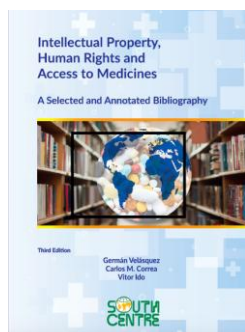


South Centre Publications January 2020 - March 2021



BOOKS

Intellectual Property, Human Rights and Access To Medicines: A Selected and Annotated Bibliography (3rd Edition, 2020)



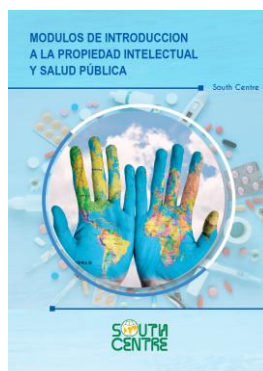
About the Book:

The South Centre seeks to provide appropriate technical assistance and country support to developing countries, within comprehensive and coherent national IP strategies to promote implementation of the TRIPS Agreement that is consistent with the protection of public health and the promotion of access to medicines. This selected and annotated bibliography has been prepared to assist developing countries to implement IP policies and regulations consistent with development goals and public health principles. The growing volume of literature on the issue of IP, R&D, human rights and access to medicines can help developing countries to find the opportunities and room for manoeuvre to protect their citizens from the unhealthy environment created by international trade rules. This bibliography is not an exhaustive list but it highlights some of the most pertinent works from the South views and perspectives. The selected references are a valuable instrument for those interested in promoting universal access to medical innovation.

Authors: Germán Velásquez, Carlos M. Correa and Vitor Ido

<https://www.southcentre.int/book-by-the-south-centre-2020/>

Modulos de Introduccion a la Propiedad Intelectual y Salud Pública (2020)

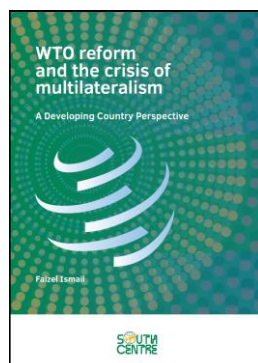


Descripción:

Este libro contiene cuatro módulos para la capacitación en materia de propiedad intelectual y salud pública. Su objetivo es presentar una introducción a las diversas categorías de derechos de propiedad intelectual y, en particular, ilustrar sobre los derechos aplicables a la producción y comercialización de medicamentos en el marco de las llamadas 'flexibilidades' contenidas en el Acuerdo sobre los Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio de la Organización Mundial del Comercio. Los módulos proporcionan elementos para comprender el alcance y las implicaciones de los derechos de propiedad intelectual, especialmente las patentes de invención, en el acceso a los medicamentos. Ellos brindan asimismo pautas para el diseño y la aplicación de esos derechos en una manera consistente con dicho Acuerdo y con políticas de protección de la salud pública. Los módulos contienen información general y enfoques prácticos para orientar a los encargados de formular y aplicar políticas públicas en el tratamiento del tema, tanto en el campo administrativo como judicial.

<https://www.southcentre.int/book-by-the-south-centre-2020-2/>

WTO reform and the crisis of multilateralism – A Developing Country Perspective (2020)



About the Book:

The WTO has not been able to recover since the collapse of the Doha Round in July 2008. Several ministerial conferences including the Buenos Aires meeting in December 2017 failed to reach agreement. The US Trump Administration launched a campaign to reform the WTO in 2018 and 2019. This book argues that the Trump Administration reform proposals have been much more aggressive and far-reaching than the Obama Administration before it, threatening to erode hard-won special and differential treatment rights of developing countries. By blocking the appointment of new Appellate Body members, the US has effectively paralysed the Appellate Body and deepened

the crisis of the multilateral trading system. Developing countries have responded to the proposals and called for the WTO to be development-oriented and inclusive. This book provides a critical analysis of the US-led reform proposals and seeks to build a discourse around an alternative set of concepts or principles to guide the multilateral trading system based on fairness, solidarity, social justice, inclusiveness and sustainability.

Author: Faizel Ismail served as the Ambassador Permanent Representative of South Africa to the WTO (2010-2014).

This book is published with support from [Trade & Industrial Policy Strategies](#).

<https://www.southcentre.int/book-by-the-south-centre-2020-3/>

RESEARCH PAPERS

The Fourth Industrial Revolution in the Developing Nations: Challenges and Road Map (Research Paper 102, February 2020)

By Sohail Asghar, Gulmina Rextina, Tanveer Ahmed & Manzoor Illahi Tamimy (COMSATS)

Technological advancements and the amalgamation of several fields, including Advanced Robotics, Artificial Intelligence (AI), Big Data Analytics, Cyber Security, Cloud Computing, and Internet of Things (IoT) have brought the world on the cusp of a Fourth Industrial Revolution (FIR). This industrial revolution has the potential to sky rocket economic growth or on the other hand, cause countries to lag behind in terms of economic development if the potential of FIR is not exploited. A number of developed countries such as Germany, the UK and USA have put in place public policies that focus on implementing FIR in their respective countries. It is critical that developing countries also take steps to adapt FIR in order to take advantage of it as well as not be adversely affected by these technologies if not adopted. There are a number of reasons why developing countries are not able to fully implement FIR technologies such as lack of commitment, infrastructure and lack of skilled workers. The objective of this study is to identify the challenges and issues faced by the developing countries in the implementation of the FIR. This study proposes a strategic framework: "Centre for the Fourth Industrial Revolution (CFIR)" for developing countries in order to face the challenges of FIR. Consequently, CFIR will work on establishing research labs for capacity building through collaboration and establishing technology-based incubation centers. CFIR will bring together an international network of governments, leading companies, civil society and experts to co-design and pilot innovative policy and governance frameworks.

<https://www.southcentre.int/research-paper-102-february-2020/>

Eighteen Years After Doha: An Analysis of the Use of Public Health TRIPS Flexibilities in Africa (Research Paper 103, February 2020)

By Yousuf A Vawda and Bonginkosi Shoji

As we observe the 18th anniversary of the Doha Declaration on the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights) and Public Health, it is appropriate to take stock of intellectual property developments and endeavour to present a comprehensive account of the situation in the African continent in respect of the implementation of TRIPS flexibilities, specifically those regarding access to medicines. This research paper provides an overview of the extent to which selected African countries have adopted legal and policy frameworks with regard to TRIPS flexibilities, examines the actual use of these flexibilities in enabling access to medicines in those countries, and suggests some recommendations for optimising the use of the flexibilities in pursuing public health imperatives.

<https://www.southcentre.int/research-paper-103-february-2020/>

Antimicrobial Resistance: Examining the Environment as Part of the One Health Approach (Research Paper 104, March 2020)

By Mirza Alas

Antimicrobial Resistance (AMR) is a serious issue that is threatening the medical and agricultural advances of today. The connections that exist among human health, food production and the environment necessitate a One Health approach to address the challenge of AMR. Recent research points to the environment as an essential factor in the spread of AMR, as well as a possible reservoir of antimicrobial resistant bacteria and genes. The process, however, of the environmental transmission of resistance genes, along with their effects and how to mitigate them, is still being examined. As new research emerges, so to have new challenges regarding the selective pressure of antibiotics on the environment. AMR in the environment is not new, with resistance genes found even

in isolated places (e.g. in permafrost or volcanoes) but understanding this natural process and its implications for tackling AMR continue to pose many questions. This paper aims to examine some of the emerging research on AMR from a One Health perspective and in particular to highlight the role of the environment. It will explore the use of antibiotics and their effects in different ecosystems, as well as the challenges they pose for developing countries: in particular, in designing policies to address antimicrobial resistance that take into account the connections among humans, animals and the environment.

<https://www.southcentre.int/research-paper-104-march-2020/>

Intersección entre Competencia y Patentes: Hacia un Ejercicio Pro-Competitivo de los Derechos de Patente en el Sector Farmacéutico (Documento de Investigación 105, Marzo de 2020)

Por María Juliana Rodríguez Gómez

La interacción entre propiedad industrial, particularmente patentes farmacéuticas, y el derecho de la competencia, tiene un impacto en asuntos de interés general como los derechos a la salud, al acceso a los beneficios de la tecnología y a la libre competencia. La cuestión es cómo hacer compatible un mercado farmacéutico competitivo y dinámico, con el sistema de patentes, que otorga monopolios legales significativamente amplios sobre productos considerados innovaciones. A partir de un análisis legislativo y casuístico, se concluye que son necesarias mejores políticas pro competitivas -en especial en países en desarrollo- para enfrentar prácticas como el reverdecimiento ('evergreening') de patentes, los acuerdos para demorar la entrada de competidores y la negativa a licenciar, entre otras usadas en el sector farmacéutico para bloquear la entrada de la competencia. Los competidores, los consumidores y los sistemas de salud son vulnerables al creciente número de patentes y a esas prácticas. Diversas medidas pueden adoptarse, sin embargo, para lograr un balance entre la protección de la innovación y la competencia.

<https://www.southcentre.int/documento-de-investigacion-105-marzo-2020/>

The Comprehensive and Progressive Agreement for the Trans-Pacific Partnership: Data Exclusivity and Access to Biologics (Research Paper 106, March 2020)

By Zeleke Temesgen Boru

The test data rule concerning biological medicines (hereafter biologics) has been suspended from the scope of application of the Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (CPTPP). While the suspension is commendable from the general standpoint of access to medicines and biologics in particular, the suspended provision may not provide assurance for the Parties to the CPTPP that they can rely on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) flexibilities to promote access to biologics. In part this is because the Parties may end the suspension if and when they choose to do so. Simply put, the agreement does not promise that the suspended provision will remain suspended; rather, the Parties may revive the provision as originally negotiated under the Trans-Pacific Partnership (TPP) Agreement. The provision, if revived, may inhibit the Parties from implementing an obligation to ensure access to biologics, medicines that target chronic and rare ailments like cancer, clotting factors and several others.

Against this backdrop, this research paper focuses on the test data rule relating to biologics as negotiated under the TPP. In particular, it explores whether the CPTPP Parties would be able to use TRIPS flexibilities effectively to promote access to biologics, as advanced by international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights (ICESCR). The paper also provides potential responses to the question of whether the test data rule deters the realization of access to biologics. In response, the author has determined that the rule on test data can limit access to biologics, as it would delay the entry of affordable biologics (biosimilars) into markets.

<https://www.southcentre.int/research-paper-106-march-2020/>

Guide for the Granting of Compulsory Licenses and Government Use of Pharmaceutical Patents (Research Paper 107, April 2020)

By Dr. Carlos M. Correa

Like other rights, patent rights are not absolute. There are situations in which their exercise can be limited to protect public interests. Such situations may arise, for instance, when access to needed pharmaceutical products must be ensured. Compulsory licenses and government use for non-commercial purposes are tools, provided for under most laws worldwide, that can specifically be used to address public health needs. This document is intended to provide legal guidance for the effective use of such tools, consistently with the international law.

<https://www.southcentre.int/research-paper-107-april-2020/>

Public Health and Plain Packaging of Tobacco: An Intellectual Property Perspective (Research Paper 108, April 2020)

By Thamara Romero

In 2018, a World Trade Organization (WTO) Panel ruled that plain packaging of tobacco products was consistent with Australia's obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and was in the interest of public health. Plain packaging restricts the use of logos, colours and brand images to reduce the demand for and consumption of tobacco products by diminishing their advertising appeal. This paper discusses the intellectual property aspects triggered by the implementation of plain packaging, examines the best practices for its implementation and provides analysis of Australia's case from the public health perspective. It also highlights the main arguments used in the dispute against Australia and provides practical guidance for WTO Members on implementing measures to protect public health.

<https://www.southcentre.int/research-paper-108-april-2020/>

Non-Violation and Situation Complaints under the TRIPS Agreement: Implications for Developing Countries (Research Paper 109, May 2020)

By Nirmalya Syam

While the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) provided for the applicability of non-violation and situation complaints to the settlement of disputes in the area of intellectual property (IP), when the World Trade Organization (WTO) agreements were adopted in 1994, a moratorium was put in place until WTO Members could agree on the scope and modalities for the application of such complaints. However, for more than two decades, discussions in the TRIPS Council on the subject have remained inconclusive. The biannual WTO Ministerial Conference has granted extensions of the moratorium with regularity. This paper reviews the debate on the applicability of non-violation and situation complaints under the TRIPS Agreement, including the arguments consistently held by two WTO Members that if the moratorium is not extended by consensus, non-violation and situation complaints would become automatically applicable. This paper argues that a consensus decision by the WTO Ministerial Conference is required to determine the scope and modalities and, hence, the applicability of such complaints under the TRIPS Agreement. Even if the moratorium was not extended, the WTO Ministerial Conference should still adopt a decision calling on the TRIPS Council to continue examination of the scope and modalities of such complaints. It also argues that in the absence of an extension of the moratorium on initiating such complaints—and although they would not be applicable—a situation of uncertainty would be created that may lead to a de facto limitation in the use of flexibilities allowed under the TRIPS Agreement.

<https://www.southcentre.int/research-paper-109-may-2020/>

Estudio Preliminar del Capítulo Sobre Propiedad Intelectual del Acuerdo MERCOSUR – UE (Documento de Investigación 110, Mayo de 2020)

Por Alejandra Aoun, Alejo Barrenechea, Roxana Blasetti, Martín Cortese, Gabriel Gette, Nicolás Hermida, Jorge Kors, Vanesa Lowenstein, Guillermo Vidaurreta

El presente documento realiza un estudio preliminar del capítulo XX relativo a propiedad intelectual del Acuerdo MERCOSUR – UE de libre comercio, MERCOSUR logró en este capítulo que la UE hiciera tabla rasa respecto de los anteriores acuerdos de libre comercio. Se arribó a un resultado equilibrado, que refleja las concesiones de ambas partes.

<https://www.southcentre.int/documento-de-investigacion-110-mayo-2020/>

National Measures on Taxing the Digital Economy (Research Paper 111, May 2020)

By Veronica Grondona, Abdul Muheet Chowdhary, Daniel Uribe

The Organisation for Economic Co-operation and Development (OECD)'s Inclusive Framework is considering a two-pillar approach on taxing the digital economy. Preliminary estimates about the impact of its recommendations show a modest increase in corporate income tax collection, the benefits of which are expected to go mostly to the developed countries. At the same time, there is a rise in national measures on taxing the digital economy, a move spurred by the onset of the COVID-19 pandemic. This is also fully within the rights of countries under international law, despite labels of 'unilateralism'. This research paper highlights the direct tax measures being taken by various countries and finds three key approaches to tax the digital economy: (1) digital service taxes; (2) nexus rules based on significant economic presence ;(3) withholding tax on digital transactions.

<https://www.southcentre.int/research-paper-111-may-2020/>

La Judicialización del Derecho a la Salud (Documento de Investigación 112, Junio de 2020)

Por Silvina Andrea Bracamonte y José Luis Cassinerio

Este trabajo examina el incremento de los conflictos judiciales en materia de salud en América Latina. La judicialización en materia de salud se ha convertido en uno de los medios habituales por los que se reclama la protección del derecho de fundamental a la salud. La intervención de la justicia produce efectos individuales positivos ya que efectivizan el reconocimiento del derecho a la salud y a la vida. También puede tener incidencia en el uso de los recursos del sistema de salud sin planificación, determinando que se atiendan demandas no prioritarias. La judicialización en materia de salud representa un aspecto más de un problema estructural y complejo relacionado con la inequidad y desfinanciamiento de los sistemas de salud en Latinoamérica. El trabajo analiza el proyecto de creación de una Agencia de Evaluación de Tecnologías (AGNET) y sostiene que una adecuada regulación debería establecer principios que los jueces puedan utilizar a fin de que se reconozca aquel derecho fundamental dentro de una hermenéutica constitucional razonable, que a su vez resulte más equitativa y financieramente sostenible.

<https://www.southcentre.int/documento-de-investigacion-112-junio-2020/>

La Evolución de la Jurisprudencia en Materia de Salud en Argentina (Documento de Investigación 113, Junio de 2020)

Por Silvina Andrea Bracamonte y José Luis Cassinerio

El derecho humano a la salud es una construcción social que se redefine constantemente, cuya característica de progresividad determina que los Estados deban establecer políticas públicas con el

objeto de lograr mayor eficiencia, en la medida de los recursos disponibles, para su satisfacción respecto de toda la población. Por distintas razones sociales, económicas y de avance en el conocimiento, transitamos en las últimas décadas el fenómeno de la judicialización de la salud, que provoca que el Poder Judicial es quien finalmente establece ciertas reglas en las decisiones sanitarias, a través de la resolución de conflictos donde solo se reivindica la protección individual de ese derecho, sin debate acerca de la equidad y eficacia del sistema. Este hecho hace necesario que los pronunciamientos de los tribunales deban adaptarse, incluyendo en su análisis, además de la aplicación de las leyes que amparan este derecho al caso en particular, los factores sociales y económicos concomitantes, y un examen más estricto respecto de la evidencia científica de los tratamientos reclamados. La evolución de los casos de salud se ve reflejada en la jurisprudencia actual que, dentro de las funciones que competen a los jueces, además de amparar el derecho individual vulnerado, muestra una tendencia orientada a ponderar también el interés público asociado especialmente en estos casos. El propósito del presente trabajo es identificar, analizar y sistematizar la transformación de los casos judiciales de salud y los cambios que se producen en la jurisprudencia en Argentina como consecuencia de la nueva realidad en materia sanitaria que la conduce.

<https://www.southcentre.int/documento-de-investigacion-113-junio-2020/>

Equitable Access to COVID-19 Related Health Technologies: A Global Priority (Research Paper 114, June 2020)

By Dr. Zeleke Temesgen Boru

Since COVID-19 was first identified, infections from the virus and the death toll have spiked abysmally. The pandemic has also paralyzed the economies (particularly, global trade, tourism and transport) of many countries. The dire social and psychological ramifications associated with the pandemic are also immense. The threat posed by COVID-19 on global health and the economic downturn resulting thereof necessitates the development of health technologies (such as medicines and vaccines). A global effort to invent new health technologies or the likely application of existing technologies is also underway since the outbreak of the pandemic. Even though the race to develop these technologies can be hailed as a pivotal undertaking, the development of health technologies alone may not expedite equitable access to the outcome of such development. Particularly, the lack of access to health technologies may befall if the conventional model of health technology pricing, which is derived from monopoly rights created by IP protection, is set. However, legal as well as policy tools can be used to overcome such hurdles and ensure global access to health technologies. In this sense, this paper discusses plausible legal and policy options that can help to accelerate access to health technologies targeting COVID-19.

<https://www.southcentre.int/research-paper-114-june-2020/>

Special Section 301:US Interference with the Design and Implementation of National Patent Laws (Research Paper 115, July 2020)

By Dr. Carlos M. Correa

The continuous application of Special Section 301 by the Office of the United States Trade Representative (USTR) undermines the rule of law as a fundamental principle of a multilateral system based on the sovereign equality of states and the respect for international law. Interference with foreign countries' national intellectual property (IP) policies—which have significant socio-economic effects—negates their right to determine independently the level and modalities of protection of such property within the framework and policy space allowed by the international law. This paper examines the patent-related claims made by the USTR in relation to the developing countries on the USTR Priority Watch List. It argues that the regulations and practices identified by the USTR show a legitimate use of the flexibilities provided for by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and that the ignorance of the public interests of the countries concerned (for instance, with regard to access to affordable medicines) has contributed to the discredit (and ineffectiveness) of the Special Section 301.

<https://www.southcentre.int/research-paper-115-july-2020/>

The TRIPS Agreement Article 73 Security Exceptions and the COVID-19 Pandemic (Research Paper 116, August 2020)

By Frederick Abbott

The COVID-19 pandemic has caused Governments to contemplate measures to override patents and other intellectual property rights (IPRs) in order to facilitate production and distribution of vaccines, treatments, diagnostics and medical devices. This paper discusses whether the COVID-19 pandemic may be considered an “emergency in international relations” and how WTO Member States may invoke Article 73 (“Security Exceptions”) of the TRIPS Agreement as the legal basis for overriding IPRs otherwise required to be made available or enforced. It concludes that the pandemic constitutes an emergency in international relations within the meaning of Article 73(b)(iii) and that this provision allows Governments to take actions necessary to protect their essential security interests.

<https://www.southcentre.int/research-paper-116-august-2020/>

Data in Legal Limbo: Ownership, sovereignty, or a digital public goods regime? (Research Paper 117, September 2020)

By Dr. Carlos M. Correa

The legal characterization and design of a legal regime for data poses one of the most important contemporary challenges to law professionals and policy makers. How such a framework is designed matters for what kind of insertion a society will have in the digital economy, and the extent to which a country will be able to benefit from the opportunities opened by big data. The current policy space to devise legal regimes adapted to national circumstances allows countries to seek for new solutions that take into account differences in legal systems, levels of economic and technological development, and national objectives and priorities.

<https://www.southcentre.int/research-paper-117-september-2020/>

Mesures nationales sur l'imposition de l'économie numérique (Document de Recherche 111, Septembre 2020)

Par Veronica Grondona, Abdul Muheet Chowdhary, Daniel Uribe

Le Cadre inclusif sur le BEPS de l'Organisation de coopération et de développement économiques (OCDE) envisage une approche fondée sur deux piliers en matière de taxation de l'économie numérique. Les premières estimations concernant l'impact de ses recommandations montrent une modeste augmentation de la collecte de l'impôt sur les sociétés, dont les bénéfices devraient revenir principalement aux pays développés. Dans le même temps, les mesures nationales de taxation de l'économie numérique se multiplient, en conséquence de la pandémie de COVID-19. Le droit international reconnaît pleinement ce droit aux pays, bien que cette approche soit considérée comme une forme d'unilatéralisme. Ce document de recherche met en lumière les mesures de fiscalité directe prises par différents pays et présente les trois approches clés retenues pour taxer l'économie numérique : (1) l'imposition de taxes sur les services numériques ; (2) l'élaboration de règles permettant d'établir un lien fiscal pour les entreprises numériques qui opère par l'intermédiaire d'une présence numérique significative ; (3) des retenues à la source sur les transactions numériques.

<https://www.southcentre.int/document-de-recherche-111-septembre-2020/>

Medidas Tributarias Nacionales sobre la Economía Digital (Documento de Investigación 111, Septiembre 2020)

Por Veronica Grondona, Abdul Muheet Chowdhary, Daniel Uribe

El Marco Inclusivo de la Organización de Cooperación y Desarrollo Económicos (OCDE) está considerando un enfoque de dos pilares en relación con el cobro de impuestos sobre la economía digital. Las estimaciones preliminares acerca de la repercusión de sus recomendaciones indican un modesto incremento en la recaudación de impuestos sobre la renta de las sociedades, cuyos beneficios se prevén que se dirijan principalmente a los países desarrollados. Al mismo tiempo, están proliferando las medidas nacionales en materia de cobro de impuestos sobre la economía digital, un cambio estimulado por el comienzo de la pandemia de COVID-19. Los países también tienen plenos derechos a aplicarlas en virtud del derecho internacional, pese a las etiquetas de “unilateralismo”. En este documento de investigación se ponen de relieve las medidas en materia de impuestos directos que están adoptando diversos países y se exponen tres enfoques fundamentales con respecto al cobro de impuestos sobre la economía digital: 1) impuestos sobre los servicios digitales; 2) normas sobre un nexo en base a una presencia digital significativa; y 3) retenciones en origen sobre las transacciones digitales.

<https://www.southcentre.int/documento-de-investigacion-111-septiembre-2020/>

Médicaments et propriété intellectuelle: 10 ans de la stratégie mondiale de l’OMS (Document de Recherche 100, Septembre 2020)

Par Dr. Germán Velásquez

Les négociations du Groupe de travail intergouvernemental sur la santé publique, l’innovation et la propriété intellectuelle connu sous le nom de “IGWG” (2006-2008), menées par les Etats Membres de l’OMS, sont le résultat d’une impasse à l’Assemblée mondiale de la santé du 6 décembre 2006 où les Etats Membres n’ont pu parvenir à un accord sur les 60 recommandations du rapport “Santé publique, innovation et propriété intellectuelle” soumis la même année par un groupe d’experts désigné par le Directeur général de l’OMS. Le résultat de ces négociations devint la “Stratégie mondiale et Plan d’action pour la santé publique, l’innovation et la propriété intellectuelle” (GSPOA), approuvé par l’Assemblée mondiale de la santé en 2008. Un des objectifs de la Stratégie mondiale élaboré par l’IGWG était de réformer en profondeur le système d’innovation pharmaceutique, en raison de son incapacité à produire des médicaments abordables contre les maladies qui affligent une grande partie de la population du monde vivant dans les pays en développement. Les droits de propriété intellectuelle (PI) imposés par l’Accord sur les aspects des droits de propriété intellectuelle liés au commerce (ADPIC) et les accords commerciaux pourraient devenir des principaux obstacles à l’accès aux médicaments. Le GSPOA a fait une analyse critique de cette réalité et a mené à la recherche de nouvelles solutions à ce problème. Dix ans après l’approbation du GSPOA, les résultats restent incertains et médiocres.

<https://www.southcentre.int/document-de-recherche-100-septembre-2020/>

Re-thinking Global and Local Manufacturing of Medical Products After COVID-19 (Research Paper 118, September 2020)

By Dr. Germán Velásquez

The unprecedented global health crisis caused by the coronavirus (COVID-19) pandemic since the first quarter of 2020 has reopened the now-urgent discussion about the role of local pharmaceutical production in addressing the health needs in developing countries. The COVID-19 crisis has highlighted the interdependencies in the global production of pharmaceuticals—no country is self-sufficient. Many industrialized countries are making the decision to repatriate or initiate the production of active pharmaceutical ingredients (APIs) and medicines. Governments are beginning to talk about ‘pharmaceutical sovereignty’ or ‘health security’. If this becomes a reality and the production of pharmaceuticals is led by nationalistic policies, developing countries that still lack manufacturing

capacity will have to start or expand the local production of pharmaceuticals, whether at the national or regional level. The war to get access to the future vaccine for COVID-19 does not look easy with these new developments.

<https://www.southcentre.int/research-paper-118-september-2020/>

TRIPS Flexibilities on Patent Enforcement: Lessons from Some Developed Countries Relating to Pharmaceutical Patent Protection (Research Paper 119, October 2020)

By Joshua D. Sarnoff

Authority for national judiciaries to issue permanent and preliminary injunctions is required by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Articles 44 and 50. But the TRIPS Agreement does not require the issuance of injunctions in any particular circumstances, and does not harmonize the laws on which national jurisdictions derive their injunctive relief authorities. Thus, countries remain free to refuse prohibitory injunctive relief for adjudicated or likely patent infringement, particularly if “reasonable compensation” is offered in the form of an “ongoing royalty” or an “interim royalty” payment, which acts similarly to a compulsory license. This paper explains the existing legal standards for permanent and preliminary injunctions in the United States and Canada and discusses trends regarding the issuance or denial of injunctions for pharmaceutical patents in those jurisdictions (with occasional reference to other common-law jurisdictions). Although judges in these jurisdictions more routinely deny preliminary prohibitory injunctions, legislation linking generic pharmaceutical regulatory approvals to the patent system and imposing stays of such approvals normally avoid the need for such preliminary injunctions. Consistent with the TRIPS Agreement, developing country judges may make different choices, based on the ability to provide reasonable compensation for harms or based on a different weighing of the importance of assuring affordable access to medicines relative to providing innovation incentives.

<https://www.southcentre.int/research-paper-119-october-2020/>

Patent Analysis for Medicines and Biotherapeutics in Trials to Treat COVID-19 (Research Paper 120, October 2020)

By Srividya Ravi

This report provides an analysis of patents covering medicines in trials to treat COVID-19. The aim of the report is to support national patent offices and interested parties in developing countries with information that can serve as guidance for the examination of the claims contained in relevant patents or patent applications.

The medicines considered for the patent analysis in this report are remdesivir, ruxolitinib and favipiravir, and the biotherapeutics tocilizumab, siltuximab and sarilumab.

<https://www.southcentre.int/research-paper-120-october-2020/>

The World Health Organization Reforms in the Time of COVID-19 (Research Paper 121, November 2020)

By Germán Velásquez

During its 70-year history, the World Health Organization (WHO) has undergone various reforms led by several Directors-General, including Halfdan Mahler at the Almaty Conference on primary health care in 1978, Gro Harlem Brundtland with her “reach out to the private sector” in 1998, and Margaret Chan with her unfinished debate on the role of “non-state actors” in 2012. The organization’s fragility is once again being highlighted, as the COVID-19 pandemic has revealed that WHO does not have the legal instruments and mechanisms necessary to enforce its standards and guidelines, and that its funding is not sustainable and adequate to respond to the challenge. This paper seeks to identify the

main problems faced by WHO and the necessary measures that a reform of the organization would have to take.

<https://www.southcentre.int/research-paper-121-november-2020/>

Las reformas de la Organización Mundial de la Salud en la época de COVID-19 (Documento de Investigación 121, Noviembre 2020)

Por Germán Velásquez

A lo largo de sus 70 años de historia la OMS ha pasado por varias reformas lideradas por varios directores generales, como Halfdan Mahler en la Conferencia de Alma ata sobre la atención primaria de salud, 1978, Gro Harlem Brundtland con su « reach out to the private sector » 1998, Margaret Chan con su inconcluso debate sobre el rol de « los autores no estatales » 2012 . Una vez mas, y de forma contundente la crisis sanitaria del 2020 pone en evidencia la fragilidad de la Organización y nos revela que la OMS no tiene los instrumentos y mecanismos legales necesarios para aplicar sus normas y orientaciones y que su manera de financiamiento no es sostenible y adecuada para responder al desafío de la COVID-19. Este documento trata de identificar cuales son los problemas principales de que sufre la OMS y cuales serian las medidas necesarias que una reforma de la Organización tendría que abordar.

<https://www.southcentre.int/documento-de-investigacion-121-noviembre-2020/>

Analysis of the Overcapacity and Overfishing Pillar of the WTO Fisheries Subsidies Negotiations (Research Paper 122, November 2020)

By Peter Lunenborg

Sustainable Development Goal (SDG) 14.6 asks World Trade Organization (WTO) Members to “prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing”. Hence, the pillar on overcapacity and overfishing (O&O) is the most important pillar of the fisheries subsidies negotiations. However, WTO Members have not yet agreed on the approach to prohibition. This research paper distinguishes three types of approaches: the fisheries management linked approach (sometimes referred to as effects-based approach), capping and list-based approach.

This paper argues that the core of the prohibition in the Overfishing and Overcapacity pillar should be list-based and be applicable to large scale fisheries who receive the bulk of global fisheries subsidies especially those that are capacity-enhancing. For subsidies which are not prohibited an effects-based test might be considered. A supplementary subsidy prohibition covering areas beyond national jurisdiction (ABNJ) could be considered, or the vessels or operations targeted by proponents of the ABNJ proposals could be deemed ‘large scale’. If capping remains on the table, capping subsidies per fisher could be explored. Special and Differential Treatment should be an integral element of the outcome as developing countries whose fisheries sector are less developed should not take on the same commitments.

<https://www.southcentre.int/research-paper-122-november-2020/>

The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas: One Step Forward in the Promotion of Human Rights for the Most Vulnerable (Research Paper 123, November 2020)

By Maria Natalia Pacheco Rodriguez and Luis Fernando Rosales Lozada

Peasants and other people living rural areas are among the most vulnerable in the world. In 2015, an estimated of 736 million people in the world lived in extreme poverty, of which 589 million – 80 per cent – live in rural areas. Despite increasing urbanization in the last decades, almost 45 per cent of the global population still lives in areas defined as rural, and most of them are among the poorest of the

world. The situation is most likely worsening because of the COVID-19 pandemic. In 2018, the United Nations (UN) General Assembly, adopted the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas by the supporting vote of a vast majority of countries. There are many reasons to consider the Declaration as one of the most relevant actions in the realm of human rights law taken by the United Nations in recent years. Some of them are the recognition of peasants as specific subjects of rights; the reaffirmation of existing standards tailored for the reality of people living in rural areas; and the development of international law to address existing gaps in the protection of their rights in complex subject matters such as the right to land, the right to seeds, and the right to means of production. In underscoring the importance of the Declaration for the world, this research paper narrates the process of construction of the Declaration, its contributions to international human rights law and stresses on its potential for poverty reduction and food security, in line with the sustainable development goals (SDGs) and the strategies of the UN Decade on Family Farming.

<https://www.southcentre.int/research-paper-123-november-2020/>

Practical Implications of ‘Vaccine Nationalism’: A Short-Sighted and Risky Approach in Response to COVID-19 (Research Paper 124, November 2020)

By Muhammad Zaheer Abbas, PhD

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.

<https://www.southcentre.int/research-paper-124-november-2020/>

Designing Pro-Health Competition Policies in Developing Countries (Research Paper 125, December 2020)

By Vitor Henrique Pinto Ido

Competition law and policy has become an important tool for countries to promote access to pharmaceuticals. How can countries design and enforce competition policies that are suitable to the particularities of developing countries? What are the main anti-competitive tactics in the pharmaceutical sector, and how should they be dealt with? This paper deals with these issues, taking into account the socio-economic relevance of access to health products. It finds that developing countries should apply their competition laws in the pharmaceutical sector more actively, and that there is ample policy space under international law to do so. It provides an overview of the way in which competition policies have been applied in some industrialized and developing countries and explores how such policies can be designed and implemented in the context of developing countries.

<https://www.southcentre.int/research-paper-125-december-2020/>

Guía para la concesión de licencias obligatorias y uso gubernamental de patentes farmacéuticas (Documento de Investigación 107, Diciembre 2020)

Por Carlos M. Correa

Al igual que otros derechos, los derechos de patente no son absolutos. Hay situaciones en las que su ejercicio puede limitarse para proteger los intereses públicos. Esas situaciones pueden surgir, por ejemplo, cuando debe garantizarse el acceso a los productos farmacéuticos necesarios. Las licencias obligatorias y el uso gubernamental con fines no comerciales son instrumentos, previstos en la mayoría de las leyes de todo el mundo, que pueden utilizarse específicamente para atender las necesidades de salud pública. El presente documento tiene por objeto proporcionar orientación jurídica para el uso eficaz de esos instrumentos, de conformidad con el derecho internacional.

<https://www.southcentre.int/documento-de-investigacion-107-diciembre-2020/>

How Civil Society Action can Contribute to Combating Antimicrobial Resistance (Research Paper 126, December 2020)

By Mirza Alas Portillo

One of the key groups of actors that must be recognized for their influential role in shaping health policy outcomes are civil society organizations (CSOs). The antimicrobial resistance (AMR) space is no exception. AMR is one of the most significant health threats of our time, and many CSOs have had a critical role in shaping the national, regional and global responses to this health threat. However, CSOs working in the AMR space have received little financial support. In the final report submitted to the UN Secretary-General, the United Nations Inter-Agency Coordination Group (IACG) on AMR recommended increasing collaboration, as doing so is necessary for effective action and is an essential part of tackling AMR. IACG also provided specific recommendations for strengthening the engagement of CSOs. While the need for this engagement is broadly recognized, there is limited literature documenting how CSOs have been involved in shaping AMR policies. Increased evidence can strengthen the case for expanding financial support to CSOs work on AMR. A critical look into how CSOs are spearheading campaigns to tackle AMR and promoting accountability through monitoring governments', international organizations' and other actors' AMR-related commitments, particularly in developing countries, would be especially useful.

This paper aims to contribute to the analysis of CSOs involvement in the global AMR response. It begins by defining what constitutes a CSO and offers examples of how CSOs have contributed to addressing other critical health issues to draw lessons for handling AMR. It then undertakes a case analysis of a prominent CSO coalition, the Antibiotic Resistance Coalition (ARC), and describes that organization's essential contributions in the AMR space. Finally, the paper offers reflections on why CSO participation in the AMR space needs to be further enhanced and supported.

<https://www.southcentre.int/research-paper-126-december-2020/>

Revisiting the Question of Extending the Limits of Protection of Pharmaceutical Patents and Data Outside the EU – The Need to Rebalance (Research Paper 127, December 2020)

By Daniel Opoku Acquah

The European Union (EU) has instituted internal and external measures aimed at protecting and enforcing intellectual property rights. In the area of pharmaceutical patents, the Union has also sought to protect its industries through patent term extension and data exclusivity. Recent EU free trade agreements (FTAs) with developing countries contain chapters on intellectual property that extend patent terms and data exclusivity for pharmaceutical products. Such acts further prolong the lifespan of protection given to existing products and limit generic market entry. I identify the issue as one of "cross-pollination" of laws and argue that since similar laws exist in the internal regime of the EU, incorporating them into the EU would not be too technically difficult. However, to the extent that this regime is simulated in developing countries, implementation would damage the health sectors and economies of these countries. I therefore propose that developing countries should not be forced to adopt such laws through FTAs. If they are forced to adopt the laws after all, there should be a compulsory inclusion of (1) a clause on transitional arrangements for developing countries specific to intellectual property; (2) a clause that clearly links the objectives for intellectual property protection and

enforcement (in this context, patent term extension and data exclusivity) to balance the promotion of technological innovation with access to medicines; and (3) a clause on Bolar exemption and a manufacturing waiver.

<https://www.southcentre.int/research-paper-127-december-2020/>

Reconsidérations sur la fabrication mondiale et locale de produits médicaux après le COVID-19 (Document de Recherche 118, Janvier 2021)

Par Germán Velásquez

La crise sanitaire mondiale sans précédent provoquée par la pandémie de coronavirus (COVID-19), au cours du premier semestre 2020, ramène avec une urgence particulière la discussion sur la production pharmaceutique locale. La crise du COVID-19 a mis en évidence l'interdépendance de la production mondiale de médicaments—aucun pays n'étant autosuffisant. De nombreux pays industrialisés prennent la décision de rapatrier ou de développer la production d'ingrédients pharmaceutiques actifs (IPA). De nombreux gouvernements commencent à parler de souveraineté pharmaceutique et/ou de sécurité sanitaire. Si cela devient une réalité, les pays en développement devront développer et/ou renforcer la production locale de médicaments et de vaccins. La guerre pour obtenir le futur vaccin pour COVID-19 ne semble pas facile avec ces nouveaux développements.

<https://www.southcentre.int/document-de-recherche-118-janvier-2021/>

Les réformes de l'Organisation mondiale de la Santé à l'époque de COVID-19 (Document de Recherche 121, Janvier 2021)

Par Germán Velásquez

Tout au long de ses 70 ans d'histoire, l'OMS a connu plusieurs réformes dirigées par plusieurs Directeurs généraux, tels que Halfdan Mahler à la Conférence d'Almaty sur les soins de santé primaires, en 1978, Gro Harlem Brundtland avec son appel à « tendre la main au secteur privé », en 1998, et Margaret Chan avec son débat inachevé sur le rôle des « acteurs non étatiques », en 2012. Une fois de plus, la crise sanitaire de 2020 a mis en évidence la fragilité de l'organisation et a révélé que l'OMS ne dispose pas des instruments et mécanismes juridiques nécessaires pour mettre en œuvre ses normes et lignes directrices, et que son financement n'est pas durable et adéquat pour répondre au défi de la COVID-19. Ce document cherche à identifier les principaux problèmes rencontrés par l'OMS et les mesures nécessaires qu'une réforme de l'Organisation devrait prendre.

<https://www.southcentre.int/document-de-recherche-121-janvier-2021/>

Intellectual Property in the EU–MERCOSUR FTA: A Brief Review of the Negotiating Outcomes of a Long-Awaited Agreement (Research Paper 128, February 2021)

By Roxana Blasetti, in collaboration with Juan I. Correa

This paper provides a first glance at the Intellectual Property Chapter of the Free Trade Agreement (FTA) between the Southern Common Market (MERCOSUR) and the European Union (EU). It is not intended to provide an exhaustive analysis of the commitments involved but rather to briefly review the scope of intellectual property in the bi-regional negotiations, which took more than 20 years and ended in June 2019 with an “agreement in principle.” It also aims to put the Chapter into context with the whole commitments covered by the FTA and, finally, to highlight its most relevant aspects.

<https://www.southcentre.int/research-paper-128-february-2021/>

The TRIPS waiver proposal: an urgent measure to expand access to the COVID-19 vaccines (Research Paper 129, March 2021)

by Henrique Zeferino de Menezes

Despite multilateral commitments and political statements of solidarity and cooperation to guarantee the availability and access to COVID-19 vaccines (and other relevant technologies for control and treatment), the scenario after the beginning of vaccination is marked by the deepening of vaccine nationalism, the concentration of inputs and vaccines production, and the uneven distribution of options of vaccine doses already approved for use. This pattern of production restrictions and unequal access will lead to an increase in international inequalities, leaving a large part of the world to have access to vaccines not until 2024. While advanced purchase agreements (APAs) among pharmaceutical companies and some developed countries are multiplying, the proposed mechanisms for voluntary licensing of technologies and the COVAX Facility do not achieve their goal of democratizing access to vaccines. In this sense, the current TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights) waiver proposal seems to be the political and institutional response with the greatest potential to guarantee the scaling of the production of pharmaceutical inputs, allowing the adoption of a comprehensive strategy to ensure timely, sufficient, and affordable access to all technologies developed to fight COVID-19.

<https://www.southcentre.int/research-paper-129-march-2021/>

POLICY BRIEFS

Major Outcomes of the 2019 World Health Assembly (Policy Brief 71, January 2020)

By Mirza Alas and Nirmalya Syam

This policy brief provides an overview of the outcomes of selected agenda items that were discussed at the 72nd session of the World Health Assembly (WHA) of the World Health Organization (WHO), held from 21 to 26 May 2019 in Geneva. These items reflect some of the health priorities of developing countries.

<https://www.southcentre.int/policy-brief-71-january-2020/>

US-China trade deal: preliminary analysis of the text from WTO perspective (Policy Brief 72, February 2020)

By Peter Lunenborg

The long-awaited 'Phase 1' trade deal between the United States and China, officially termed the 'Economic and Trade Agreement between the Government of the United States of America and the Government of the People's Republic of China', was signed on 15 January 2020. It will enter into force on Valentine's Day, on Friday, 14 February 2020. This deal is a result of US exercise of political power and unilateral World Trade Organization (WTO)-inconsistent tariffs in order to extract trade concessions, an expression of the most pure protectionism that the WTO is supposed to prevent. Nevertheless, the WTO was unhelpful in addressing the US economic aggression against China. This failure to protect a Member from illegitimate unilateral measures is, perhaps, one of the most significant manifestations of the often-mentioned 'crisis' of the WTO, and actually is one of the subjects on which the proposed 'reform' of the organization should focus.

<https://www.southcentre.int/policy-brief-72-february-2020/>

The Role of South-South Cooperation in Combatting Illicit Financial Flows (Tax Cooperation Policy Brief 11, February 2020)

By Manuel F Montes

Developing countries bear the brunt of costs from illicit financial flows (IFFs). These losses are the result of the facilities that the global system provides transnational companies, operating in multiple tax jurisdictions, to move their profits to favorable locations. International cooperation has been seen to be a key ingredient in restricting IFFs. However, a difference in interests in the treatment of many types of transactions between developed and developing countries is an obstacle to a fast solution of the problem. Developing countries must seek to seize the initiative to restrict their losses from IFFs. They can deploy various joint and concerted actions, within the umbrella of the principles of South-South cooperation for this purpose.

<https://www.southcentre.int/tax-cooperation-policy-brief-11-february-2020/>

The Africa Energy Transition Program (AFRETRAP) (Climate Policy Brief 22, February 2020)

By Rajesh Eralil and Youba Sokona

In a more and more climate change threatened world, Africa's energy vision should be premised on moving from an energy landscape based on underdeveloped and carbon intense pathways to a modern, clean and decentralized energy system. This transition is a critical enabler of meaningful and endogenous socio-economic development. While the continent may face a broad set of challenges in achieving this vision, it has at the same time the opportunity to avoid the fossil fuel lock-in that many

industrialized countries face and to take advantage of vast supplies of untapped energy resources and/or any stranded asset problem. The Africa Energy Transition Program in the making under the auspices of the African Energy Commission forms a continent-wide and coordinated approach in facilitating the required transformation for the realization of Africa's development aspiration.

<https://www.southcentre.int/climate-policy-brief-22-february-2020/>

The ISDS Reform Process: The missing development agenda (Investment Policy Brief 19, March 2020)

By Nicolás M. Perrone

The foreign direct investment (FDI) governance agenda is centred on the reform of international investment agreements (IIAs) and investor-state dispute settlement (ISDS). The proliferation of IIAs and ISDS has contributed to narrowing the FDI agenda. A key policy question is whether this fragmented approach remains consistent with the 2030 Sustainable Development Goals (SDGs). Current FDI discussions point at the need for a holistic approach in this policy area, quite the opposite of a regime primarily aimed to protect foreign investors through treaty standards and international arbitration. The realisation of the SDGs depends on multi-stakeholder partnerships to combat poverty and provide clean water and energy to the world population. Crucially, these partnerships will require more cooperation and coordination than IIAs and ISDS can promote and nurture.

<https://www.southcentre.int/investment-policy-brief-19-march-2020/>

Flirting with the Private Sector: The GCF Private Sector Facility — achievements, challenges and constraints in engaging the private sector (Climate Policy Brief 23, March 2020)

By Rajesh Eralil, Mariama Williams and Dianyi Li

The Green Climate Fund (GCF) is committed to include the private sector as both driver and beneficiary of climate action. It envisions in particular the inclusion of not only large enterprises, but puts much emphasis on the cooperation with micro, small and medium-sized enterprises (MSMEs) in developing countries. This paper evaluates the state of play of the GCF work with the private sector and its MSMEs. It finds that the fund's success in stimulating private sector engagement has been underwhelming and imbalanced. To begin with, only a minority of GCF projects are in fact private and a considerable amount of these projects operate through multilateral and other public institutions. GCF's private sector projects show on top of that a strong bias towards energy access and generation, while only little funding goes to adaptation. Attempts to include MSMEs in developing countries have moreover been largely unsuccessful, although MSMEs constitute an important pillar of developing countries' economies. It is suggested that there is a need for a bottom-up approach when dealing with the private sector in developing countries, including a more sustained and sustainable focus on MSMEs, including capacity building of MSME networks.

<https://www.southcentre.int/climate-policy-brief-23-march-2020/>

The COVID-19 Pandemic: R&D and Intellectual Property Management for Access to Diagnostics, Medicines and Vaccines (Policy Brief 73, April 2020)

By Viviana Muñoz Tellez

The ongoing rapid spread of COVID-19 is challenging the capacity of governments and of the World Health Organization (WHO) to timely put in place a global coordinated response to the pandemic. Developing countries and Least Developed Countries (LDCs) in particular in Africa are especially vulnerable to the unfolding effects of the public health crisis. A priority area for global collaboration is to advance research and development (R&D) for vaccines and medicines that are made available, affordable and accessible worldwide.

There is currently no vaccine and no proven safe and effective direct therapy for COVID-19. There is also the need to accelerate testing capacity and tools in developing countries and LDCs with increased access to low-cost diagnostics. The approach to the management of intellectual property rights by research institutions, pharmaceutical and biotech companies and R&D funders will decisively affect availability and access, as well as the transfer of technology and know-how. Governments must ensure that they have legislative and procedural frameworks in place to enable them to over-come any patent, data exclusivity and trade secret barriers to procure and produce COVID-19 diagnostics, vaccines, medicines and other therapeutics.

<https://www.southcentre.int/policy-brief-73-april-2020/>

Challenges and Opportunities for Implementing the Declaration of the Right to Development (Policy Brief 74, April 2020)

By Yuefen Li, Daniel Uribe and Danish

The 1986 Declaration on the Right to Development was a milestone for both human rights and development. The Declaration recognizes that the right to development (RTD) is an inalienable human right and introduced an alternative and holistic approach to development that goes beyond the economic field to include social, cultural and political development. Although there are current concerns about the pace of progress in fulfilling the RTD, this Policy Brief examines the linkages of the right to development and different global initiatives tackling current challenges for different aspects of the RTD. This brief shows that there has been broader support by countries and people since 1986 to fulfill the RTD although much still needs to be done for addressing income and other inequalities while empowering people in the processes of formulating and implementing people-centered development policies. Despite challenges, the brief also examines some promising opportunities for the RTD.

<https://www.southcentre.int/policy-brief-74-april-2020/>

Rethinking R&D for Pharmaceutical Products After the Novel Coronavirus COVID-19 Shock (Policy Brief 75, April 2020)

By Dr. Germán Velásquez

The unprecedented global health crisis caused by the coronavirus –COVID-19– pandemic, during the first quarter of 2020, brings back with particular urgency the discussion about the research and development (R&D) model for pharmaceuticals and other health technologies. The COVID-19 crisis shows that there is an urgent need to re-design the global public health governance for health R&D. The adoption of a binding instrument –as allowed by Article 19 of the WHO Constitution– on this matter was proposed many years ago. This brief argues that it is time to revive and materialize this initiative.

<https://www.southcentre.int/policy-brief-75-april-2020/>

Evolution of Data Exclusivity for Pharmaceuticals in Free Trade Agreements (Policy Brief 76, April 2020)

By Wael Armouti

Free trade agreements (FTAs) introduce higher intellectual property (IP) protection than those established in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS-plus provisions) that deprive the parties from benefits of the use of flexibilities found in the TRIPS Agreement to protect public health. One such TRIPS-plus requirement is that of data exclusivity. It establishes that the government should provide an exclusivity period for the test data developed by the originator company, on the grounds of an incentive rationale and considerations of fairness. The negative impact of the data exclusivity approach in developing countries means that the entry of cheap generic products is delayed, even under a compulsory license, which will affect access to affordable

medicines. Countries that have already signed the FTAs can mitigate its effects on public health by limiting the scope of and providing exceptions to data exclusivity in national legislation.

<https://www.southcentre.int/policy-brief-76-april-2020/>

Repensando la I+D para productos farmacéuticos después del choque de la Coronavirus COVID-19 (Informe sobre políticas 75, Mayo 2020)

Por Germán Velásquez

La crisis sanitaria mundial sin precedentes provocada por la pandemia de coronavirus –COVID-19–, durante el primer trimestre de 2020, hace que vuelva a ser especialmente urgente el debate sobre el modelo de investigación y desarrollo (I+D) de productos farmacéuticos y otras tecnologías sanitarias. La crisis de COVID-19 muestra que existe una necesidad urgente de rediseñar la gobernanza mundial de la salud pública para la I+D en materia de salud. La adopción de un instrumento vinculante –como permite el artículo 19 de la Constitución de la OMS– en esta materia fue propuesta hace muchos años. Este documento sostiene que es hora de revivir y materializar esta iniciativa.

<https://www.southcentre.int/informe-sobre-politicas-75-mayo-2020/>

COVID-19 and WTO: Debunking Developed Countries' Narratives on Trade Measures (Policy Brief 77, May 2020)

By Aileen Kwa, Fernando Rosales and Peter Lunenborg

In response to the COVID-19 pandemic, developing countries at the World Trade Organization (WTO) are faced with demands to i) permanently liberalize their markets in health products, and also in agriculture; ii) ban export restrictions in agriculture; and iii) conclude new digital trade rules including liberalizing online payment systems, and agreeing to free data flows. There seems to be a confusion between short-term and long-term responses. For the short-term, governments must take measures needed to address the crisis, including liberalizing needed health products. However, permanently bringing tariffs to zero for the health and agricultural sectors will not support developing countries to build domestic industries. Export restrictions in agriculture cannot be given up. They can be a very important tool for stabilizing domestic prices and for food security. New digital trade rules at the WTO would foreclose the possibility for countries to impose data sovereignty regulations, including data localization requirements that can support their infant digital platforms and industries.

<https://www.southcentre.int/policy-brief-77-may-2020/>

La pandémie de COVID-19 : R&D et gestion de la propriété intellectuelle pour l'accès aux tests diagnostiques, aux médicaments et aux vaccins (Rapport sur les politiques 73, Mai 2020)

Par Viviana Muñoz Tellez

La propagation rapide actuelle du COVID-19 met à l'épreuve la capacité des gouvernements et celle de l'Organisation mondiale de la santé (OMS) à apporter une réponse mondiale coordonnée à la pandémie. Les pays en développement et les pays les moins avancés (PMA), en particulier en Afrique, sont particulièrement vulnérables aux effets de la crise de santé publique. Un domaine prioritaire de collaboration mondiale consiste à faire progresser la recherche et le développement (R&D) de vaccins et de médicaments qui soient disponibles, abordables et accessibles dans le monde entier. Il n'existe actuellement aucun vaccin et aucune thérapie directe pour COVID-19 dont l'innocuité et l'efficacité ont été prouvées. Il est également nécessaire d'accélérer les capacités et les outils d'essai dans les pays en développement et les PMA en leur donnant un accès accru à des diagnostics peu coûteux. L'approche de la gestion des droits de propriété intellectuelle par les institutions de recherche, les entreprises pharmaceutiques et biotechnologiques et les organismes de financement de la R&D aura une incidence décisive sur la disponibilité et l'accès, ainsi que sur le transfert de technologie et de savoir-faire. Les gouvernements doivent s'assurer qu'ils disposent de cadres législatifs et procéduraux leur permettant de surmonter les obstacles liés aux brevets, à

l'exclusivité des données et aux secrets commerciaux afin de se procurer et de produire des diagnostics, des vaccins, des médicaments et d'autres produits thérapeutiques pour le COVID-19.

<https://www.southcentre.int/rapport-sur-les-politiques-73-mai-2020/>

La pandemia de COVID-19: el fomento de la I+D y la gestión de la propiedad intelectual para acceder a diagnósticos, medicamentos y vacunas (Informe sobre políticas 73, Mayo 2020)

Por Viviana Muñoz Tellez

La rápida difusión actual de COVID-19 está poniendo a prueba la capacidad de los gobiernos y de la Organización Mundial de la Salud (OMS) para poner en marcha una respuesta mundial coordinada a la pandemia. Los países en desarrollo y los países menos adelantados (PMA), en particular los de África, son particularmente vulnerables a los efectos de la crisis de salud pública. Una esfera prioritaria para la colaboración mundial es el fomento de la investigación y el desarrollo de vacunas y medicamentos que estén disponibles, sean asequibles y accesibles en todo el mundo. En la actualidad no existe una vacuna ni una terapia directa segura y eficaz probada para COVID-19. También es necesario acelerar la capacidad y los instrumentos de ensayo en los países en desarrollo y los países menos adelantados con un mayor acceso a diagnósticos de bajo costo. El enfoque de la gestión de los derechos de propiedad intelectual por parte de las instituciones de investigación, las empresas farmacéuticas y biotecnológicas y las entidades de financiación de la investigación y el desarrollo afectará de manera decisiva a la disponibilidad y el acceso, así como a la transferencia de tecnología y conocimientos técnicos. Los gobiernos deben asegurarse de que disponen de marcos legislativos y de procedimiento que les permitan superar cualquier barrera de patentes, de exclusividad de datos y de secretos comerciales para adquirir y producir diagnósticos, vacunas, medicamentos y otros productos terapéuticos de COVID-19.

<https://www.southcentre.int/informe-sobre-politicas-73-mayo-2020/>

The 73rd World Health Assembly and Resolution on COVID-19: Quest of Global Solidarity for Equitable Access to Health Products (Policy Brief 78, May 2020)

By Nirmalya Syam, Mirza Alas and Vitor Ido

The annual meeting of the World Health Assembly (WHA) of the World Health Organization (WHO) held virtually on 18-19 May 2020 discussed the global response to COVID-19 and adopted Resolution WHA73.1 on "COVID-19 Response". The Resolution reaffirms the role of WHO as the directing and coordinating authority on international health work and it recognizes that all countries should have timely and affordable access to diagnostics, therapeutics, medicines and vaccines as well as to essential health technologies and equipment to respond to COVID-19. However, the Resolution does not define concrete actions to address the pandemic. Though the Resolution makes a commitment of ensuring access to medical products, vaccines and equipment for all countries in a timely manner, there are no concrete actions defined. In order to ensure global equitable access, WHO Members should make full use of the flexibilities of the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and also enhance transparency of costs of research and development (R&D), openness and sharing of data, tools and technologies, and build more capacity through technology transfer.

<https://www.southcentre.int/policy-brief-78-may-2020/>

Articles 7 and 8 as the basis for interpretation of the TRIPS Agreement (Policy Brief 79, June 2020)

By Thamara Romero

Articles 7 and 8 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) play a central role in assuring the members of the World Trade Organization (WTO) the right to

implement public health measures. The Doha Declaration on the TRIPS Agreement and Public Health is also an important element for the interpretation of any provision of the TRIPS Agreement that may have public health implications. The most recent and prominent example of the use of articles 7 and 8 for interpretation in WTO law can be found in the WTO Panel decision of 2018 on the *Australia – Tobacco Plain Packaging* dispute.

<https://www.southcentre.int/policy-brief-79-june-2020/>

Intellectual Property, Innovation and Access to Health Products for COVID-19: A Review of Measures Taken by Different Countries (Policy Brief 80, June 2020)

By Nirmalya Syam

The rising incidence of COVID-19 will require all countries, particularly developing and least developed countries, to be able to procure and manufacture the products required for the diagnosis, prevention and treatment of COVID-19. Intellectual property (IP) rights over such products can constrain the ability of countries to rapidly procure and produce and supply the products required at a mass scale. This Policy Brief describes the measures and actions taken by different countries to address potential IP barriers to access to the products required for COVID-19. A number of countries, both developed and developing, have adopted measures to enable governments to take action to overcome IP barriers in case they constrain access to the products required for COVID-19. In addition to these measures, the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) also allows considerable flexibility to adopt a number of other possible measures which can be considered by developing countries where necessary.

<https://www.southcentre.int/policy-brief-80-june-2020/>

The UN General Assembly Resolutions on COVID-19: Solemn Assurances for Access to Health Technologies without an Action Plan (Policy Brief 81, July 2020)

By Nirmalya Syam

The United Nations (UN) has the mandate under the Charter of the United Nations to promote solutions to international health problems, such as the global COVID-19 pandemic. While the UN secretariat, led by the Secretary-General, has undertaken a number of initiatives in response to COVID-19, member State initiatives in the UN has so far been limited to two resolutions adopted by the UN General Assembly. Member States are currently negotiating an omnibus resolution of the General Assembly on COVID-19. This policy brief analyzes the extent to which the General Assembly addresses the issue of timely, equitable and affordable access to health technologies, particularly for developing countries who have greater vulnerability to COVID-19. The adopted resolutions make very broad pledges for global solidarity but lack specific commitments to guide actions by member States. The omnibus resolution currently under negotiation should provide specific guidance to member States on actions to be taken based on the principles of solidarity and multilateral cooperation in diverse aspects impacted by COVID-19.

<https://www.southcentre.int/policy-brief-81-july-2020/>

Examining antimicrobial resistance in the light of the COVID-19 pandemic (Policy Brief 82, July 2020)

By Mirfin Mpundu, Caline Mattar and Mirza Alas

The COVID-19 pandemic provides an opportunity to strengthen the capacity of health systems not only to be better prepared for the next pandemic but also to address ongoing crises such as antimicrobial resistance. The unfolding crisis due to antimicrobial resistance is, unfortunately, similar to the current health crisis due to the COVID-19 pandemic, albeit at a slower pace. As countries address the pandemic, there is a need to identify interlinkages between the pandemic and antimicrobial

resistance and to continue strengthening the actions needed to slow down the emergence of antimicrobial resistance.

<https://www.southcentre.int/policy-brief-82-july-2020/>

Pathways for leapfrogging to reconcile development and climate change imperatives in Africa (Climate Policy Brief 24, July 2020)

By Smail Khennas and Youba Sokona

A just energy transition toward low carbon emissions pathways is increasingly a priority not only to cope with the adverse impacts of climate change but also for achieving more sustainable economic and social development of the African continent. Fortunately, to optimize its energy mix for development according to sustainability criteria, Africa can take advantage of a rapid energy transition, thanks to its huge and largely untapped renewable energy potential and its abundance of a less polluting fossil fuel, namely, natural gas. Moreover, the fact that most of the infrastructure for energy systems in Africa is not yet built, particularly in sub-Saharan countries, offers these countries a good opportunity for leapfrogging. This Policy Brief explores guiding principles and pathways for a low carbon energy transition, including leapfrogging opportunities, energy system design and social innovation.

<https://www.southcentre.int/climate-policy-brief-24-july-2020/>

United States: An Obsolete Trade Practice Undermines Access to the Most Expensive Drugs at More Affordable Prices (Policy Brief 83, August 2020)

By Maria Fabiana Jorge

Access to affordable drugs is a top policy priority for the United States with real bipartisan support but it increasingly seems to be an unreachable goal, in part, due to conflicting government policies. While the Administration's Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs highlighted the importance of competition to ensure lower drug prices, U.S. trade policy in general, and the Special 301 Annual Review in particular, do exactly the opposite: broaden and lengthen the monopolies granted to pharmaceutical companies thus delaying or deterring the launch of generic and biosimilar drugs and with that, the chances of lowering drug prices. The pharmaceutical industry has changed a great deal in the past 30 years, among other things by developing complex biotechnology drugs that while critical for the treatment of illnesses such as cancer, are out of reach for many patients. While some parts of the government are trying to increase access to medicines through competition provided by generic and biosimilar drugs, their efforts are being undermined by a trade policy that was defined 30 years ago. It is time to adjust U.S. trade policy to the realities of 2020 and stop acting as if it was still 1989.

<https://www.southcentre.int/policy-brief-83-august-2020/>

A New Trend in Trade Agreements: Ensuring Access to Cancer Drugs (Policy Brief 84, September 2020)

By Maria Fabiana Jorge

A World Health Organization (WHO) report on cancer indicates that the cancer burden will increase at least by 60% over the next two decades, straining health systems and communities. Companies develop cancer drugs in part because payers are less resistant to paying high drug prices for these drugs. As Barbara Rimer, Dean of the University of North Carolina and Chair of the U.S. President's Cancer Panel stated, "[m]ost cancer drugs launched in the United States between 2009 and 2014 were priced at more than \$100,000 per patient for one year of treatment." Many of the new cancer drugs are biologics. Such prices are clearly out of reach for most patients who will need them increasingly more to stay alive. While competition is critical to ensure lower drug prices, we have seen

a number of strategies, including through trade agreements, to prevent competition and extend monopolies over these drugs and their very high drug prices. It is no accident that the exclusivity granted to biologic drugs has been one of the most conflictive provisions in recent trade agreements such as the United States-Mexico-Canada Agreement (USMCA) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Nevertheless a new trend in trade agreements started in 2007 when U.S. Members of Congress pushed back against the interests of powerful economic groups seeking longer monopolies for drugs. These Members of the U.S. Congress prevailed then in restoring some balance in the trade agreements with Peru, Colombia and Panama and further consolidated this new trend in 2019 in the USMCA. Moreover, following the U.S. withdrawal from the original Trans-Pacific Partnership (TPP), the negotiators of the remaining 11 countries also pushed back to ensure a better balance between innovation and access in the CPTPP. People around the world need to be aware of these precedents and ensure that they also work for access to medicines for their own citizens.

<https://www.southcentre.int/policy-brief-84-september-2020/>

Base Erosion and Profit Shifting in the Extractive Industries (Tax Cooperation Policy Brief 12, September 2020)

By Danish and Daniel Uribe

Developing countries with significant natural resources have not fully utilised them for financing their development aspirations. Extractive industries and the revenue generated from their extractive activities need to constitute a larger share of domestic resource mobilisation. However, the sector remains beset with massive tax base erosion and profit shifting by large multinational companies. This policy brief therefore looks at the extractive industries, and the potential impact of their practices on the national policies and regulations in developing countries. It further also considers some current initiatives at the international level for enabling countries to obtain more revenue from natural resource extraction, and offers some observations on the policy options available to developing countries.

<https://www.southcentre.int/tax-cooperation-policy-brief-12-september-2020/>

Política de industrialización de litio, el caso boliviano (Informe sobre políticas 85, Octubre 2020)

Por Hortensia Jimenez Rivera

El litio es un mineral de gran importancia en la industria tecnológica mundial, lo que lo convierte en un recurso estratégico para un país. Por ello, es responsabilidad del Estado asegurar que su explotación sea una oportunidad para el desarrollo y el bienestar, protegiendo los intereses de su población y maximizando sus beneficios de manera que la gestión de su riqueza no lleve a más pobreza y dependencia.

Las políticas que se adopten para el aprovechamiento de los recursos naturales pasan por definir el régimen de propiedad sobre los recursos y el grado de industrialización en el país, lo que implica –de manera directa– ingresos y desarrollo, para luego resolver aspectos de orden tecnológico, financiero, institucional, legal y de mercado.

Este informe describe la experiencia boliviana de la industrialización del litio, las características de su industrialización bajo una política de desarrollo nacional y revela cómo el tipo de política implementada es determinante para la explotación de un recurso natural.

<https://www.southcentre.int/informe-sobre-politicas-85-octubre-2020/>

The Nagoya Protocol International Access and Benefit Sharing Regime (Policy Brief 86, November 2020)

By Viviana Munoz Tellez

The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity entered into force in October 2014. Ten years have now passed since the adoption of the Protocol by the Parties to the Convention on Biological Diversity, now with 129 Parties. The Protocol requires countries to set up access and benefit sharing rules and procedures for the Protocol's implementation at the national level. This policy brief describes the main characteristics of the Protocol and makes recommendations for countries to advance in its implementation. Importantly, the Protocol's language empowers countries with considerable policy space for the design of domestic access and benefit-sharing rules.

<https://www.southcentre.int/policy-brief-86-november-2020/>

Repenser la R&D pour les produits pharmaceutiques après le choc du nouveau coronavirus COVID-19 Rapport sur les politiques 75, Janvier 2021)

Par Dr. Germán Velásquez

La crise sanitaire mondiale sans précédent provoquée par la pandémie de coronavirus –COVID-19–, au cours du premier trimestre 2020, ramène avec une urgence particulière la discussion sur le modèle de recherche et développement (R&D) pour les produits pharmaceutiques et autres technologies de la santé. La crise COVID-19 montre qu'il est urgent de repenser la gouvernance mondiale de la santé publique pour la R&D en matière de santé. L'adoption d'un instrument contraignant – comme le permet l'article 19 de la Constitution de l'OMS – sur cette question a été proposée il y a de nombreuses années. Ce document soutient qu'il est temps de relancer et de concrétiser cette initiative.

<https://www.southcentre.int/rapport-sur-les-politiques-75-janvier-2021/>

Countries' Policy Space to Implement Tobacco Packaging Measures in the Light of Their International Investment Obligations: Revisiting the Philip Morris v. Uruguay Case (Investment Policy Brief 20, January 2021)

By Alebe Linhares Mesquita and Vivian Daniele Rocha Gabriel

This Policy Brief aims to provide a concise analysis of the international investment dispute involving Philip Morris subsidiaries and the Republic of Uruguay. It depicts the main legal and political background that preceded the case, analyzes the decision reached by the arbitral tribunal, and assesses the award's major regulatory and policy implications. It intends to contribute to the discussions on how and to what extent States can adopt tobacco control measures without violating their international obligations to protect the investment and intellectual property of tobacco companies. The main lesson that can be learned from the analysis of the *Philip Morris v. Uruguay* case is that investors rights are not absolute and can be relativized when there is a clash between private and public interests, such as in the case of public health. As a result, claims such as indirect expropriation and fair and equitable treatment can be dismissed. Finally, one of the main consequences is the progressive change in the design of international investment treaties, containing more provisions related to the right to regulate.

<https://www.southcentre.int/investment-policy-brief-20-january-2021/>

WIPO Negotiations for an International Legal Instrument on Intellectual Property and Genetic Resources (Policy Brief 87, February 2021)

By Nirmalya Syam

Over the past few years, Member States of the World Intellectual Property Organization (WIPO) have engaged in negotiations for concluding an international legal instrument on intellectual property and genetic resources. While developing countries have a major interest in securing through this instrument a mandatory requirement for applicants of IP rights over innovations that utilize genetic resources or associated traditional knowledge to disclose their source or origin, certain developed countries that are major markets for such products are absolutely opposed to recognizing the disclosure requirement as an objective of the legal instrument under negotiation. Other developed countries are agreeable to a disclosure requirement with a narrow scope, broad exceptions, and weakened remedies against non-compliance. This Policy Brief analyses the current state of play in the negotiations considering the different positions as reflected in the draft negotiating text, as well as a proposal by the Chair of the WIPO intergovernmental committee where the negotiations are taking place, to bridge the difference and take the negotiations forward. This brief concludes that any meaningful international legal instrument on IP and GRs in WIPO must recognize the fundamental issue of misappropriation of GRs through the IP system that should be resolved through a mandatory disclosure requirement as the principal mechanism. It would also be critical to ensure that the WIPO instrument is coherent with other related international legal instruments such the Convention on Biological Diversity, the Nagoya Protocol on access and benefit-sharing; specialized instruments like the FAO Plant Treaty as well as related mechanisms or fora like the WHO (on use of pathogens as a genetic resource) and the United Nations Convention for the Law of the Sea (UNCLOS) negotiations on marine genetic resources beyond areas of national jurisdiction.

<https://www.southcentre.int/policy-brief-87-february-2021/>

Making the UN Tax Committee more effective for developing countries (Tax Cooperation Policy Brief 13, February 2021)

By Abdul Muheet Chowdhary

The United Nations Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee) is an important and influential subsidiary body of the Economic and Social Council (ECOSOC) that shapes standards and guidelines on international taxation. These are the rules through which Multinational Enterprises (MNEs) are taxed. Its role post-COVID-19 has become even more important as countries struggle to raise revenue. Despite being under-resourced, it has produced valuable guidance, especially on the crucial question of the digital economy. As a new Membership of the Committee is about to be selected, this Policy Brief provides practical recommendations on how the Committee can be reformed to be made more effective, especially for the interests of developing countries.

<https://www.southcentre.int/tax-cooperation-policy-brief-13-february-2021/>

The UNFCCC Virtual Regional Workshops on Gender and Climate Change 2020 (Climate Policy Brief 25, February 2021)

By Mariama Williams

In the last week of November 2020, the United Nations Framework Convention on Climate Change (UNFCCC)'s Gender and Climate Team presented its hallmark Global Gender Event as part of the virtual United Nations (UN) Climate Dialogues 2020 (Climate Dialogues). The Climate Dialogues provided "a platform for Parties and other stakeholders to showcase progress made in 2020 and exchange views and ideas across the subsidiary bodies and COP agendas mandated for 2020". They were held in lieu of the annual meeting of the Conference of the Parties (COP) previously slated to take place in the United Kingdom in December 2020. The virtual Global Gender Event held on November 26, 2020 occurred in two parts. Part 1, **Acting on the gender and climate GAP: progress and reflections** highlighted progress and reflections made at the regional workshops on gender and

climate change held by the Gender team earlier in the year. Part 2, **Women for Results: showcasing women's leadership on climate change** showcased women's leadership on climate change including the five winning projects of the 2020 UN Global Climate Action Awards.

<https://www.southcentre.int/climate-policy-brief-25-february-2021/>

Need for Extension of the LDC Transition Period Under Article 66.1 of the TRIPS Agreement Until Graduation and Beyond (Policy Brief 88, March 2021)

By Nirmalya Syam

Least developed country (LDC) Members of the World Trade Organization (WTO) have submitted a duly motivated request for the extension of the transition period under Article 66.1 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which exempts LDCs from implementing the obligations for protection and enforcement of intellectual property rights under the Agreement, in view of their vulnerabilities, special needs, economic, administrative and financial constraints, and the need for a sound and viable technological base. This request, submitted prior to the expiry of the current transition period on 1 July 2021, seeks a further extension for as long as those Members remain LDCs, and also for an additional period of 12 years after their graduation. This request is legitimate in view of the varied challenges that LDCs face, which have been aggravated through the reversal of development gains due to the public health and economic impact of the COVID-19 pandemic. These vulnerabilities will also continue to afflict the LDCs even after graduation, as recognized in several reports by different United Nations (UN) agencies as well as resolutions of the UN General Assembly. Therefore, WTO Members must display political will and translate global solidarity pledges into action and unconditionally support the request for extension of the transition period for LDCs under the TRIPS Agreement.

<https://www.southcentre.int/policy-brief-88-march-2021/>

Competition Regulation in Healthcare in South Africa (Policy Brief 89, March 2021)

By Hardin Ratshisusu

South Africa's nascent competition regulatory regime is coming of age and has potential to address historical market concentration challenges previously enabled by the apartheid regime, prior to its dismantling in the 1990s. Many sectors of the economy are highly concentrated, including the private healthcare sector, with market outcomes that breed market failures, lack of competitiveness and high cost of care. Looking through competition in the healthcare sector it becomes evident that the market structure challenges do not only require domestic interventions, but also a global response to address some policy and regulatory gaps.

<https://www.southcentre.int/policy-brief-89-march-2021/>

Proposals to Advance the Negotiations of the Post 2020 Biodiversity Framework (Policy Brief 90, March 2021)

By Dr. Viviana Muñoz Tellez

Informal consultations are ongoing in virtual format towards the adoption of a Post-2020 Global Biodiversity Framework by the Conference of the Parties (COP) to the Convention on Biological Diversity (CBD). The Fifteenth meeting of the CBD-COP is scheduled to be held on 11–24 October 2021, in Kunming, China. For negotiations to succeed, the Framework must be ambitious, balanced and achievable, building on past commitments. All three pillars of the CBD must be equally advanced. The Rio principles in particular on common but differentiated responsibilities (CBDR), must be clearly reflected. This policy brief advances proposals towards advancing negotiations on the current zero-draft of the Framework towards realizing the 2050 global vision of living in harmony with nature.

<https://www.southcentre.int/policy-brief-90-march-2021/>

TRAINING PAPERS

Propriété Intellectuelle et Accès aux Médicaments : Une Introduction aux Grandes Problématiques – Quelques Termes et Concepts de Base (Documents de Formation 1, Août 2020)

Par Germán Velásquez

La propriété intellectuelle et les brevets en particulier sont devenus l'une des questions les plus débattues sur l'accès aux médicaments, depuis la création de l'Organisation mondiale du commerce (OMC) et l'entrée en vigueur de l'Accord sur les aspects des droits de propriété intellectuelle qui touchent au commerce (ADPIC). Les brevets ne sont nullement les seuls obstacles à l'accès aux médicaments qui sauvent des vies, mais ils peuvent jouer un rôle important, voire déterminant. Pendant la durée de protection d'un brevet, la capacité du titulaire du brevet à déterminer les prix, en l'absence de concurrence, peut faire en sorte que le médicament soit inabordable pour la majorité des personnes vivant dans les pays en développement. Ce premier numéro du "South Centre Training Papers" vise, dans sa première partie, à fournir une introduction aux questions clés dans le domaine de l'accès aux médicaments et de la propriété intellectuelle. La deuxième partie décrit et définit certains termes et concepts de base de ce domaine relativement nouveau des politiques pharmaceutiques, qui sont les aspects liés au commerce des droits de propriété intellectuelle qui régissent la recherche, le développement et la fourniture de médicaments et les technologies de la santé en général.

<https://www.southcentre.int/documents-de-formation-1-aout-2020/>

BEIJING+25 UPDATE SERIES

Political Declaration on the occasion of the twenty-fifth anniversary of the Fourth World Conference on Women (Beijing+25 Update Series 1, 13 March 2020)

Ministers and representatives of governments of the Member States of the United Nations met at a special one-day session of the 64th meeting of the Commission on the Status of Women (CSW64) and adopted a Political Declaration commemorating the 25th anniversary of the Fourth World Conference on Women, held in Beijing in 1995, and its major seminal output, the Beijing Declaration and Platform for Action (BD & BPfA).

<https://www.southcentre.int/beijing25-update-series-1-13-march-2020/>

Spotlight: Africa and the Implementation of the Beijing Platform for Action (Beijing+25 Update Series 2, 30 March 2020)

Regional Round-up on progress in implementing the Beijing Platform for Action in light of the upcoming 25th Anniversary of the platform. Spotlight: Africa

<https://www.southcentre.int/beijing25-update-series-2-30-march-2020/>

Spotlight: Asia-Pacific and the Implementation of the Beijing Platform for Action (Beijing+25 Update Series 3, 21 April 2020)

Regional Round-up on progress in implementing the Beijing Platform for Action in light of the upcoming 25th anniversary of the platform. Spotlight: Asia-Pacific

<https://www.southcentre.int/beijing25-update-series-3-21-april-2020/>

Spotlight: Arab region and the Implementation of the Beijing Platform for Action (Beijing+25 Update Series 4, 20 May 2020)

Regional Round-up on progress in implementing the Beijing Platform for Action in light of the upcoming 25th anniversary of the platform Spotlight: Arab region

<https://www.southcentre.int/beijing25-update-series-4-20-may-2020/>

Spotlight: Latin America and the Caribbean and the Implementation of the Beijing Platform for Action (Beijing+25 Update Series 5, 30 July 2020)

Regional Round-up on progress in implementing the Beijing Platform for Action in light of the upcoming 25th anniversary of the platform Spotlight: Latin America and the Caribbean

<https://www.southcentre.int/beijing25-update-series-5-30-july-2020/>

Spotlight: Europe and the Implementation of the Beijing Platform for Action (Beijing+25 Update Series 6, 30 September 2020)

Regional Round-up on progress in implementing the Beijing Platform for Action in light of the 25th anniversary of the platform Spotlight: Europe

<https://www.southcentre.int/beijing25-update-series-6-30-september-2020/>

OTHER PUBLICATIONS

Third Annual Developing Country Forum on South-South Cooperation in International Tax Matters (South Centre Tax Initiative Report, January 2020)

The South Centre organized, in cooperation with the Research and Information System for Developing Countries (RIS), the Ministry of External Affairs and the Ministry of Finance of India, the Third Annual Developing Country Forum on South-South Cooperation in International Tax Matters (the Forum). The Forum is an activity of the South Centre Tax Initiative (SCTI) which serves as a platform owned by developing countries to facilitate the networking and access to their officials to technical and academic resources, as well as to provide a venue for discussion among developing countries to identify collective efforts towards their participation in international tax fora and negotiations on matters of global economic governance. Discussions during the forum addressed the most relevant tax issues that may impact developing countries currently being discussed at the international level, especially in the OECD. The Forum also allowed the exchange of expertise among developing countries coming from Asia and the Pacific, Latin America and the Caribbean, and Africa, which consolidated this space as a necessary mechanism to identify coordinated positions among developing countries towards the consolidation of a network of tax officials from developing countries and strengthening their voice in the international fora.

<https://www.southcentre.int/scti-report-january-2020/>

Intellectual Property and Trade Measures to Address the Covid-19 Crisis by the South Centre (Call for Action, 2020)

The South Centre views with concern the attempts by some governments and industry players to monopolize the availability of treatments, diagnostics, medicines, medical supplies and devices needed for their own nationalist agenda or to maximize profit, ahead of societal interest in tackling the Covid-19 pandemic. The private enforcement of patents and government trade restrictions may pose a dire threat to the containment of this global public health emergency. Governments should act swiftly to put in place legislation and plans to ensure that patents and trade measures do not become barriers for access to those products.

<https://www.southcentre.int/call-for-action-ip-and-trade-measures-to-address-the-covid-19-crisis/>

<https://www.southcentre.int/wp-content/uploads/2020/04/Covid19-CL-Table-FINAL.pdf>

<https://www.southcentre.int/compilation-by-sc-trade-measures-adopted-by-countries-in-response-to-covid-19/>

COVID-19 PANDEMIC: ACCESS TO PREVENTION AND TREATMENT IS A MATTER OF NATIONAL AND INTERNATIONAL SECURITY (Open Letter, 2020)

Open letter from Carlos Correa, Executive Director of the South Centre, to the Director-Generals of the World Health Organization, World Intellectual Property Organization and the World Trade Organization

<https://www.southcentre.int/covid-19-open-letter/>

Designing an International Legally Binding Instrument on Business and Human Rights (July 2020)

By Daniel Uribe and Danish

The present document is substantially based on the background materials prepared by the South Centre (authored by Daniel Uribe, Danish and Kinda Mohamadieh) for various sessions of the Open-Ended Intergovernmental Working Group on transnational corporations and other business enterprises

with respect to human rights (OEIGWG), established by Resolution 26/9 of the Human Rights Council, held since 2015. The objective of this document is to provide support material for State delegations and other stakeholders for the negotiation of a binding international instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. The document considers a number of issues and technical details that have been addressed during the different sessions of the OEIGWG.

<https://www.southcentre.int/sc-publication-july-2020/>

Assessment of the Two-Pillar Approach to Address the Tax Challenges Arising from the Digitalization of the Economy

An Outline of Positions Favourable to Developing Countries

Report by the South Centre Tax Initiative's Developing Country Expert Group (August 2020)

By Irene Ovonji-Odida, Veronica Grondona, Samuel Victor Makwe

This report is written primarily for developing country negotiators in the Inclusive Framework and accordingly contains a technical assessment of Pillars One and Two. The aim is to discuss the positions and principles which can inform the negotiations in developing countries' best interests. However, it is also written for a larger audience, particularly diplomats involved in financing for development discussions and international trade rule making, so as to sensitise them to the nuances of the ongoing discussion on the taxation of the digitized economy. In the midst of the COVID-19 pandemic and a devastating economic downturn, it is more important than ever to ensure that developing countries obtain their due taxing rights. This report is an initial contribution in that direction.

<https://www.southcentre.int/report-by-the-south-centre-tax-initiatives-developing-country-expert-group-august-2020/>

Messages Celebrating 25 Years of the South Centre (2020)

The South Centre is celebrating its 25th Anniversary this year. The Centre was established by an [Intergovernmental Agreement](#) which came into force on 31 July 1995. Its predecessor, the South Commission, recognized the need to strengthen South-South cooperation in international affairs. In its report [The Challenge to the South](#), the South Commission emphasized the need for countries of the South to work together at the global level. That is why the Commission recommended the creation of a South organization charged with undertaking this challenge. The South Centre, an independent intergovernmental think-tank of developing countries, was then created to analyze the development problems of the developing countries, encourage them to value and share their common experience and provide intellectual and policy support for them to act collectively and individually, particularly at the international level.

This document compiles the messages received from the Missions in Geneva of Member States of the South Centre and other communications received concerning the 25 years celebration. The South Centre is very grateful for the warm wishes and pledges of continued support expressed in these messages, and reaffirms its commitment to remain at the service of its Member States and the South at large.

<https://www.southcentre.int/messages-celebrating-25-years-of-the-south-centre/>

Global Cooperation Instead of Confrontation (January 2021)

By Peter Lunenborg and Fernando Rosales

The world faces many challenges besides the current coronavirus pandemic, including hunger, environmental destruction, climate change, the proliferation of nuclear weapons and rising inequality.

Global cooperation is necessary to address these challenges and, in some areas, the global community is responding to them. Calls to form a coalition against a particular country, such as from the United States towards China, divert attention from the problems the world is facing and hamper progress in addressing these global challenges. History taught us that the best way to resolve our differences and to move forward is through dialogue and cooperation, not confrontation.

<https://www.southcentre.int/sc-document-january-2021/>

South Centre's Submission to the 3rd Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda for Sustainable Development (January 2021)

Strengthening human rights for fighting inequalities and building back better

The COVID-19 pandemic has caused a global crisis without precedent in modern history. Its effects have not been felt equally among all countries as it has exacerbated the profound economic and social inequalities affecting the most vulnerable. In light of the lessons, we have learned – and are still learning – from the fight against COVID-19 pandemic, the 3rd Intersessional Meeting for Dialogue and Cooperation on Human Rights and the 2030 Agenda serves as a vital opportunity to understand the needs and realities of those who are still 'left behind'.

<https://www.southcentre.int/sc-submission-january-2021/>

South Centre Contribution in response to UPOV Circular E-20/246 (February 2021)

The South Centre, as an intergovernmental observer to the UPOV Council, submits this contribution on views on the implementation of the exception of acts done privately and for non-commercial purposes in relation to smallholder farmers. The South Centre appreciates this opportunity to inform the possible development of guidance regarding the implementation of the exception of acts done privately and for non-commercial purposes in relation to smallholder farmers.

<https://www.southcentre.int/sc-submission-february-2021/>

Scope of Compulsory License and Government Use of Patented Medicines in the Context of the COVID-19 Pandemic (February 2021)

To meet public health needs, such as in the current COVID-19 emergency, governments can use **compulsory licenses** and **government use** as a tool for procurement and import of patented medicines.

These mechanisms are provided for in most laws worldwide. The WTO TRIPS Agreement, as reaffirmed by the Doha Declaration on TRIPS and Public Health, recognises the right of WTO members to grant compulsory licenses and their freedom to determine the grounds upon which such licenses may be granted (read our Call for Action on Intellectual Property and Trade Measures to Address the Covid-19 Crisis [here](#)).

The South Centre offers a guide for the issuance of compulsory licenses and government use, see [here](#), [aquí](#) en español.

This table provides information of instances of their use.

<https://www.southcentre.int/covid-19-compulsory-licenses-table-february-2021/>

Scope of Compulsory License and Government Use of Patented Medicines in the Context of the COVID-19 Pandemic (March 2021)

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<https://www.southcentre.int/covid-19-compulsory-licenses-table-march-2021/>

Strengthening United Nations Action in the Field of Human Rights through the Promotion of International Cooperation (March 2021)

COVID-19 could be an opportunity for effective international cooperation for the achievement of the Sustainable Development Goals, taking Human Rights as its fundamental pillar, the South Centre notes in its submission for the United Nations Secretary-General's report.

<https://www.southcentre.int/sc-submission-march-2021/>

Comments on Discussion Draft: Taxation of Software Payments as Royalties (March 2021)

South Centre Tax Initiative

The South Centre supports the proposal being discussed in the UN Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee) to tax payments for computer software as royalties. This will help developing countries more effectively tax the digitalized economy and will bring clarity to the application of existing bilateral tax treaties.

<https://www.southcentre.int/sc-submission-march-2021-2/>

SOUTHVIEWS

Appeal in ISDS: Appealing for the Host State? (SouthViews No. 190, 26 February 2020)

By Grace L. Estrada

Reforms to Investor-State Dispute Settlement (ISDS) are being discussed in the United Nations Commission on International Trade Law (UNCITRAL) Working Group III. One possible reform is the development of an appellate mechanism, either as part of the proposed two-tier standing investment court, or as a stand-alone appellate mechanism. From the perspective of developing countries as host states that face possible claims from investors, how appealing is an appellate mechanism in ISDS?

<https://www.southcentre.int/southviews-no-190-26-february-2020/>

India and recent updates on the OECD/G20 Inclusive Framework's Two-Pillar Approach (SouthViews No. 191, 13 March 2020)

By Subhash Jangala

The Organisation for Economic Co-operation and Development (OECD)/Group of Twenty (G20) Inclusive Framework in its January 2020 Statement has affirmed the commitment to arrive at a consensus-based solution to the tax challenges arising out of digitalization of the economy by the end of 2020 and take forward the on-going discussion on the two-pillar approach. This article examines some of the key issues in the Statement for developing countries, such as the scope, new nexus rules, role of accounting standards and proposed source rules. India's proposal on profit attribution through a two-factor apportionment using employees and assets is mentioned as a potential option for country-wise thresholds in the new nexus.

<https://www.southcentre.int/southviews-no-191-13-march-2020/>

The adverse human rights impact of economic inequality (SouthViews No. 192, 6 April 2020)

By Blerim Mustafa

Increasing economic inequality is a defining challenge of our time. Economic growth can often be disproportionate and unequal, adversely affecting marginalized and disadvantaged groups in society. Economic inequality has had adverse economic, social and political impacts for social stability and cohesion, political participation, poverty reduction, as well as the enjoyment of human rights. The realization of human rights cannot be separated from broader questions of economic and social justice.

<https://www.southcentre.int/southviews-no-192-6-april-2020/>

Reforming Responsibly: Why Governments Should Assess the Human Rights Impacts of Economic Reforms (SouthViews No. 193, 30 April 2020)

By Daniel Bradlow

The purpose of economic reforms is to change the structure and overall direction of an economy. They therefore will affect the amount and allocation of resources available to a country. This means that the reforms will also affect the human rights situation in the country. This requires impact assessments of each reform option before it is implemented.

<https://www.southcentre.int/southviews-no-193-30-april-2020/>

Will post COVID-19 pandemic lead to a climate compatible, more just, resilient and sustainable society? (SouthViews No. 194, 7 May 2020)

By Youba Sokona

As a result of the economic shutdown and physical lockdown triggered by the COVID-19 pandemic, greenhouse gas emissions, in particular CO₂, have decreased and air pollution levels have seriously dropped. However, the temporary reduction of greenhouse gas emissions resulting from the pandemic is not to be celebrated as it is not a result of deliberate climate and sustainable development policy. People who are the most vulnerable, most marginalized, and least empowered are the hardest hit by both COVID-19 and climate change. Both crises require robust scientific, evidence-based, accurate information in order to inform adequate policies and actions. They are global in nature and as such need global participation at all levels as well as strong international cooperation and transparency for their resolution.

<https://www.southcentre.int/southviews-no-194-7-may-2020/>

COVID-19: An Opportunity to Fix Dysfunctional Biomedical R&D System (SouthViews No. 195, 14 May 2020)

By Sreenath Namboodiri

Failures of the patent system to meet the public health priorities demand a new approach in research and development (R&D) financing and incentive to pharmaceutical innovations. An R&D model delinking the cost of R&D from the price of the product is the way forward.

<https://www.southcentre.int/southviews-no-195-14-may-2020/>

Taxing the Digital Economy to Fund the COVID-19 Response (SouthViews No. 196, 22 May 2020)

By Abdul Muheet Chowdhary and Daniel Uribe Teran

The COVID-19 pandemic has weakened global economic growth, raising pressures on revenue authorities to fund the fiscal stimulus necessary to contain the spread of the virus and provide income support to affected households. Accordingly, countries are taking national measures to tax the digital economy as highly digitalized businesses are seeing a rise in sales, subscribers and profits owing to the work from home lockdown measures. The three main policy responses undertaken are digital service taxes, nexus rules based on significant economic presence and withholding taxes on digital transactions. These are briefly summarized here and elaborated in detail in a forthcoming research paper by the South Centre Tax Initiative (SCTI).

<https://www.southcentre.int/southviews-no-196-22-may-2020/>

The post-Covid world needs a new social contract (SouthViews No. 197, 22 May 2020)

By Alfred de Zayas

The post-Covid world requires a new social contract. The United Nations Secretary-General should convene a World Conference on Post-Covid Recovery based on multilateralism and international solidarity. This entails a paradigm shift in the prevailing economic, trade and social models. Governments bear responsibility for their unwise and inequitable budgetary allocations, which prioritized military expenditures over investment in health, education and people-centered infrastructures. A new functional paradigm on human rights should discard the skewed and artificial division of rights into those of the first, second and third generations and impose new categories of

enabling rights, inherent rights, procedural rights and end rights so as to ensure human dignity and development for all.

<https://www.southcentre.int/southviews-no-197-22-may-2020/>

COVID-19 Crisis and Developing Countries: Digital Health Perspective (SouthViews No. 198, 8 June 2020)

*By Ambassador Fauzia Nasreen, Dr. Azeema Fareed, Ms. Huma Balouch
Commission on Science and Technology for Sustainable Development in the South (COMSATS)*

Technology and Innovation are quintessentially relevant especially in dealing with the multiple threats posed by COVID-19. Most developing countries are already under tremendous stress because of financial constraints, enormous development challenges and technology innovation and knowledge deficiencies. COVID-19 which has disrupted every walk of life is having a multiplier effect on many countries, posing difficult governance choices. Reform and reorientation of the health system and structure is fundamentally important in dealing with the public health issues in the post COVID-19 period, and digital health could help in providing solutions.

<https://www.southcentre.int/southviews-no-198-8-june-2020/>

COVID-19 Economy vs. Human Rights: A Misleading Dichotomy (SouthViews No. 199, 12 June 2020)

By Juan Pablo Bohoslavsky

While COVID-19 is a threat to the rights to life and health, the human rights impact of the crisis goes well beyond medical and public health concerns. The health crisis itself and a number of state measures to contain it—mainly isolation and quarantine—are leading the world into an economic recession. States and others need to take preventive and mitigating measures urgently to contain the pandemic and these must entail global cooperation and coordination. Just as the health crisis response must be rooted in human rights law, so too must national and international responses to the drastic economic downturn.

<https://www.southcentre.int/southviews-no-199-12-june-2020/>

Making Covid-19 Medical Products Affordable: Voluntary Patent Pool and TRIPS Flexibilities (SouthViews No. 200, 16 June 2020)

By Sudip Chaudhuri

The proposal of Costa Rica to create a voluntary pool mechanism for medical products and technologies for COVID-19 has evoked huge interest and optimism. The World Health Organization (WHO) and Costa Rica have followed it up through a Solidarity Call emphasizing the need for voluntary licensing on non-exclusive basis to the Medicines Patent Pool (MPP). The success of a voluntary pool critically depends on the willingness of the patentees to join the pool. In a public health crisis, boundaries of public policy must not be determined by the patentees. MPP will work much better if the patentees are compelled or induced to join the pool. International cooperation is important in this regard. Highlighting the virtues of voluntary measures and promoting MPP without adequate emphasis on the use of compulsory licensing and other TRIPS flexibilities, actually weakens the MPP. In the light of the experience of MPP, the basic objective of this paper is to analyze to what extent voluntary pool mechanisms can be relied upon to make COVID-19 medical products affordable and accessible. It is important to appreciate the achievements of MPP. But the constraints under which it operates, and its limitations must also be kept in mind.

<https://www.southcentre.int/southviews-no-200-16-june-2020/>

The Weakness of Economic Multilateralism/La debilidad del multilateralismo económico (SouthViews No. 201, 23 June 2020)

By/Por José Antonio Ocampo

The weakness of multilateral cooperation was evident at the meetings of the Group of 20 and the Bretton Woods institutions in Washington. The limited international cooperation contrasts with the ambitious domestic policies adopted by some developed countries, and in particular the United States, to manage their crisis. The big losers will be the emerging countries, for whom cooperation has so far been minimal.

La debilidad de la cooperación multilateral fue evidente en las reuniones del Grupo de los 20 y las instituciones de Bretton Woods que tuvieron lugar en Washington. La limitada cooperación internacional contrasta con las ambiciosas políticas internas que han adoptado algunos países desarrollados, y en particular los Estados Unidos, para manejar su crisis. Los grandes perdedores serán los países emergentes, para quienes la cooperación ha sido, hasta ahora, mínima.

<https://www.southcentre.int/southviews-no-201-23-june-2020/>

Lessons from COVID-19: Pharmaceutical Production as a Strategic Goal (SouthViews No. 202, 17 July 2020)

By Dr. Carlos M. Correa

As often said, major crises bring about challenges but also opportunities. The strategic importance of a local pharmaceutical industry has been growingly recognized as a result of the COVID-19 crisis. Developing countries should take advantage of this opportunity to strengthen their pharmaceutical industry, including biological medicines. Industrial policies would need to be reformulated under an integrated approach so as to expand value added & create jobs while addressing public health needs. South-South cooperation may also play an important role in increasing the contribution of developing countries to the global production of pharmaceuticals.

<https://www.southcentre.int/southviews-no-202-17-july-2020/>

**Coronavirus pandemic: the vaccine as exit strategy
A GLOBAL HURDLE RACE AGAINST TIME WITH A SPLIT JURY (SouthViews No. 203, 24 July 2020)**

By Francisco Colman Sercovich

Sars-CoV-2, a novel pathogen, submits a stern warning, a clarion call, on the huge human costs of shortsightedness, inaction and lessons lost in the face of common predicaments at the global level. Yet, a number of key actors remain oblivious, including ethically-challenged politicians seeking to elbow their way to the front of the queue at the expense of the poorest and most vulnerable nations and communities. Contrary to expectations being formed, a safe and effective vaccine for the Covid-19 strain once, if ever, attained, is the best way out but unlikely to do as a silver bullet in the midst of the complexities and unknowns at play.

As a result of the harmful impact of the pandemic and ensuing policy aftermath, the world runs the risk of squandering the gains barely made in the fight against poverty over the last few decades – a looming scenario of egregious global governance failure, in view of the eight close calls recently received (three flu epidemics or near-flu epidemics, two Sars episodes, one Mers episode, Zika & Ebola). A promptly and universally distributed vaccine promises to prevent future disease outbreaks. However, many scientific, economic and distributional hurdles stand in the way. Whilst each day counts, the survival of hundreds of millions of lives hangs in the balance as health issues and those pertaining to livelihoods, nutrition, schooling and deprivation are so closely interdependent. Can we rule out the need to resort to internationally sanctioned legal remedies as an inescapable response?

<https://www.southcentre.int/southviews-no-203-24-july-2020/>

The Covid-19 Pandemic and Liability under Investment Treaties (SouthViews No. 204, 11 August 2020)

By Muthucumaraswamy Sornarajah

COVID-19 can increase liability for countries under international investment treaties. Professor M. Sornarajah, Emeritus Professor at the National University of Singapore, discusses in this *SouthViews* the imminent challenges faced under such treaties by developing countries. The text is based on his presentation at the South Centre webinar on “Responsible Investment for Development and Human Rights: Assessing Different Mechanisms to Face Possible Investor-State Disputes from COVID-19 Related Measures” held on 30th July 2020. The recording of the webinar is available here: <https://www.youtube.com/watch?v=yXPswKuywvA>

<https://www.southcentre.int/southviews-no-204-11-august-2020/>

Digital Sequence Information (DSI) and national measures: approaches and perspectives (SouthViews No. 205, 31 August 2020)

By Jorge Cabrera Medaglia

Digital sequence information (DSI, or genetic sequence data) is an emerging aspect of synthetic biology which involves certain functional genetic sequences being shared by different means. The genetic sequences from plants, animals or micro-organisms could be used to support conservation and sustainable use of biological diversity, to develop and commercialize new products and processes, or for other purposes. The regulation of the use of DSI for both commercial and non-commercial entities may have huge implications for the access and benefit-sharing (ABS) regimen established in the international instruments, ongoing processes and regional and national legislation that implement these conventions. International guidance is needed to promote a coordinated approach to secure fair and equitable sharing of benefits while avoiding a negative impact on the non-commercial benefits arising from the genetic data.

<https://www.southcentre.int/southviews-no-205-31-august-2020/>

Digital Transformation: Prioritizing Data Localization (SouthViews No. 206, 25 September 2020)

By Bilal Zaka

After years of rather stable and predictable growth of telecommunications and software systems, the last decade has witnessed a tremendous shift towards unpredictable and disruptive innovations in every field of life. Today, we are experiencing the true social, political, financial and cultural effects of what is termed as globalization, deregulation, liberalization and convergence. Some major factors influencing this change are proliferation of mobile devices, ubiquitous wireless access to internet and increasing interventions of online or internet-driven technologies. While this digital transformation is inevitable, it is imperative that we equip ourselves to handle the negative implications of external influence caused by foreign dependencies and the non-regulatory nature of the new information ecosystem.

<https://www.southcentre.int/southviews-no-206-25-september-2020/>

Is the right to exclusivity a Hamlet question? (SouthViews No. 207, 28 September 2020)

By Justice Prabha Sridevan

Today the judicial authority may be faced with balancing patent rights and patients' rights or right to life. It shall use all the tools at its command and innovate if necessary, but shall rule in favour of life.

<https://www.southcentre.int/southviews-no-207-28-september-2020/>

Access to medical supplies and devices — the lesser known story of COVID-19 and medical monopoly (SouthViews No. 208, 19 October 2020)

By Salimah Valiani

Discussions around access to potential vaccines for COVID-19 are widespread, particularly in the global South. Much less discussed is the lack of access to already existing medical technology crucial to stemming the spread of the novel coronavirus and assisting its most severely affected victims. The latter is the outcome of the monopoly control of medical technology — a phenomenon stretching at least as long as the monopoly of Big PHARMA — though much less understood.

<https://www.southcentre.int/southviews-no-208-19-october-2020/>

Creative imitation at the front of pharma biotechnology opportunities: some lessons from late industrialization countries (SouthViews No. 209, 30 October 2020)

By Pablo Lavarello and Sebastián Sztulwark

Given that high-cost biopharmaceutical drug patents have started to expire since the early 2000s, biotechnology opens up opportunities for developing countries to pursue an upgrading process by entering the sector as early imitators. Developing these opportunities was transformed on priority needs of health systems since the outbreak of COVID-19. Certain developing countries have advanced in a strategy of imitating biotechnological reference drugs once their patents have expired, opening a possibility for a catching up process.

<https://www.southcentre.int/southviews-no-209-30-october-2020/>

Redistributing Taxing Rights to the Global South through the Digitalized Economy (SouthViews No. 210, 30 November 2020)

By Carlos Protto

A historic discussion is underway within both the United Nations (UN) and the Organisation for Economic Co-operation and Development (OECD) on redistributing taxing rights to the Global South through proposals on taxing the digitalized economy. An overview of the issues at stake is provided in this *SouthViews* by Carlos Protto, Member of the UN Committee of Experts on International Cooperation in Tax Matters and Argentina's representative in the Steering Group of the OECD/Group of Twenty (G20) Inclusive Framework on Base Erosion and Profit Shifting (BEPS). The text is based on his presentation at the international virtual seminar co-organized by the South Centre on "Equity in Global Tax Regimes and Implications for the SDGs" held on 7 October 2020. The recording is available here: https://www.youtube.com/watch?v=3wAESmfvRN4&ab_channel=uomlive.

<https://www.southcentre.int/southviews-no-210-30-november-2020/>

The Making of the South Centre (SouthViews No. 211, 30 December 2020)

By Branislav Gosovic

A contribution to the institutional history of developing countries' collective action in the world arena on the occasion of the South Centre's 25th anniversary as an intergovernmental organization

Preamble

The South Centre was first established by the South Commission at its last meeting in Arusha, Tanzania in October 1990, as its temporary two-year follow-up office which was to be chaired by its own Chairman, Julius K. Nyerere. In fact, the office was referred to informally as “the Chairman’s window in Geneva” and its task was to assist Mwalimu Nyerere to spearhead personally the follow-up process.

The South Centre began to function on 1 January 1991. The South Commission thus became the first among independent international commissions to leave a follow-up structure after ending its activities, a structure with a former head of state, world-renowned leader and personality at its helm. The Centre was given the task to promote the policy and action recommendations contained in the Commission’s report “The Challenge to the South,” especially its recommendation concerning the establishment of a “South Secretariat”, for which it provided a detailed blueprint.

At its Arusha meeting, the Commission also decided to reconvene, in two years’ time, as “former members of the South Commission”, in order to review the work undertaken by the Centre and to consider further action, if any. At that meeting, which was held in June 1992, the ex-Commissioners commended the work and performance of the Centre and decided to extend its mandate, so as to enable Mwalimu Nyerere to pursue the idea of transforming the Centre into a permanent institution. His endeavours were successful and led to the adoption in 1994 of the “International Agreement to establish the South Centre” as an intergovernmental organization (IGO). A brief essay follows highlighting main points of the Centre’s “touch and go” genesis, until the moment when it was formally inaugurated as an IGO in September 1995.

<https://www.southcentre.int/southviews-no-211-30-december-2020/>

The Right to Development and its Role in International Economic Law (SouthViews No. 212, 28 January 2021)

By Olasupo Owoeye

This paper provides a brief discussion on the right to development and examines some of the criticisms often raised against its significance as a cognizable human right. The paper argues that the principles encapsulated in the right to development represent the foundational principles of the international legal order. The right to development is therefore both a human right and an economic right. Thus, the principles it embodies are not only incorporated into the International Bill of Human Rights, they are also well reflected in World Trade Organization agreements and the field of international economic law. The paper argues that the right to development can play an important role in the interpretation and enforcement of rights under international economic law.

<https://www.southcentre.int/southviews-no-212-28-january-2021/>

Access to Medical Equipment in a Pandemic Situation: Importance of Localized Supply Chains and 3D Printing (SouthViews No. 213, 23 February 2021)

By Muhammad Zaheer Abbas, PhD

The response to the COVID-19 crisis highlighted the weaknesses of the free trade system and failures of the traditional supply chains. Public health preparedness for future pandemics demands nation-states to increase their local production of medical supplies in order to reduce their dependence on third countries. Globally connected local production, enabled by digital fabrication tools, is arguably the best policy response to collaboratively address supply-chain vulnerabilities. 3D printing technology, which is the most prominent manifestation of digital fabrication ecosystems, can play a key role in enhancing the local production capacity in a time- and cost-efficient manner. This paper calls for an increased focus on local production and proposes a more systematic use of 3D printing capabilities to address shortages of critical medical equipment in a health emergency.

<https://www.southcentre.int/southviews-no-213-23-february-2021/>

Increasing ecocides: On the need for a new global platform for redress (SouthViews No. 214, 26 February 2021)

By Dr S Faizi

Dr S Faizi argues that the community of nations should criminalise ecocide and create a mechanism to prosecute the culprits. This should be done by establishing an Environmental Security Council as a democratic, independent multilateral body, and by no means by overburdening the International Criminal Court (ICC) with this new agenda when ICC itself is in dire need of strengthening to enforce its original mandate.

<https://www.southcentre.int/southviews-no-214-26-february-2021/>

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