



## **SouthViews**

No. 225, 21 July 2021

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### **Vaccine Nationalism<sup>1</sup>**

*By Prof. Ujal Singh Bhatia*

The author posits that the global public health impact of the Covid-19 pandemic along with the economic and distributional aspects of vaccines and treatments, involves a market failure without the underlying institutional safety nets for an effective, globally coordinated response. He proposes strong, self-standing institutions with clear mandates and resources to make effective interventions at three levels: political, financial and regulatory. Also, the WTO rules regarding export restrictions are at present too accommodative to allow for a quick response. For Intellectual Property, both manufacturing and licensing, and relaxation of IP rules should be considered.

**What challenges to governments and forums which have arisen from the pandemic can we learn from in order to better solve the next one?**

Let me begin with a little context. It is widely accepted that climate change is the biggest market failure in world history and requires globally coordinated approaches. The Paris Agreement is a very imperfect instrument, but it does provide a framework for such a globally coordinated response.

The world's approach to climate change and the broader issue of sustainability, through the Paris Agreement, the Sustainable Development Goals (SDGs) and similar measures, reflects an understanding that **piecemeal or national approaches to threats to the global commons are not enough**. No one is safe till everyone is safe.

The global public health impact of the Covid-19 pandemic along with the economic and distributional aspects of vaccines and treatments, involves a similar market failure without the underlying institutional safety nets for an effective, globally coordinated response.

Since last year, we have witnessed a strikingly large number of countries, including the most powerful ones, pursuing nationalist policies which have:

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<sup>1</sup> Write-up of the presentation made to the Society of International Economic Law (SIEL) and Università Bocconi, Milano "Rethinking Economic Global Governance" Global Conference, Panel XXII, 9 July 2021.

- seriously disrupted the flow of global value chains (GVCs),
- exposed the helplessness of institutions like the World Health Organization (WHO) and the World Trade Organization (WTO), and
- gutted whatever framework there was for global cooperation.

The recent Group of Seven (G7) pledge to supply vaccines to low income countries exemplifies the situation. Essentially, the G7 are telling the rest of the world – *yes, we hear you, we know you have a problem, but bear with us while we fully immunize our citizens, and we'll be with you shortly.*

If the world is to address future crises more effectively, it cannot rely on the uncertain munificence of a few countries. It needs strong, self-standing institutions with clear mandates and resources to make effective interventions. This implies action at three levels - **political, financial and regulatory**:

- At the **POLITICAL** level, a global summit mandating action on an integrated plan for preparedness and response to such pandemics across global institutions like the WHO, WTO and the international financial institutions (IFIs). The Plan would have automated trigger points based on a global surveillance and alert system, for the mandated agencies to intervene without requiring any political decisions.
- At the **FINANCIAL** level, a mandate to IFIs to intervene effectively when trigger points sound the alarm.
- At the **REGULATORY** level, confining myself to the WTO, it would require a revisitation of the rules regarding **export restrictions and intellectual property rights (IPRs)**.

### **Export Restrictions and IPRs**

As we have seen, the WTO rules regarding **Export Restrictions** are at present too accommodative to allow for a quick global response. More than half of WTO Members, including several developed countries, have imposed export restrictions or bans. And yet there is little political impetus to tighten them, for reasons that are obvious. As far as **Intellectual Property** is concerned, the first step to the solution is to acknowledge that we have a market failure problem that cannot be left to markets alone.

The second step is to avoid looking at it as a binary issue – **it's not more manufacturing and licensing versus relaxation of IP rules. It's both.** The world needs widely dispersed manufacturing capacities but that can only be meaningfully achieved in a regulatory environment which facilitates technology transfers, access to regulatory data and to trade secrets.

Existing flexibilities of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) empower WTO Members to take action at the national level. But in the case of vaccines for instance, national action through compulsory licenses cannot be effective without technology transfers, access to trial data and in many cases, access to low cost funds. Hence a multilaterally agreed framework for enabling expansion of manufacturing to low income countries is essential.

***Author: Prof. Ujal Singh Bhatia is an Advisor of the Council on Economic Policies (CEP).***

**\* The views contained in this article are attributable to the author, and do not represent the institutional views of the South Centre or its Member States.**

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**For more information, please contact Anna Bernardo of the South Centre:  
Email [bernardo@southcentre.int](mailto:bernardo@southcentre.int), or telephone +41 22 791 80 50.**

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