

124

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Practical Implications of 'Vaccine Nationalism': A Short-Sighted and Risky Approach in Response to COVID-19

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PRACTICAL IMPLICATIONS OF 'VACCINE NATIONALISM': A SHORT-SIGHTED AND RISKY APPROACH IN RESPONSE TO COVID-19

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ABSTRACT

To end the COVID-19 pandemic and ensure a return of normalcy, an effective and safe vaccine is the best hope. The vaccine nationalism approach, adopted by some countries to gain preferential access to emerging COVID-19 vaccines, poses a threat to the fair and equitable distribution of the potential vaccines across the globe. This research paper critically evaluates the approach of vaccine nationalism and argues that this self-centred political behaviour of leaving others behind is short-sighted, potentially risky, morally indefensible, and practically inefficient in containing the pandemic. This paper highlights why it is important for national governments to support the collaborative and coordinated effort of the COVID-19 Vaccines Global Access (COVAX) facility for the timely development and efficient delivery of potential COVID-19 vaccines. It concludes that an effective response to the current health and economic crisis should be guided by values of international solidarity, multilateralism, equality, and global collaboration. It proposes the adoption of an enforceable global framework to address the concerns arising from the combination of vaccine nationalism and intellectual property exclusivities.

Un vaccin efficace et sûr constitue le meilleur espoir pour mettre fin à la pandémie de COVID-19 et garantir un retour à la normale. L'approche nationaliste adoptée par certains pays afin d'obtenir un accès préférentiel aux nouveaux vaccins contre la COVID-19, met en péril l'objectif de parvenir à une distribution juste et équitable des doses de vaccin partout dans le monde. Ce document de recherche évalue de manière critique l'approche du nationalisme vaccinal et soutient que ce comportement politique égocentrique, qui consiste à laisser les autres sur le bord de la route, est à courte vue, potentiellement risqué, moralement indéfendable et pratiquement inefficace pour contenir la pandémie. Il souligne pourquoi il est important que les gouvernements nationaux soutiennent les efforts de collaboration et de coordination entrepris par le mécanisme COVAX en vue de favoriser une fabrication et une distribution rapides de vaccins contre la COVID-19. Il conclut que, pour être efficace, la réponse à la crise sanitaire et économique actuelle doit être fondée sur la solidarité internationale, le multilatéralisme, l'égalité et la collaboration à l'échelle mondiale. Il propose l'adoption d'un cadre normatif contraignant à l'échelle mondiale pour faire face aux inquiétudes suscitées à la fois par l'émergence d'un nationalisme vaccinal et l'exclusivité liée aux droits de propriété intellectuelle.

Para poner fin a la pandemia de COVID-19 y garantizar el regreso a la normalidad, la mayor esperanza es una vacuna eficaz y segura. El enfoque de nacionalismo de vacunas, adoptado por algunos países para obtener acceso preferente a las vacunas contra la COVID-19 que vayan apareciendo, supone una amenaza a la distribución justa y equitativa de las posibles vacunas por el mundo. En este documento de investigación se realiza una evaluación crítica del enfoque de nacionalismo de vacunas y se sostiene que este comportamiento político egocéntrico de dejar atrás a los demás es corto de miras, potencialmente arriesgado, moralmente indefendible y prácticamente ineficaz para contener la pandemia. En este documento se destacan las razones por las que es importante que los gobiernos nacionales respalden la labor colaborativa y coordinada del Mecanismo COVAX para el acceso mundial a las vacunas contra la COVID-19 en aras del desarrollo oportuno y la distribución eficiente de las posibles vacunas contra la COVID-19. El estudio concluye que, para que una respuesta a la actual crisis sanitaria y económica sea eficaz, debe guiarse por los valores de solidaridad internacional, multilateralismo, igualdad y colaboración mundial. Se propone la adopción de un marco mundial aplicable para abordar las preocupaciones que surjan de la combinación del nacionalismo de vacunas y los derechos de exclusividad derivados de la propiedad intelectual.

TABLE OF CONTENTS

I. INTRODUCTION	1
II. VACCINE NATIONALISM: A SHORT-SIGHTED AND SELF-CENTRED APPROACH	3
III. VACCINE NATIONALISM IS A RISKY APPROACH	12
IV. CONCLUSION.....	15

I. INTRODUCTION

The COVID-19 pandemic is taking its toll across the globe. As of November 23, 2020, the virus has already infected more than 57.8 million people around the world and caused more than 1,377,000 deaths.¹ The successful development of a safe and effective vaccine and its mass production followed by its fair and equitable distribution on a global scale seems to be the biggest hope and ultimate solution to the pandemic. Connecting and uniting the world to combat coronavirus is at the core of the current global agenda. For equitable development and distribution of COVID-19 vaccines, a pledging event, called the Coronavirus Global Response Initiative, was hosted by the European Union (EU) on May 4, 2020. For research into COVID-19 vaccines, testing, and treatment, 7.4 billion euros were pledged by world leaders, celebrities, and philanthropists. The United States (US), Russia, India, Argentina, and Brazil did not participate in this initiative.²

On May 18-19, 2020, the annual meeting of the World Health Assembly (WHA) was held virtually to discuss the global response to COVID-19. Resolution WHA73.1, titled COVID-19 Response, called for cooperation between multilateral organizations and other stakeholders.³ This worldwide crisis demands stronger and broader cooperation and coordination among governments, policymakers, and potential developers of COVID-19 vaccines. Instead of engaging in disconnected national efforts or power politics for access to coronavirus vaccines and bringing a nationalist element to the crisis by battling against one another to win the vaccine race, all resourceful countries need to unite and cooperate. Cooperation and solidarity for global and equitable vaccine access - not confrontation and power politics - will ultimately address the pandemic.

For a collective and consolidated response to COVID-19, there was a pressing need not only to develop mechanisms for global sharing of information, manufacturing know-how, and data but also to put in place systems for mass production of coronavirus vaccine, its pooled procurement, and equitable worldwide distribution. In this context, the COVID-19 Vaccines Global Access (COVAX) facility was launched by international and non-governmental organizations in May 2020, as an ad hoc effort to achieve vaccine affordability and equity, backed by the World Health Organization (WHO). The COVAX facility works in partnership with vaccine manufacturers and hopes to procure 2 billion doses of vaccine by the end of 2021.⁴ It is integrated into a broader structure in which its work is complemented by the Coalition for Epidemic Preparedness Innovation (CEPI)⁵ and Gavi, the Vaccine Alliance.⁶ CEPI coordinates vaccine research and development work while Gavi deals with procurement and large-scale delivery.⁷ CEPI has invested \$1.3 billion in a diverse portfolio of COVID-19 vaccine candidates out of which eight are currently in clinical trials.⁸

¹ See COVID-19 updates on *WHO Coronavirus Disease (COVID-19) Dashboard*, <https://covid19.who.int>.

² Ana Santos Rutschman, "The COVID-19 Vaccine Race: Intellectual Property, Collaboration (s), Nationalism and Misinformation", *Washington University Journal of Law and Policy* 64 (2020) 12.

³ World Health Organization, *COVID-19 Response*, Seventy-Third World Health Assembly, Doc. A73/CONF.Rev.1, May 2020.

⁴ The WHO estimates that the COVAX facility will need \$18 billion to deliver 2 billion doses. It is far short of raising this amount to help manufacturers scale up production. See Ewen Callaway, "The unequal scramble for coronavirus vaccines - by the numbers", *Nature* 584, no. 7822 (2020) 506-507. Available from <https://www.nature.com/articles/d41586-020-02450-x> (accessed on September 27, 2020).

⁵ Coalition for Epidemic Preparedness Innovation (CEPI) was launched in 2017 as an innovative partnership between public, private, philanthropic, and civil organizations to develop vaccines to stop future epidemics.

⁶ The Gavi Alliance (formerly the Global Alliance for Vaccines and Immunisation) was founded in 2000 as a public-private partnership.

⁷ Ana Santos Rutschman, "The COVID-19 Vaccine Race: Intellectual Property, Collaboration (s), Nationalism and Misinformation", *Washington University Journal of Law and Policy* 64 (2020) 18.

⁸ "CEPI creates new collaborative taskforce to assess impact of emerging viral strains on effectiveness of COVID-19 vaccines", *CEPI*, November 18, 2020. Available from https://cepi.net/news_cepi/cepi-creates-new-

In addition to a procurement mechanism, COVAX functions, on a nearly global level, as a risk-sharing, resource-pooling, and push financing mechanism.⁹ If more resourceful countries opt to join COVAX, part of their financial contribution will cover vaccines for their own country while the remaining part will be an investment in vaccines for poorer countries. Countries that have joined COVAX will receive a share of available doses when the coronavirus vaccine is successfully developed, tested, and approved for market entry. As compared to countries that opt to negotiate directly with individual vaccine manufacturers, COVAX is more likely to secure lower prices because it works with multiple vaccine manufacturers and negotiates high-volume orders.

Global crises call for global cooperation and cross-border solidarity. To find a way out of this pandemic, the COVAX facility, co-led by the WHO, Gavi and CEPI, is trying to shape a global response guided by values such as shared responsibility, equal respect for lives, and international solidarity. Nevertheless, COVAX does not enjoy universal support as some of the most powerful countries have preferred nationalistic approaches over joining this global coalition. The variable commitment to COVAX reflects the ongoing tension between collaboration and nationalism.

In this context, this paper critically evaluates the vaccine nationalism approach adopted by some countries to gain preferential access to emerging COVID-19 vaccines. It argues that this approach of leaving others behind is short-sighted, potentially risky, morally indefensible, and practically inefficient in containing the pandemic. It highlights the importance of supporting the COVAX facility, which provides a platform for a collective and collaborative global effort for the timely development and fair distribution of potential COVID-19 vaccines.

[collaborative-taskforce-to-assess-impact-of-emerging-viral-strains-on-effectiveness-of-covid-19-vaccines/](#)
(accessed on November 21, 2020).

⁹ Ana Santos Rutschman, "The COVID-19 Vaccine Race: Intellectual Property, Collaboration (s), Nationalism and Misinformation", *Washington University Journal of Law and Policy* 64 (2020) 16.

II. VACCINE NATIONALISM: A SHORT-SIGHTED AND SELF-CENTRED APPROACH

Vaccine nationalism refers to the 'my country first' approach of some resourceful countries to secure priority access to doses of emerging COVID-19 vaccines for their populations through advance purchase agreements (APAs), adversely impacting equitable distributive outcomes for others.¹⁰ To guarantee access to the first batches of a successful vaccine as soon as possible, they use pre-production agreements to reserve most of the early supply of the vaccine for themselves even before the vaccine is fully developed, tested, and approved for market entry.¹¹ Such governments may be expected to ban exports of the future vaccine if and when manufactured by corporations based in their territory. In simple terms, if more prosperous nations succeed in producing a safe and effective vaccine, they will not share it with others who cannot develop their own or are still working on their own.

Vaccine nationalism is not a novel concept. In 2009, during the early stages of the H1N1 virus or swine flu pandemic, certain wealthy countries signed pre-production agreements with potential manufacturers of H1N1 vaccines, like Sanofi, GlaxoSmithKline (GSK), and Novartis, to advance purchase all doses that could be produced in their domestic markets.¹² Due to pre-existing commitments under extensively used APAs, 56% of the vaccine manufacturers surveyed by WHO were unable to offer for sale even 10% of their vaccine production to United Nations (UN) agencies.¹³ In response to WHO's appeal for donations, some of these economically advanced countries – like the US, Canada, and Australia - pledged to donate 10 percent of their vaccine doses to poorer countries only when the worst of the pandemic had already passed, killing as many as 284,000 people globally, and no second wave was expected.¹⁴ Because of the unfair distribution of vaccines, "too many had to wait too long for too little".¹⁵

¹⁰ Advance purchase agreements are "legally binding contracts whereby one party, such as a government, commits to purchasing from a vaccine manufacturer a specific number or percentage of doses of a potential vaccine at a negotiated price if it is developed, licensed, and proceeds to manufacture". See Alexandra L. Phelan, Mark Eccleston-Turner, Michelle Rourke, Allan Maleche, and Chenguang Wang, "Legal agreements: barriers and enablers to global equitable COVID-19 vaccine access", *The Lancet* 396, no. 10254 (2020) 800. Available from [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(20\)31873-0.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(20)31873-0.pdf) (accessed on September 27, 2020).

¹¹ Ana Santos Rutschman, "The COVID-19 Vaccine Race: Intellectual Property, Collaboration (s), Nationalism and Misinformation", *Washington University Journal of Law and Policy* 64 (2020) 11.

¹² The US, the UK, Switzerland, Canada, Denmark, Sweden and Austria were among those countries that secured deals for pre-purchase of H1N1 vaccines. See S. Deo, S. Manurkar, S. Krishnan, and C. Franz, "COVID-19 Vaccine: Development, Access and Distribution in the Indian Context", ORF Issue Brief, 378 (2020) 4. See further Ana Santos Rutschman, "The Reemergence of Vaccine Nationalism", *Georgetown Journal of International Affairs*, forthcoming.

¹³ Alexandra L. Phelan, Mark Eccleston-Turner, Michelle Rourke, Allan Maleche, and Chenguang Wang, "Legal agreements: barriers and enablers to global equitable COVID-19 vaccine access", *The Lancet* 396, no.10254 (2020) 801. Available from [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(20\)31873-0.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(20)31873-0.pdf) (accessed on September 27, 2020).

¹⁴ Ana Santos Rutschman, "The Reemergence of Vaccine Nationalism", *Georgetown Journal of International Affairs*, forthcoming. See further Thomas J. Bollyky and Chad P. Bown, "The Tragedy of Vaccine Nationalism: Only Cooperation Can End the Pandemic", *Foreign Affairs* 99 (2020) 96. Available from https://www.foreignaffairs.com/articles/usa/2020-07-27/vaccine-nationalism-pandemic?utm_medium=social (accessed on September 27, 2020).

¹⁵ Kai Kupferschmidt, "'Vaccine nationalism' threatens global plan to distribute COVID-19 shots fairly", *The American Association for the Advancement of Science* (2020) 749. Available from <https://www.sciencemag.org/news/2020/07/vaccine-nationalism-threatens-global-plan-distribute-covid-19-shots-fairly> (accessed on September 27, 2020).

Economically advanced countries used similar strategies in the case of drugs for HIV/AIDS¹⁶ and vaccines for smallpox and polio.¹⁷ History of political behaviour during pandemics is repeating itself as countries with resources to obtain COVID-19 vaccines are showing even more enthusiasm in repeating the mistakes of the past without considering the catastrophic consequences for many of the world's most vulnerable populations. As noted by CEPI's head Richard Hatchett, "If COVID-19 vaccines are misallocated in the way they were in 2009, the pandemic will last longer, more people will die and the disruption will be greater than it needs to be".¹⁸

The US, refusing to collaborate in multilateral efforts,¹⁹ took a lead role in embracing vaccine nationalism. In the wake of an ongoing power struggle between China and the US, Judd Deere, White House spokesman, said that the US would not be "constrained by multilateral organizations influenced by the corrupt World Health Organization and China".²⁰ President Trump has repeatedly criticized the WHO for its allegedly 'China-centric' response to the pandemic.²¹ In April 2020, President Trump announced a freeze on new US funding to the organization, and in July his administration signalled its intent to withdraw from the WHO.²² For whatever reason, the US chose to weaken the multilateral organization, in the middle of a pandemic situation, when it needed to be strengthened and supported both politically and financially. The US political behaviour, in these tough times, is being noted globally and will be remembered in the post-pandemic era.

Establishing norms of international solidarity, multilateralism, and global cooperation has not been a priority for the US in recent times. President Trump had said in 2017, at the 72nd Session of the United Nations General Assembly, that "the nation-state remains the best vehicle for elevating the human condition".²³ He added, "As President of the United States, I will always put America first, just like you, as the leaders of your countries will always, and should always, put your countries first".²⁴ Even before this, President Trump had said in his

¹⁶ HIV/AIDS treatment, in the form of a cocktail of antiviral drugs, became available in the West in 1996, but the world's poor in Africa had to wait for another seven years to have access to the treatment. See Harvey Dzodin, "Vaccine nationalism' a new global low", *China Daily*, September 22, 2020. Available from <https://www.chinadaily.com.cn/a/202008/22/WS5f407537a31083481726203f.html> (accessed September 27, 2020).

¹⁷ David P. Fidler, "Vaccine nationalism's politics", *The American Association for the Advancement of Science* (2020) 749.

¹⁸ Ewen Callaway, "The unequal scramble for coronavirus vaccines - by the numbers", *Nature* 584, no. 7822 (2020) 506-507. Available from <https://www.nature.com/articles/d41586-020-02450-x> (accessed September 27, 2020).

¹⁹ The US refused to attend the Global Vaccine Summit hosted by the United Kingdom (UK) on June 4, 2020. At this Summit, world leaders – including those from the UK, Germany, and Canada – together with the Bill & Melinda Gates Foundation, pledged \$750 million to AstraZeneca for 300 million doses of vaccine on a non-profit basis. See William Booth, Carolyn Y. Johnson and Carol Morello, "The World came together for a virtual vaccine summit. The U.S. was conspicuously absent", *The Washington Post*, May 4, 2020. Available from https://www.washingtonpost.com/world/europe/the-world-comes-together-for-a-virtual-vaccine-summit-the-us-is-conspicuously-absent/2020/05/04/ac5b6754-8a5c-11ea-80df-d24b35a568ae_story.html (accessed on September 27, 2020). See further "Global governance for COVID-19 vaccines", *The Lancet* 395, no. 10241 (2020) 1883. Available from [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31405-7/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31405-7/fulltext) (accessed on September 27, 2020).

²⁰ Adam Taylor, "Why vaccine nationalism is winning", *The Washington Post*, September 3, 2020. Available from <https://www.washingtonpost.com/world/2020/09/03/why-coronavirus-vaccine-nationalism-is-winning/> (accessed on September 27, 2020).

²¹ Emily Rauhala, Yasmeen Abutaleb, "U.S. says it won't join WHO-linked effort to develop, distribute coronavirus vaccine", *The Washington Post*, September 2, 2020. Available from https://www.washingtonpost.com/world/coronavirus-vaccine-trump/2020/09/01/b44b42be-e965-11ea-bf44-0d31c85838a5_story.html (accessed September 27, 2020).

²² *Ibid.*

²³ Donald J. Trump, "Remarks by President Trump to the 72nd Session of the United Nations General Assembly", *Whitehouse*, September 19, 2017. Available from <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-72nd-session-united-nations-general-assembly/> (accessed September 27, 2020).

²⁴ *Ibid.*

inaugural address, in January 2017, that "From this day on a new vision will govern our land – from this day onwards it is only going to be America first – America first".²⁵

In the pursuit of 'America First' policy during the current pandemic, the Trump administration established a public-private partnership, under 'Operation WARP Speed', to develop COVID-19 vaccines and therapeutics. As part of Operation WARP Speed, the US government's Biomedical Advanced Research and Development Authority (BARDA)²⁶ has distributed more than \$10 billion to eight pharmaceutical corporations – including Sanofi, GSK, AstraZeneca, Pfizer, Novavax, Moderna, and Johnson & Johnson - for vaccine candidates, either via direct financing or through vaccine procurement agreements.²⁷ This partnership with the industry aims to make hundreds of millions of vaccine doses available in the US by the end of 2020. President Trump arguably wanted to roll out a vaccine in the US before the US presidential election (that was held in early November). He told a town hall session with voters in Pennsylvania, on September 15, "We are very close to that vaccine ... We are within weeks of getting it, you know – could be three weeks, four weeks".²⁸ That was overambitious, and it could not happen. On November 13, in his first public remarks since the US presidential election, President Trump predicted that the COVID-19 vaccine could be widely available as soon as April 2021.²⁹

The Trump administration started pursuing nationalist 'America First' policies from the very beginning of the pandemic, but initially without much success. In March 2020, German newspaper Die Welt reported that the US government was negotiating with a German biotech company CureVac to have exclusive access to its vaccine candidate.³⁰ According to media reports, President Trump had personally met Daniel Menichella, chief executive of CureVac, at the White House, to negotiate a deal.³¹ The German government condemned this move. "Germany is not for sale", said Peter Altmaier, the Economy Minister. Jens Spahn, Germany's Health Minister, assured that the vaccine would be for the entire world.

In May 2020, Paul Hudson, the chief executive officer (CEO) of the French pharmaceutical giant Sanofi, stated that the US had the right to the largest pre-order because, under an investment agreement the company signed in February, the US government's BARDA had

²⁵ Harvey Dzdoin, "Vaccine nationalism' a new global low", *China Daily*, September 22, 2020. Available from <https://www.chinadaily.com.cn/a/202008/22/WS5f407537a31083481726203f.html> (accessed on September 27, 2020).

²⁶ Biomedical Advanced Research and Development Authority (BARDA) was created in 2006 within the Department of Health and Human Services to prepare for threats from chemical, biological, radiological, and nuclear attacks as well as from pandemic influenza. For details, see Public Health Emergency official website <https://www.phe.gov/about/barda/Pages/default.aspx>. Last accessed September 27, 2020.

²⁷ Jina Moore, "Vaccine nationalism is unfair and unwise", *Boston Globe*, August 29, 2020. Available from <https://www.bostonglobe.com/2020/08/29/opinion/vaccine-nationalism-is-unfair-unwise/> (accessed on September 27, 2020). See further Anna Gross, Ian Bott, "How close is a coronavirus vaccine?" *Financial Times*, September 23, 2020. Available from <https://www.ft.com/content/e5012891-58da-4a4f-8a05-182adf3ba0e2> (accessed on September 27, 2020). See further Carolyn Y. Johnson, "European drugmakers Sanofi and GSK strike \$2.1 billion deal with U.S. for a coronavirus vaccine", *The Washington Post*, July 31, 2020. Available from <https://www.washingtonpost.com/health/2020/07/31/coronavirus-vaccine-deal-sanofi-gsk/> (accessed on September 27, 2020).

²⁸ Washington (AFP), "Rich nations snap up vaccine stocks in global race for jab", *France 24*, September 17, 2020. Available from <https://www.france24.com/en/20200917-rich-nations-snap-up-vaccine-stocks-in-global-race-for-jab> (accessed on September 27, 2020).

²⁹ Kathryn Watson, "Trump says COVID-19 vaccine will be widely available by April but not to New York due to Cuomo's restrictions", *CBS News*, November 14, 2020. Available from <https://www.cbsnews.com/news/trump-press-conference-operation-warp-speed-watch-live-stream-today-2020-11-13/> (accessed on November 20, 2020).

³⁰ Trump offered \$1 billion to CureVac for the vaccine to be developed exclusively for the U.S. See Sapna Kumar, "Patents, Pharma, and the Pandemic" (September 4, 2020) 26. Available from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3636456 (accessed on November 20, 2020).

³¹ Richard Milne, and David Crow, "Why vaccine 'nationalism' could slow coronavirus fight", *Financial Times*, May 14, 2020. Available from <https://www.ft.com/content/6d542894-6483-446c-87b0-96c65e89bb2c> (accessed on September 27, 2020).

invested in taking the risk by providing \$600 million in funding.³² The French government, which provides Sanofi with major tax exemptions, condemned this stance.³³ Sanofi, faced with criticism and political pressure, reversed its position. Serge Weinberg, Chairman of Sanofi, assured that “there will be no particular advance given to any country”.³⁴ The negotiations progressed anyways and on July 31, 2020, the US federal government eventually announced its \$2.1 billion deal with Sanofi and GSK to secure 100 million doses of COVID-19 vaccines, with an option for the US to buy an additional 500 million doses.³⁵ Alex Azar, the US Health and Human Services Secretary, said on August 10, “Our first priority, of course, is to develop and produce enough quantity of safe and effective approved vaccines and therapeutics for use in the United States”.³⁶

Other wealthy countries pursuing similar strategies include the United Kingdom (UK), the European Union, Australia, Canada, Japan, and Switzerland.³⁷ The UK government has agreed to deals with multiple companies - like AstraZeneca, Pfizer, GSK, Sanofi, Novavax, and Valneva - for 340 million doses of vaccine.³⁸ The European Commission, the executive arm of the European Union, has signed a deal with Sanofi and GSK for the advance purchase of 300 million doses of COVID-19 vaccines for all members of the European Union.³⁹ Australia has announced its AU\$1.7 billion deal with AstraZeneca and Commonwealth Serum Laboratories (CSL) for 84 million doses.⁴⁰ Canada has signed deals with Novavax (76 million doses), Johnson & Johnson (38 million doses), and Sanofi (72 million doses).⁴¹ Japan has advance purchased 120 million doses from Pfizer and

³² James Paton, “US Likely to Get Sanofi Vaccine First if It Succeeds”, *BLOOMBERG*, May 13, 2020.

³³ Eleanor Beardsley, “French Drug Giant Sanofi Takes Heat After Suggesting U.S. May Get 1st Vaccine Access”, *NPR*, May 15, 2020. Available from <https://www.npr.org/2020/05/15/856293764/french-drug-giant-sanofi-takes-heat-after-suggesting-u-s-may-get-1st-vaccine-acc> (accessed on September 27, 2020).

³⁴ “Macron to meet Sanofi CEO after U-turn on ‘US priority’ for Covid-19 vaccine”, *RFI*, May 5, 2020. Available from <https://www.rfi.fr/en/france/20200515-macron-to-meet-sanofi-ceo-after-u-turn-on-us-priority-for-covid-19-vaccine> (accessed on September 27, 2020).

³⁵ Carolyn Y. Johnson, “European drugmakers Sanofi and GSK strike \$2.1 billion deal with U.S. for a coronavirus vaccine”, *The Washington Post*, July 31, 2020. Available from <https://www.washingtonpost.com/health/2020/07/31/coronavirus-vaccine-deal-sanofi-gsk/> (accessed September 27, 2020).

³⁶ Ingrid Torjesen, “Covid-19: Pre-purchasing vaccine—sensible or selfish?” (2020) 3.

³⁷ Kai Tabacek, “Small group of rich nations have bought up more than half the future supply of leading COVID-19 vaccine contenders”, *OXFAM International*, September 17, 2020. Available from <https://www.oxfam.org/en/press-releases/small-group-rich-nations-have-bought-more-half-future-supply-leading-covid-19> (accessed September 27, 2020).

³⁸ Marketwatch, “U.K. Government Has Deals in Place to Buy 340 Million Doses of Covid-19 Vaccine”, *News Break*. Available from <https://www.newsbreak.com/news/2040843429782/uk-government-has-deals-in-place-to-buy-340-million-doses-of-covid-19-vaccine> (accessed on September 27, 2020).

³⁹ “Sanofi and GSK will provide up to 300 million doses of COVID-19 vaccine to the European Union”, *Sanofi*, September 18, 2020. Available from <https://www.sanofi.com/en/media-room/press-releases/2020/2020-09-18-12-52-46> (accessed on September 27, 2020).

⁴⁰ Rachel Arthur, “Australia announces deal for 84 million COVID-19 vaccine doses”, *BioPharma*, September 7, 2020. Available from <https://www.biopharma-reporter.com/Article/2020/09/07/Australia-announces-deal-for-84-million-COVID-19-vaccine-doses> (accessed on September 27, 2020)

⁴¹ Medical Xpress, “Canada secures deals for millions of COVID-19 vaccine doses”, *Medical Xpress*, August 31, 2020. Available from <https://medicalxpress.com/news/2020-08-canada-millions-covid-vaccine-doses.html> (accessed on September 27, 2020). See further Will Feur, “Canada to purchase 76 million doses of Novavax coronavirus vaccine, company says”, *CNBC*, August 31, 2020. Available from <https://www.cnn.com/2020/08/31/canada-to-purchase-76-million-doses-of-novavax-coronavirus-vaccine-company-says.html> (accessed on September 27, 2020); Sarah Turnbull, “Canada signs deals for supply of Sanofi vaccine candidate, antiviral drug to treat COVID-19”, *CTV News*, September 22, 2020. Available from <https://www.ctvnews.ca/politics/canada-signs-deals-for-supply-of-sanofi-vaccine-candidate-antiviral-drug-to-treat-covid-19-1.5114927> (accessed September 27, 2020).

BioNTech.⁴² Switzerland has struck a deal with Moderna to advance purchase 4.5 million doses of vaccine.⁴³

These opaque deals have not fully disclosed financial details and terms and conditions. As Duncan Matthews put it, "What's in the deals that they're signing and who will get access to the vaccine and at what price – it's a complete lack of transparency".⁴⁴ Taxpayers and civil society organizations call for more transparency on the governance and financial aspects of APAs.⁴⁵ Taxpayers need to know what criteria was used to prioritize certain vaccine candidates over others; what is the foreseeable or expected price of a vaccine dose and to what extent it reflects contributions of publicly funded research conducted by publicly-owned universities and institutions; what safeguards have been included in these contracts to guarantee a payback or refund if companies fail to meet volume commitments or in case of non-fruit of vaccines; what compensation is guaranteed to taxpayers if any of the pre-purchased vaccines has any adverse effects. As these deals are shrouded in secrecy, it is still guesswork whether or not they address these concerns.

It is important to note that some middle-income countries are also pursuing bilateral arrangements to ensure timely access to COVID-19 vaccines. These countries include Indonesia, Brazil, Mexico, Argentina, India, and Bangladesh.⁴⁶ Indonesia and Brazil struck deals to buy millions of doses of vaccines that are undergoing phase 3 trials in these countries.⁴⁷ Mexico and Argentina reached an agreement with AstraZeneca for initial production of 150 million doses, with the possibility of increasing to 400 million doses.⁴⁸ In India, the chief executive of the Serum Institute of India (SII)⁴⁹ said that most of the COVID-19 vaccine produced by SII "would have to go to our countrymen before it goes abroad".⁵⁰ Bangladesh's Beximco Pharmaceuticals is investing in India's SII, one of the world's largest producers of vaccines, to ensure Bangladesh gets priority access to vaccines produced by SII.⁵¹ As Beximco said in a statement, "The investment amount will be treated as an

⁴² "Pfizer and BioNTech to Supply Japan with 120 Million Doses of their BNT162 mRNA-based Vaccine Candidate", *Pfizer*, July 31, 2020. Available from <https://www.pfizer.com/news/press-release/press-release-detail/pfizer-and-biontech-supply-japan-120-million-doses-their> (accessed on September 27, 2020).

⁴³ The Associated Press, "Swiss ink deal with Moderna for 4.5M doses of COVID vaccine", *ABC News*, August 7, 2020. Available from <https://abcnews.go.com/International/wireStory/swiss-ink-deal-moderna-45m-doses-covid-vaccine-72231351> (accessed September 27, 2020).

⁴⁴ Ewen Callaway, "The unequal scramble for coronavirus vaccines - by the numbers", *Nature* 584, no. 7822 (2020) 506-507. Available from <https://www.nature.com/articles/d41586-020-02450-x> (accessed on September 27, 2020).

⁴⁵ "Transparency is needed to reap the full benefits of the EU's investment in its Vaccines Strategy, say health NGOs", *European Public Health Alliance*, September 18, 2020. Available from <https://epha.org/transparency-is-needed-to-reap-the-full-benefits-of-the-eus-investment-in-its-vaccines-strategy/> (accessed on September 27, 2020).

⁴⁶ Washington (AFP), "Rich nations snap up vaccine stocks in global race for jab" *France 24*, September 17, 2020. Available from <https://www.france24.com/en/20200917-rich-nations-snap-up-vaccine-stocks-in-global-race-for-jab> (accessed on September 27, 2020).

⁴⁷ Ewen Callaway, "The unequal scramble for coronavirus vaccines - by the numbers", *Nature* 584, no. 7822 (2020) 506-507. <https://www.nature.com/articles/d41586-020-02450-x>, Last accessed September 27, 2020.

⁴⁸ "Mexico signs COVID-19 vaccine deal as cases top 500,000", *Al Jazeera*, August 14, 2020. Available from <https://www.aljazeera.com/news/2020/08/14/mexico-signs-covid-19-vaccine-deal-as-cases-top-500000/?gb=true> (accessed on September 27, 2020).

⁴⁹ The University of Oxford is developing a coronavirus vaccine. To secure a license for mass production of this vaccine, if successfully developed, the Serum Institute of India has tied up with the British pharmaceutical company AstraZeneca. SII has also tied up with Themis Bioscience, an Austrian biotech company, and Codagenix, a US-based biotech firm, working on other COVID-19 vaccine candidates. See S. Deo, S. Manurkar, S. Krishnan, and C. Franz, "COVID-19 Vaccine: Development, Access and Distribution in the Indian Context", *ORF Issue Brief*, 378 (2020) 5.

⁵⁰ Rebecca Weintraub, Asaf Bitton and Mark L. Rosenberg, "The Danger of Vaccine Nationalism", *Harvard Business Review*, May 22, 2020. Available from <https://hbr.org/2020/05/the-danger-of-vaccine-nationalism> (accessed on September 27, 2020).

⁵¹ Ruma Paul, "Bangladesh's Beximco signs COVID-19 vaccine deal with India's Serum Institute", *Reuters*, August 28, 2020. Available from <https://www.reuters.com/article/us-health-coronavirus-bangladesh->

advance and once the vaccine receives regulatory approvals, SII will include Bangladesh among the countries who will be the first to receive an agreed quantity of this vaccine from SII on a priority basis".⁵²

Despite these competitive and nationalistic approaches of several countries, the global coalition COVAX is gaining momentum. As of this writing, 93 economies have signed commitment agreements to the COVAX facility.⁵³ 86 economies have submitted non-binding confirmations of intent to participate in the COVAX facility.⁵⁴ These economies, including 64 high-income nations, represent almost two-thirds of the world's population.⁵⁵ Participation of high-income countries – required to finance the vaccine purchases from their national budgets - is critical to the financial viability of the COVAX facility. They will partner with 92 low- and middle-income economies eligible for support for the procurement of vaccines through the Gavi COVAX Advance Market Commitment (AMC).⁵⁶ There is no bar on participating countries to procure vaccines through other plans including bilateral deals with vaccine manufacturers. As noted by Seth Berkley, the chief executive of Gavi, "COVAX coordinators sought to add flexibility to joining agreements to encourage greater participation".⁵⁷

While the US openly criticized the WHO and actively engaged in vaccine nationalism, China and Russia were also notably absent from the initial list of COVAX partner economies. Russia has already rolled out its own 'Sputnik V' vaccine, named after the first satellite sent into space.⁵⁸ There has been speculation that Russia's rushed approach to 'be first' was motivated by nationalism. As Helen Ramscar put it, "By invoking the Soviet Union's space race with the West, Putin is using the search for a vaccine to demonstrate technological prowess and boost national pride".⁵⁹ Commenting on the vaccine's premature approval, she added, "There are concurrent vaccines races in play. Russia has declared itself first to approve a COVID-19 vaccine – a race to simply 'be first', regardless of scientific standards".⁶⁰ The WHO has raised concerns about the safety of the vaccine, being developed by the Gamaleya National Centre of Epidemiology and Microbiology in Moscow, as the candidate had not even started phase 3 trials at the time of its approval.⁶¹ Russia,

[india/bangladeshs-beximco-signs-covid-19-vaccine-deal-with-indias-serum-institute-idUSKBN2501HT](https://www.bbc.com/news/health-56525011) (accessed on September 27, 2020).

⁵² *Ibid.*

⁵³ "COVAX – List of participating economies", Gavi, November 16, 2020. Available from

https://www.gavi.org/sites/default/files/covid/pr/COVAX_CA_COIP_List_COVAX_PR_16-11.pdf (accessed on November 20, 2020)

⁵⁴ *Ibid.*

⁵⁵ "Boost for global response to COVID-19 as economies worldwide formally sign up to COVAX facility", *World Health Organization*, 21 September 2020. Available from <https://www.who.int/news-room/detail/21-09-2020-boost-for-global-response-to-covid-19-as-economies-worldwide-formally-sign-up-to-covax-facility> (accessed on September 27, 2020).

⁵⁶ *Ibid.*

⁵⁷ Kate Kelland, "How can the world ensure a fair distribution of COVID-19 vaccines?" *World Economic Forum*, September 3, 2020. Available from https://www.weforum.org/agenda/2020/09/covax-who-cepi-gavi-covid-19-coronavirus-vaccines-distribution?utm_source=twitter&utm_medium=social_scheduler&utm_term=Global+Health&utm_content=06/09/2020+03:00 (accessed on September 27, 2020).

⁵⁸ Adam Taylor, "Why vaccine nationalism is winning", *The Washington Post*, September 3, 2020. Available from <https://www.washingtonpost.com/world/2020/09/03/why-coronavirus-vaccine-nationalism-is-winning/> (accessed on September 27, 2020).

⁵⁹ Helen Ramscar, "Vaccine Nationalism: The Ugly Face of Science and Politics", *RUSI*, August 17, 2020. Available from <https://rusi.org/commentary/vaccine-nationalism-ugly-face-science-and-politics> (accessed on September 27, 2020).

⁶⁰ *Ibid.*

⁶¹ Peter Kenny, "WHO cautions Russia on COVID-19 vaccine", *Anadolu Agency*, August 11, 2020. Available from <https://www.aa.com.tr/en/asia-pacific/who-cautions-russia-on-covid-19-vaccine/1938509> (accessed on September 27, 2020). See further Talha Khan Burki, "The Russian vaccine for COVID-19", *Lancet Respir Med.*, September 4, 2020 1.

opting out of COVAX, may face problems in accessing safe and effective vaccines if its Sputnik V vaccine eventually turns out to be a failure.

China's absence from the initial list of COVAX partner economies was surprising as China's political leadership assured repeatedly that Chinese-made vaccines would be a 'global public good'.⁶² China's Foreign Ministry spokeswoman Hua Chunying had earlier expressed Beijing's support to COVAX, without indicating China's intention to make a binding commitment to the project.⁶³ It was speculated that China may use its vaccines as a diplomatic tool to derive more concrete geopolitical benefits. As noted by Natasha Kassam, "Beijing generally prefers to engage with countries bilaterally, and will want to use any successful vaccine to further those objectives".⁶⁴ Lai-Ha Chan commented, "If Chinese vaccines are to be distributed via COVAX, China will lose an essential diplomatic tool to win friends, in the light of the fact that the U.S. vows not to be a party to it".⁶⁵ China is important as four of the thirteen vaccine candidates currently in the last stage of clinical trials are made by Chinese firms.⁶⁶ The WHO kept its hopes alive and China eventually joined COVAX on October 9.⁶⁷

The notable absence of two powerful countries – the US and Russia - from the list of COVAX partner nations is disappointing. At the same time, it is encouraging to see how far COVAX has matured as a global plan, despite these major omissions, to set a historic precedent in public health. Governments from every continent have shown unity of purpose and resolve in choosing to join hands and pool resources to achieve a common goal of ending the acute phase of the pandemic. As noted by Dr. Tedros, the COVAX facility, which is intended to ensure that "the race for vaccines is a collaboration, not a contest", represents the "world's largest and most diverse portfolio of COVID vaccines".⁶⁸

In this moment of a transnational public health crisis, which requires cross-border solidarity, the approach of some nation-states to pursue isolationist politics has been subjected to serious criticism. Vaccine nationalism undermines not only attempts to treat vaccines as a global public good but also efforts of the WHO to build equitable and inclusive distribution frameworks under its COVAX facility. The WHO has warned against this nationalistic approach to deal with a pandemic situation. Dr. Tedros Adhanom, WHO Director-General, said during a WHO briefing in Geneva, "Vaccine nationalism will prolong the pandemic, not shorten it. If and when we have an effective vaccine, we must also use it effectively ... the

⁶² For instance, in his speech to the 73rd session of the World Health Assembly, President Xi Jinping assured that "COVID-19 vaccine development and deployment in China, when available, will be made a global public good, which will be China's contribution to ensuring vaccine accessibility and affordability in developing countries". See Pan Zhaoyi, "Chinese vaccines will be made global public good, says Xi", *News CGTN*, May 19, 2020. Available from <https://news.cgtn.com/news/2020-05-19/Chinese-vaccines-will-be-made-global-public-good-says-Xi-QCpFSGIL2g/index.html> (accessed on September 27, 2020). See further Alexandra L. Phelan, Mark Eccleston-Turner, Michelle Rourke, Allan Maleche, and Chenguang Wang, "Legal agreements: barriers and enablers to global equitable COVID-19 vaccine access", *The Lancet* 396 (2020) 800. Available from [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(20\)31873-0.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(20)31873-0.pdf) (accessed September 27, 2020).

⁶³ Adam Taylor, "Why vaccine nationalism is winning", *The Washington Post*, September 3, 2020. Available from <https://www.washingtonpost.com/world/2020/09/03/why-coronavirus-vaccine-nationalism-is-winning/> (accessed on September 27, 2020).

⁶⁴ Simone McCarthy, "Coronavirus: why China has left its options open for WHO's global vaccine plan", *SCMP*, September 23, 2020. Available from <https://www.scmp.com/news/china/diplomacy/article/3102572/coronavirus-why-china-has-left-its-options-open-whos-global> (accessed on September 27, 2020).

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Huizhong Wu, "China joins COVAX coronavirus vaccine alliance", *AP News*, October 9, 2020. Available from <https://apnews.com/article/virus-outbreak-xi-jinping-taiwan-china-archive-aae1708207d3510a434d35aec994d4d1> (accessed on November 20, 2020).

⁶⁸ Peter Beaumont, "Landmark moment: 156 countries agree to Covid vaccine allocation deal", *The Guardian*, September 22, 2020. Available from https://www.theguardian.com/global-development/2020/sep/21/landmark-moment-156-countries-agree-to-covid-vaccine-allocation-deal?CMP=Share_iOSApp_Other (accessed on September 27, 2020).

first priority must be to vaccinate some people in all countries, rather than all people in some countries".⁶⁹ Logically, the most high-risk segment of each population – not the most affluent segment of the global population - deserves priority access to vaccines.

The self-interested approach of vaccine nationalism, which potentially results in the hoarding of life-saving vaccines, has no regard for international moral standards. As noted by Graham Dutfield, "We invented it, therefore, we should get it first arguments for priority are immoral and harmful to global public health. Treatment nationalism is both morally unacceptable and detrimental to innovation".⁷⁰ As Sean O'Grady has put it:

Imagine, for a moment, that the 'Oxford vaccine' would first only be available, exclusively, to people living in the City of Oxford, or, at a pinch, around Oxfordshire. All those healthy young students, people with no underlying conditions, the thin, the non-BAME – all would receive priority doses even though there are many more vulnerable folk, front-line staff and BAME fellow citizens who happen to live outside Oxford/Oxfordshire who have a more pressing clinical claim. Hardly fair; and hardly effective, seeing as we can all wander in and out of Oxfordshire anyway, spreading disease as we go. Yet Oxford gets the vaccine because Oxford developed it.⁷¹

Vaccine nationalism is a selfish approach which carries ethical implications as it tends to deprive the most deserving high-risk people in other countries to prioritise even the least urgent needs of wealthy nations. Such a morally reprehensible approach "would mean that a robust American 20-year-old in a town largely devoid of infection would have a higher priority than a South African doctor or a nursing mother in Ghana or an elderly person with tuberculosis in Nigeria".⁷²

Countries engaging in 'my country first' approaches have failed to find moral support for their actions. Comparing the global allocation of vaccines to oxygen masks dropping inside an airplane, a senior official at the US Food and Drug Administration said, "You put your own first, and then we want to help others as quickly as possible".⁷³ This analogy could be made, to justify vaccine nationalism, if oxygen masks were dropped only in business class. Oxygen masks "drop at the same time in every part of the plane because time is of essence and because that is the best way to ensure the safety of all onboard. The same is true of global, equitable allocation of safe and effective vaccines against COVID-19".⁷⁴

Ethical challenges started to surface in the very beginning when richer countries were reported to have offered a higher market price to private manufacturers for testing equipment and facial masks. Poorer countries, with already fragile economies and health systems, were given wait times because supplies spanning months of production had been

⁶⁹ Stephanie Nebehay and Emma Farge, "WHO's Tedros says 'vaccine nationalism' would prolong pandemic", *Reuters*, September 16, 2020. Available from <https://www.reuters.com/article/us-health-coronavirus-who-idUSKBN25V29K> (accessed on September 27, 2020).

⁷⁰ Graham Dutfield "Coronavirus: it is morally indefensible for a nation to keep life-saving drugs for itself", *The Conversation*, July 2, 2020. Available from <https://theconversation.com/coronavirus-it-is-morally-indefensible-for-a-nation-to-keep-life-saving-drugs-for-itself-141734> (accessed September 27, 2020).

⁷¹ Sean O'Grady, "Vaccine nationalism will achieve little in the fight against the coronavirus and will hurt those who need it most", *Independent*, August 25, 2020. Available from https://www.independent.co.uk/voices/coronavirus-vaccine-nationalism-oxford-russia-trump-putin-a9687616.html?utm_medium=Social&utm_source=Twitter#Echobox=1598364515 (accessed on September 27, 2020).

⁷² Michael Gerson, "It puts everyone in danger if rich countries hoard a vaccine", *The Harris Poll*. Available from <https://theharrispoll.com/it-puts-everyone-in-danger-if-rich-countries-hoard-a-vaccine/> (accessed on September 27, 2020).

⁷³ Thomas J. Bollyky and Chad P. Bown, "The Tragedy of Vaccine Nationalism: Only Cooperation Can End the Pandemic", *Foreign Affairs* 99 (2020) 96. Available from https://www.foreignaffairs.com/articles/united-states/2020-07-27/vaccine-nationalism-pandemic?utm_medium=social (accessed on September 27, 2020).

⁷⁴ *Ibid.*

pre-purchased by countries having more purchasing power.⁷⁵ Many countries chose to limit or ban the export of medical goods - like testing kits, personal protective equipment, and ventilators - to secure them for national use.⁷⁶ The US purchased all supplies of remdesivir, a drug that offered hope against COVID-19, making the rest of the world wait for months.⁷⁷

⁷⁵ "Fair and equitable access to COVID-19 treatments and vaccines", *Nuffield Council on Bioethics*. May 29, 2020 8.

⁷⁶ *Ibid.*

⁷⁷ Thomas J. Bollyky and Chad P. Bown, "The Tragedy of Vaccine Nationalism: Only Cooperation Can End the Pandemic", *Foreign Affairs* 99 (2020) 96. Available from https://www.foreignaffairs.com/articles/united-states/2020-07-27/vaccine-nationalism-pandemic?utm_medium=social (accessed on September 27, 2020).

III. VACCINE NATIONALISM IS A RISKY APPROACH

Governments opting for siloed nationalistic approaches to vaccine distribution will be vulnerable to price increases and inadequate supplies if they rely on a limited number of domestic manufacturers having exclusive intellectual property rights to produce the vaccine. The prices of vaccines may soar dramatically if countries, opting out of COVAX, bid against one another for procurement. Economically disadvantaged populations within these countries may be deprived of access to vaccines if they are priced too high and wealthier citizens deplete their supplies.

Given the considerably high failure rate of vaccine research and development (R&D), picking the right vaccine candidates for early-stage bilateral procurement deals should be a concern for countries that opt to negotiate individually instead of joining COVAX. Currently, 87 preclinical vaccines are under active investigation in animals while researchers are testing 54 vaccine candidates in clinical trials on humans.⁷⁸ Only 13 of those have reached phase 3 trials – the final stage before possible implementation.⁷⁹ It is hard to determine which of these candidates will succeed. According to Gavi's estimate, only 7% of vaccine candidates succeed in the preclinical investigation while only 15-20% succeed in clinical trials.⁸⁰ The vast majority of vaccine candidates will drop out as the likelihood of getting market approval is small.

From a probabilistic perspective, countries that prefer a nationalistic approach are taking a huge gamble. As noted by Kendall Hoyt, their move is akin to opting out of an insurance policy.⁸¹ In the worst-case scenario, if none of the vaccine candidates secured under bilateral deals turns out to be viable, these countries are left with no options. On the other hand, countries that opt to join COVAX hedge the risk of backing unsuccessful vaccine candidates. By pooling risks, purchasing power and financial and scientific resources, they will be in a position 'to insure themselves against the failure of any individual vaccine candidate and secure successful vaccines in a cost-effective, targeted way'.⁸² Instead of gambling their national health, countries signing bilateral deals can concurrently pursue the alternate strategy of also joining COVAX, which the WHO describes as an 'invaluable insurance policy'. As noted by Mariângela Simão, a WHO Assistant Director-General for Drug and Vaccine Access, "By joining the facility at the same time that you do bilateral deals, you are actually betting on a larger number of vaccine candidates".⁸³

⁷⁸ Jonathan Corum, Sui-Lee Wee, and Carl Zimmer, "Coronavirus Vaccine Tracker", *The New York Times*, November 20, 2020. Available from <https://www.nytimes.com/interactive/2020/science/coronavirus-vaccine-tracker.html> (accessed November 21, 2020).

⁷⁹ *Ibid.*

⁸⁰ Helen Branswell, "WHO, Partners Unveil Ambitious Plan to Deliver 2 Billion Doses of Covid-19 Vaccine to High-Risk Populations" *STAT*, September 20, 2020. Available from <https://www.statnews.com/2020/06/26/who-partners-unveil-ambitious-plan-to-deliver-2-billion-doses-of-covid-19-vaccine-to-high-risk-populations/> (accessed on September 27, 2020).

⁸¹ Emily Rauhala, Yasmeen Abutaleb, "U.S. says it won't join WHO-linked effort to develop, distribute coronavirus vaccine", *The Washington Post*, September 2, 2020. Available from https://www.washingtonpost.com/world/coronavirus-vaccine-trump/2020/09/01/b44b42be-e965-11ea-bf44-0d31c85838a5_story.html (accessed on September 27, 2020).

⁸² James Fulker, "Boost for global response to COVID-19 as economies worldwide formally sign up to COVAX facility", *World Health Organization*, 21 September 2020. Available from <https://www.who.int/news-room/detail/21-09-2020-boost-for-global-response-to-covid-19-as-economies-worldwide-formally-sign-up-to-covax-facility> (accessed on September 27, 2020).

⁸³ Emily Rauhala, Yasmeen Abutaleb, "U.S. says it won't join WHO-linked effort to develop, distribute coronavirus vaccine", *The Washington Post*, September 2, 2020. Available from https://www.washingtonpost.com/world/coronavirus-vaccine-trump/2020/09/01/b44b42be-e965-11ea-bf44-0d31c85838a5_story.html (accessed on September 27, 2020).

Vaccine nationalism may damage international cooperation and cause geopolitical tensions over access to vaccines. If other countries are eventually able to develop safer and more effective vaccines at a later stage, they may be expected to reciprocate by withholding supplies to those countries who denied them access to an early vaccine.⁸⁴ More importantly, vaccine nationalism will highlight the longstanding economic and social divide between high-income and low- and middle-income countries. Economically disadvantaged countries, without access to vaccines, may resort to retaliatory actions to express their resentment against vaccine-hoarding countries. Aggrieved nations may try to find any form of leverage including imposing limits or bans on exports of raw materials used in making vaccines, vials and syringes. Such holding up of input supplies may cause supply chain disruptions.⁸⁵ Countries acting in their narrow self-interest should be aware of these potential vulnerabilities.

Vaccine nationalism, blended with intellectual property exclusivities, will also expose a broken patent system that protects interests of brand-name pharmaceutical companies and favours wealthy nations without giving due consideration to the problems faced by less-privileged populations in accessing life-saving vaccines and treatments. Inefficiencies of the current patent system, which enables pharmaceutical corporations to artificially restrict supplies and inflate prices of life-saving medicines and vaccines, are already in the limelight. In May 2020, more than 140 world leaders and experts signed an open letter calling on all governments to unite for COVID-19 vaccines and treatments to be mass-produced patent-free and distributed fairly and equitably leaving no one behind.⁸⁶ The idea of 'People's Vaccine, not a profit vaccine' is currently supported by many prominent political leaders.⁸⁷ This idea may garner universal support and transform into global public demand, not only for COVID-19 vaccine but also for all other vaccines, if the world's poor are either denied access to vaccines or made to wait longer than necessary because of a combined effect of vaccine nationalism and exclusive proprietary rights.

If some affluent countries secure enough doses to protect their entire populations while ignoring the problems of access to COVID-19 vaccines beyond their borders, they will not be able to restore stability and economic growth. They cannot trade if their borders are still closed because their trading partners and allies are still suffering without universal vaccine access. They cannot bounce back if their business, travel, and tourism do not return to normal. As noted by Dr. Tedros:

Sharing vaccines or sharing other tools actually helps the world to recover together. The economic recovery can be faster, and the damage from COVID-19 could be less. Vaccine nationalism is not good, it will not help us. For the world to recover faster, it has to recover together, because it's a globalized world: the economies are intertwined. Part of the world or a few countries cannot be a safe haven and recover.⁸⁸

⁸⁴ Thomas J. Bollyky and Chad P. Bown, "The Tragedy of Vaccine Nationalism: Only Cooperation Can End the Pandemic", *Foreign Affairs* 99 (2020) 96. Available from https://www.foreignaffairs.com/articles/united-states/2020-07-27/vaccine-nationalism-pandemic?utm_medium=social (accessed on September 27, 2020).

⁸⁵ Thomas J. Bollyky and Chad P. Bown, "The Tragedy of Vaccine Nationalism: Only Cooperation Can End the Pandemic", *Foreign Affairs* 99 (2020) 96. Available from https://www.foreignaffairs.com/articles/united-states/2020-07-27/vaccine-nationalism-pandemic?utm_medium=social (accessed on September 27, 2020).

⁸⁶ Oxfam, "World leaders unite in call for a people's vaccine against COVID-19", *UNAIDS* (2020). Available from https://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2020/may/20200514_covid19-vaccine (accessed on September 27, 2020).

⁸⁷ "Uniting behind a people's vaccine against COVID-19", *UNAIDS*, May 14, 2020. Available from https://www.unaids.org/en/resources/presscentre/featurestories/2020/may/20200514_covid19-vaccine-open-letter (accessed on September 27, 2020).

⁸⁸ Angela Betsaida B. Laguipo, "Vaccine 'nationalism' will slow coronavirus fight if poor countries are left exposed", August 10, 2020. Available from <https://www.news-medical.net/news/20200810/Vaccine-nationalism-will-slow-coronavirus-fight-if-poor-countries-are-left-exposed.aspx> (accessed on September 27, 2020).

Protecting only their citizens will not be a win for economically advanced countries. If the pandemic exists in other parts of the world, there is always a risk of reinfection because people will cross borders, especially when trade and tourism resume. In a globalized and urbanized world, it is hard to control the mobility of human populations. If poorer countries - which are generally densely populated with weak health systems and higher disease burdens - are neglected and denied access to potential COVID-19 vaccines, the risk of reinfection will continue to threaten the entire global population.

It can be foreseen that the demand will outstrip its initial supply once a COVID-19 vaccine is finally approved. Equitable distribution of scarce supplies will require informed planning and careful deliberation on who should be given priority for treatment or vaccination. Global transitioning out of the pandemic is more likely if the WHO sets a prioritisation criterion; devises a global plan for fair distribution of vaccines leaving no one behind; and communicates effectively the reasons for prioritising certain sub-groups. The WHO has already released its 'fair allocation mechanism' to guide the strategic distribution of vaccines globally once approved.⁸⁹ On the other hand, the short-sighted approach of "vaccine nationalism will only perpetuate the disease and prolong the global recovery".⁹⁰ As warned by Médecins Sans Frontières (MSF), "these bilateral deals will reduce the initial global vaccine stocks available for vulnerable groups in poorer countries and undermine global efforts to ensure fair allocation".⁹¹ It will be unfortunate and unfair if access to vaccine doses depends on how much money one has or where one lives.

⁸⁹ The WHO proposes distributing vaccines in two phases. In the first phase, all countries will receive enough vaccine to immunize a tightly targeted 3% of their population (frontline workers in health and social care settings). Then, building over time, additional vaccine would be delivered to immunize 20% of their population. At this stage, high-risk adults (elderly people and those with comorbidities) will be included in the immunization plan. In the second phase, vaccines will be allocated as per public health situation and specific needs of each country. See "Fair allocation mechanism for COVID-19 vaccines through the COVAX Facility", *World Health Organization*, September 9, 2020. Available from <https://www.who.int/publications/m/item/fair-allocation-mechanism-for-covid-19-vaccines-through-the-covax-facility> (accessed on September 27, 2020).

⁹⁰ James Fulker, "Boost for global response to COVID-19 as economies worldwide formally sign up to COVAX facility", *World Health Organization*, 21 September 2020. Available from <https://www.who.int/news-room/detail/21-09-2020-boost-for-global-response-to-covid-19-as-economies-worldwide-formally-sign-up-to-covax-facility> (accessed on September 27, 2020).

⁹¹ "Global collaboration for health: rhetoric versus reality", *The Lancet* 396, no. 10253 (2020) 735. Available from [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31900-0/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31900-0/fulltext) (accessed on September 27, 2020).

IV. CONCLUSION

It is important to ensure that the pandemic ends for all, not just for affluent populations. Advance purchase multilateral commitments are a threat to the global fair distribution of potential COVID-19 vaccines. Instead of pursuing short-sighted isolationist policies, global political leadership needs to focus on re-establishing values of international solidarity, multilateralism, equality, and global cooperation. These values are key to not only addressing the current health and economic crisis but also achieving many of the global community's collective goals as enshrined in the United Nation's Sustainable Development Agenda 2030.

The global population also seeks more clarity on intellectual property ownership of future COVID-19 vaccines, whose R&D costs include substantial contributions from taxpayers and philanthropists. The vaccine race is still informed by the routine application of intellectual property frameworks and there is lack of clarity on how the vaccines will be priced. Still, there are no binding commitments on royalty-free technology transfer and data sharing. A handful of big pharmaceutical corporations, that own the technology, can be the only winners of this race if the emerging COVID-19 vaccines are covered by exclusive proprietary rights. The current blend of vaccine nationalism and intellectual property, which emphasises fundamental problems of vaccine governance and R&D, is a cause of serious concerns for less privileged populations across the globe.

To address these concerns, this study recommends that an enforceable global framework should be negotiated on a priority basis that treats vaccines as global public goods; bars countries from placing export restrictions on supplies of vaccines; includes a legally binding commitment to vaccine sharing; and mandates multilateral efforts for development and equitable distribution of vaccines. The WHO can be and should be a possible multilateral forum for the creation of such a framework. Article 19 of the WHO Constitution authorizes the World Health Assembly (WHA) to "adopt conventions or agreements with respect to any matter within the competence of the Organization".⁹² The adoption of such conventions or agreements requires a two-thirds vote of the WHA.⁹³

The COVAX facility is a step in the right direction but is only an ad hoc arrangement hastily crafted in response to the current pandemic. There is a need to address the longstanding and recurring problem of equitable access to vaccines through a permanent multilateral arrangement – backed by a binding international legal instrument - to broaden inclusive procurement and R&D models. If the temporary COVAX arrangement achieves its intended goals, low- and middle-income countries need to press for a permanent international governance structure or platform which ensures a greater centralized and internationalized approach to development and procurement of vaccines transparently and equitably.

⁹² Constitution of the World Health Organization (2006) Article 19.

⁹³ *Ibid.*

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