

Implications of GATT TRIPS COVID-19 IP Waiver Proposal for Intellectual Property Protections of COVID-19 Vaccines

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OVERVIEW AND TIMELINE

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What is the TRIPS Agreement?

- TRIPS = Trade Related Aspects of IP Rights Agreement
- Established in 1995 under the World Trade Organization
- Sets minimum standards for IP Rules & Enforcement Mechanisms related to:
 - Patents
 - Copyrights
 - Trademarks
 - Industrial Designs
 - Protection of Undisclosed Information

TRIPS Council

- Comprises all WTO Member Countries
- Responsible for Considering IP Issues at WTO:
 1. Monitoring
 2. Consultations
 3. Review & Negotiation of TRIPS provisions
 4. Review of TRIPS Agreement as a whole

TRIPS Waiver

- Broadly allows WTO Members to act inconsistent with TRIPS IP rules
- Removes obligations to domestically enforce certain rules
- Does not compel changes in domestic law
- Example 2003 Waiver: WTO member countries can use compulsory licensing to export patented pharmaceutical products needed to address public health issues.

Waiver Process

- Waiver proposal presented to TRIPS Council
- Proposal Considered by WTO Members
- No formal vote
 - Instead, Member Countries engage in extended discussion until unanimous agreement reached
- Requires 75% majority to pass
 - in practice, consistently opt to approve by unanimous consensus

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