funding is also expected to help increase temporary emergency funds for 10 million PKH recipients to maintain the level of social welfare.
- The second project of approved financing is a loan for a reform policy in the development of the financial sector to overcome the impact of COVID-19 for Indonesia as much as US \$ 300 million. This additional funding will help the government cover unexpected financial constraints (read: state budget limitations) that have arisen due to the pandemic, and help overcome the COVID-19 crisis.

Source: <https://ekonomi.bisnis.com/read/20200516/9/1241563/lasi-covid-19-bank-dunia-guyur-us700-juta-bagi-indonesia.-untuk-apa-saja>

the vaccine available is not based on a business agreement. This raises major financing barriers for developing and poor countries, which once again have to rely on debt financing, and will indirectly have an impact on people's welfare. For this reason, the insistence of civil society groups in the world regarding vaccines must become a public good, must be conducted in mutual cooperation in the name of humanity and not as a commercial business commodity.

26. <https://www.wartaekonomi.co.id/read309117/bank-dunia-siapkan-pinjaman-vaksin-corona-senilai-rp176-iliuncorona-di-2021>



ISSUE 3

## VACCINE ACCESS FOR EVERYONE

**(#PEOPLESVACCINES)**

Since the beginning of the pandemic, pharmaceutical companies have continued to adopt a 'business-as-usual' approach either by maintaining tight controls over their intellectual property rights or by pursuing secret commercial deals and monopolies and excluding countries that are badly affected by COVID-19. The pharmaceutical industry as a whole has also chosen not to engage with WHO's COVID-19 Technology Access Pool (C-TAP) initiative which aims to encourage voluntary contributions of IP, technology and data to support global sharing and scaling up the manufacturing and supply of COVID-19 healthcare technologies.

To open access to equitable vaccines without exception, a strong commitment is needed that prioritizes human life rather than profit. Therefore, all forms of business-as-usual approach must be stopped, in particular intellectual property monopoly. In order to ensure equitable access to vaccines and medical treatment related to Covid19, certainty of production supply is needed to meet the demands of all countries in the world evenly at low prices. This can only be done by opening production and price competitions.

### **Abolish TRIPS Obligation**

The monopoly of Intellectual Property has been inhibiting the production increase needed to ensure a fair global access to the vaccine and products other health. Such monopoly controls hinder the increase in production necessary to ensure equitable global access to these products to end the pandemic. Defending the protection of the IPR monopoly also goes against the COVID-19 medicines and vaccines to be treated as global public goods.

Although the TRIPS Agreement at the WTO has regulated the use of TRIPS flexibility for the benefit of public health, such as the right of the state to issue mandatory licenses to replace medicine patents, the right to introduce a pre-grant patent opposition system and strict patent criteria and a policy not to allow exclusivity over test data. Yet that method is not sufficient to overcome the COVID-19 pandemic that exists today. A pandemic is a special situation that must also be addressed specifically.



The monopoly of Intellectual Property has been inhibiting the production increase needed to ensure a fair global access to the vaccine and products other health.



The implementation of TRIPS Flexibility requires a very long and bureaucratic process, of course it will not be able to respond effectively to the handling of a pandemic quickly. And now what is needed is Ignorance of intellectual property protection rules, especially those regulated in the WTO TRIPS Agreement. Only then can the world provide universal and affordable access to essential medical care without the monopoly power of the market.

### TRIPS Waiver at This Very Moment

This proposal was submitted by India and South Africa in October 2020 at the WTO to allow all countries to choose not to provide and or not to enforce IPR rules (patents, copyright and related rights, industrial design, protection of undisclosed information) related to medicines, diagnostic tests, vaccines and other technologies related to COVID-19 during the pandemic, until 'global immunity' is achieved. TRIPs Waiver is a way to create wider access to vaccines, not only vaccines but also medicines and equipment needed during a pandemic.

The proposed TRIPS Agreement waiver (known as the TRIPS Waiver) will only apply to COVID-19. This will open up a broad policy space for all countries in the world to collaborate in research and development (R&D), increase the scale of production and manufacturing to meet the needs of the whole world, including supplying COVID-19 kits. Currently, discussions are critically underway at the WTO TRIPS Council to smooth the TRIPS Waiver agreement that is needed during today's pandemic. The decision will be taken at the WTO Conference to 12 in 2021. However, a number of small countries such as Australia, Brazil, Canada, EU, Japan, Norway, Switzerland, the UK and the US, still withholds support her against the proposal considering that they have traditionally been supporters of the interests of pharmaceutical companies through the IPR monopoly system.

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## CONCLUSION

Therefore, in ensuring that there is equitable access to vaccines, medicines and medical equipment needed to handle Covid19 until global immunity is achieved, it is necessary to urge the Government of Indonesia and all countries in the world to immediately :

1. Ending the monopoly on intellectual property rights and commercial practices on vaccines and medicines, including medical equipment needed by the public during the COVID-19 pandemic.
2. Making vaccines, medicines, medical equipment needed by the public during the COVID-19 pandemic as public goods.
3. The state must be present and perform its obligations in fulfilling the economic rights and health rights of all Indonesian people without surrendering these obligations to the private sector.
4. Stopping the Practice of Vaccine Nationalism which causes inequality in access to production, distribution and prices for developing and poor countries.
5. Disclosing the transparency of information to the public on an agreement made by the state and pharmaceutical companies, including business cooperation conducted by pharmaceutical companies, in order to ensure the security of fair access on the production, distribution, and pricing for developing countries and poor.
6. Supporting and agreeing on the TRIPS Waiver proposal in discussions at the WTO in order to ensure equitable access to vaccines, medicines, technology, and medical equipment needed by the world during the COVID-19 pandemic.