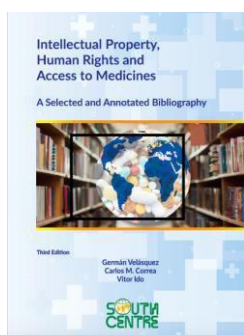


South Centre Publications January 2020 - December 2021



BOOKS

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



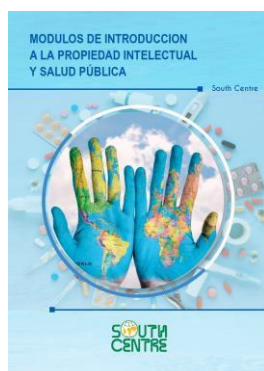
About the Book: The South Centre seeks to provide appropriate technical assistance and country support to developing countries, within comprehensive and coherent national IP strategies to promote implementation of the TRIPS Agreement that is consistent with the protection of public health and the promotion 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)



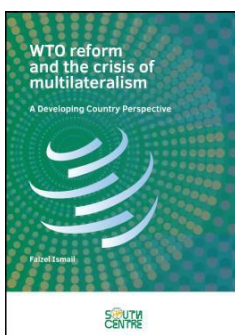
Descripción:

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/>

Vaccins, Médicaments et Brevets La covid-19 et l'impératif d'une organisation internationale (2021)



Details : À partir de début 2020, le monde a dû faire face à un considérable défi sanitaire, économique et social avec l'épidémie de la COVID-19. La crise s'est poursuivie et aggravée dans la plupart des pays du monde. Beaucoup ont voulu explorer des réponses sans prendre réellement en compte les avis des principaux organismes internationaux dans le domaine de la santé, au premier rang desquels l'Organisation mondiale de la santé (OMS). L'OMS fait l'objet de critiques. Il est néanmoins fondamental qu'une agence multilatérale comme elle puisse exercer une véritable autorité et jouer un rôle de chef de le indépendant et en défense de l'ensemble des pays de la planète. Alors, comment faire pour qu'elle puisse jouer ce rôle ? Ce livre contribue à apporter des réponses à cette question, en s'appuyant sur les réflexions développées par le Centre Sud, un organisme intergouvernemental qui défend les perspectives des pays du Sud. Il aborde

notamment l'avancement des réflexions et débats concernant l'accès aux médicaments et vaccins pour répondre à cette pandémie ou à d'éventuelles crises ultérieures.

Auteur: Germán Velásquez est conseiller spécial en matière de politique et de santé au South Centre à Genève.

<https://www.editions-harmattan.fr/livre-vaccins-medicaments-et-brevets-la-covid-19-et-l-imperatif-d-une-organisation-internationale-german-velasquez-9782343229027-69663.html>

Vacunas, medicamentos y patentes COVID-19 y la necesidad de una organización internacional (2021)



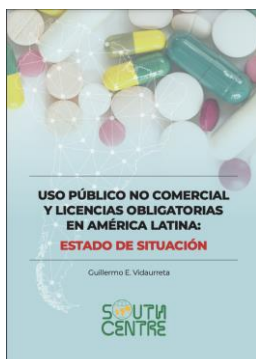
Velásquez, Germán: Vacunas, medicamentos y patentes. COVID-19 y la necesidad de una organización internacional. Vacunas covid-19: entre la ética, la salud y la economía. Desarrollo de la vacuna COVID-19; la inmunidad y el contagio; el nacionalismo de las vacunas; el mecanismo COVAX; licencias obligatorias; Acceso a medicamentos y vacunas: un nuevo actor. Medicamentos y propiedad intelectual: diez años de la estrategia mundial de la oms. Repensando la fabricación mundial y local de productos médicos tras el covid-19. Repensando la i+d para productos farmacéuticos después del covid-19. Propiedad intelectual y acceso a medicamentos y vacunas. Las reformas de la organización mundial de la salud en la época de covid-19. 2021. 244 pp.

ISBN 978-9915-650-31-9.

Autor: Germán Velásquez, Asesor especial sobre políticas y salud, South Centre de Ginebra

<https://www.editorialbdef.com.ar/productos/velasquez-german-vacunas-medicamentos-y-patentes->

Uso Público No Comercial y Licencias Obligatorias en América Latina: Estado de Situación (2021)

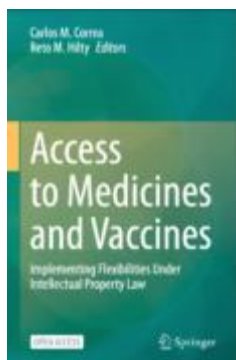


Descripción: Este libro examina cómo han sido regulados en el derecho latinoamericano el uso público no comercial y las licencias obligatorias de patentes de invención, una de las importantes flexibilidades en el marco del acuerdo sobre propiedad intelectual de la Organización Mundial de Comercio. Igualmente, indaga y compendia las experiencias registradas en cuanto al uso efectivo de esos instrumentos, el que no se agota en el ámbito de la salud pública, si bien han sido especialmente utilizados tanto por países desarrollados como en desarrollo para facilitar el acceso a medicamentos, incluso en el contexto de la pandemia del COVID-19.

Autor: Guillermo Vidaurreta es Abogado de la Universidad de Buenos Aires, Magister en Propiedad Intelectual por FLACSO – Argentina. Profesor de la Universidad de Buenos Aires y FLACSO – Argentina. Investigador principal y subdirector del Centro de Estudios Interdisciplinarios de Derecho Industrial y Económico de la Facultad de Derecho de la UBA (CEIDIE).

<https://www.southcentre.int/book-by-the-south-centre-2021-3/>

Access to Medicines and Vaccines: Implementing Flexibilities Under Intellectual Property Law (2021)



Description:

This book is an outcome of a partnership between the Max Planck Institute (MPI) for Innovation and Competition and the South Centre, which jointly organized a Global Forum on Intellectual Property, Access to Medicine and Innovation in Munich on 9– 10 December 2019.

This book examines topics of particular relevance for shaping intellectual property regimes that take into account public health concerns. It provides not only deep analyses but options for the interpretation of existing regulations or the adoption of new legislation that, being consistent with the TRIPS Agreement, can allow the judiciary and policy makers to take such concerns into account. In different chapters, the book addresses various dimensions of the flexibilities allowed under the TRIPS Agreement. Although there is a significant literature and statements on the subject, such as the 'Declaration on Patent Protection. Regulatory Sovereignty under TRIPS' elaborated under the auspices of the MPI, the book contains new reflections and examines recent developments in case law and legislation.

The covered issues include how the TRIPS Agreement can be interpreted to implement its flexibilities, the use of competition law to promote access to medicines, the role of cooperation in the examination of patent applications, patentability requirements, the impact of TRIPS plus provisions (such as the linkage between patents and drug regulatory approvals), the patentability in the area of CRISPR genome editing technologies, as well as an analysis of the scope of exceptions and limitations to exclusive rights provided for by the Agreement, such as the exhaustion of rights and parallel imports, compulsory licenses, the 'Bolar exemption', and procedural mechanisms like pre-grant oppositions. The implications of the protection of test data are also examined.

While celebrating the opportunity of working together in organizing the Global Forum, we hope that this book will assist policy makers and judges and provide new inputs for academic research. While, as mentioned, there is a differentiated impact of intellectual property rights depending on the level of development of the country where it applies, the reconciliation of such rights with public health interests, particularly in relation to access to medicines, is a matter of concern for all countries.

Editors: Carlos M. Correa and Reto M. Hilty

<https://www.southcentre.int/book-by-the-south-centre-2021-4/>

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 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 Tamara 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 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 directes 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 actores 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/>

Misappropriation of Genetic Resources and Associated Traditional Knowledge: Challenges Posed by Intellectual Property and Genetic Sequence Information (Research Paper 130, April 2021)

By Nirmalya Syam and Thamara Romero

Improper acquisition of genetic resources (GRs) and associated traditional knowledge (TK) without prior informed consent and on mutually agreed terms, in accordance with national laws of the country providing the GR and associated TK, as well as without any fair and equitable sharing of the benefits derived from their utilization, has been a significant concern for developing countries. Intellectual property (IP) rights can serve as one of the means of such misappropriation. One of the mechanisms sought by developing countries to prevent it consists in the establishment of an effective multilateral legal mechanism for defensive protection against misappropriation, primarily through the introduction of a mandatory disclosure requirement about the source and country of origin of such resources in intellectual property right (IPR) applications. These negotiations have been taking place in different fora. However, there is an increased sense of frustration due to the lack of progress in achieving consensus during the last twenty years. Meanwhile, new modes of

misappropriation of GRs are evolving through the use of genetic sequence information and data of GRs, and by applying technological developments in synthetic biology. This paper discusses the use of IP and genetic sequence information and data as modes of misappropriation of GRs and associated TK and the deficits of the current international legal framework in preventing such misappropriation. This paper also maps the state of play of the ongoing negotiations in the context of these issues in different fora, and, in conclusion, proposes possible alternative approaches for addressing these pressing issues at the multilateral level.

<https://www.southcentre.int/research-paper-130-april-2021/>

TRIPS Flexibilities and TRIPS-plus Provisions in the RCEP Chapter on Intellectual Property: How Much Policy Space is Retained? (Research Paper 131, June 2021)

By Vitor Henrique Pinto Ido

The Regional Comprehensive Economic Partnership (RCEP) was signed on 15 November 2020 by 15 Asian-Pacific countries (ASEAN—Brunei Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam—, and China, Japan, South Korea, Australia and New Zealand), comprising about one third of the world's population and economy. India was a crucial party to the negotiations but opted out of the agreement. Ratification of the agreement is still pending, subject to more Parties ratifying it at the national level. This paper provides a broad overview of the RCEP agreement and discusses the details of the intellectual property (IP) Chapter. Significantly, it does not contain substantive TRIPS-plus provisions that undermine public health in developing countries—although it does contain such provisions in other areas such as copyrights, trademarks, and IP enforcement.

<https://www.southcentre.int/research-paper-131-june-2021/>

Interpreting the Flexibilities Under the TRIPS Agreement (Research Paper 132, June 2021)

By Carlos M. Correa

While the TRIPS Agreement provides for minimum standards of protection of intellectual property, it leaves a certain degree of policy space for WTO members, whether developed or developing countries, to implement the Agreement's provisions in different manners, to legislate in areas not subject to the minimum standards under the Agreement, and to develop legal interpretations of such provisions to determine the scope and content of the applicable obligations. This paper focuses on some aspects of how panels and the Appellate Body of the WTO have interpreted said provisions. The paper also draws general conclusions for the implementation of TRIPS flexibilities, which are of crucial importance for the design of a pro-competitive intellectual property system and, in particular, for achieving public health objectives, as specifically recognized by the Doha Declaration on TRIPS and Public Health.

<https://www.southcentre.int/research-paper-132-june-2021/>

Repensando la fabricación mundial y local de productos médicos tras el COVID- 19 (Documento de Investigación 118, Junio 2021)

Por Germán Velásquez

La crisis sanitaria mundial sin precedentes provocada por la pandemia del coronavirus –COVID-19, durante el primer semestre de 2020, hace que se vuelva a plantear con especial urgencia el debate sobre la producción farmacéutica local. La crisis de COVID-19 puso de manifiesto la interdependencia en la producción mundial de medicamentos, ningún país es autosuficiente. Muchos países industrializados están tomando la decisión de repatriar o desarrollar la producción de Ingredientes Farmacéuticos Activos (API). Muchos gobiernos están empezando a hablar de soberanía farmacéutica y/o seguridad sanitaria. Si esto se hace realidad, los países en desarrollo

tendrán que desarrollar y/o fortalecer la producción local de medicamentos y vacunas. La guerra para obtener la futura vacuna para COVID-19 no parece fácil con estos nuevos desarrollos.

<https://www.southcentre.int/documento-de-investigacion-118-junio-2021/>

Malaria and Dengue: Understanding two infectious diseases affecting developing countries and their link to climate change (Research Paper 133, August 2021)

By Mirza Alas

Developing countries will face more complex challenges as infectious disease patterns transform due to climate change and climate variability. These challenges include how to reduce the incidence of malaria (including the significant challenge of resistant malaria), dengue, and other vector-borne and water-borne diseases that are likely to experience alterations in geographical range and lengthening of the transmission seasons due to changing temperatures and rain patterns. Climate extremes, e.g., heat and floods, are implicating the spread of climate-sensitive infectious diseases such as dengue and malaria transmitted by vectors like mosquitoes. In the context of growing financial pressure on governments due to COVID-19, the ensuing fiscal challenges may severely limit the capacity to effectively respond to health challenges in countries already affected by malaria and dengue. Other countries that have made gains in controlling vector-borne infections could also be vulnerable to rising disease burden. This research paper aims to analyze how changes in malaria and dengue pose a challenge for developing countries as they prepare mitigation and adaptation strategies for climate health. The paper will also provide some general recommendations on the importance of integration of health in national climate change strategies.

<https://www.southcentre.int/research-paper-133-august-2021/>

Restructuring the Global Vaccine Industry (Research Paper 134, September 2021)

By Felix Lobo

The purpose of this report is to analyse the vaccines industry under the focus of Industrial Economics as an input for the design of the pertinent instruments to promote development, manufacturing and distribution of vaccines against SARS-CoV-2 in sufficient amounts to immunize all countries as soon as possible. We also need to be prepared for future emerging infectious diseases with the potential of global expansion.

The report shows that the vaccines industry is – and has been for a long time – far away from the competitive market paradigm with notorious market failures. As a result, the industry is underperforming with shortages and stockouts, exit of firms from the industry, underinvestment in research and development (R&D) and manufacturing, even an “anaemic development pipeline”, all signs of market failure.

After a brief review of policies implemented to tackle these problems, we conclude that after the COVID-19 pandemic there is a need to implement a profound overhauling of the industry and to fundamentally reformulate and extend global public policies to stimulate R&D, manufacturing, distribution and access.

<https://www.southcentre.int/research-paper-134-september-2021/>

Implementation of a TRIPS Waiver for Health Technologies and Products for COVID-19: Preventing Claims Under Free Trade and Investment Agreements (Research Paper 135, September 2021)

By Carlos M. Correa, Nirmalya Syam and Daniel Uribe

While increasing support from WTO members for a proposed waiver from certain obligations under the TRIPS Agreement with regard to health products required for responding to COVID-19 has made a decision on the TRIPS waiver imminent, the waiver will have to be implemented domestically by WTO members through appropriate legislative, administrative or judicial measures, including through executive orders that have been utilized to implement emergency measures in the context of the COVID-19 pandemic. In this regard, the scope of the TRIPS waiver, as well as the terms of applicable free trade agreements (FTAs) and international investment agreements (IIAs) will also impact the policy space available to countries to implement the waiver. Ensuring a broad scope of the waiver, as well as complementary measures to safeguard the implementation of the waiver from potential challenges under FTAs or IIAs will be critical. This research paper discusses some options that could be explored to enable the implementation of the TRIPS waiver by overcoming possible impediments that could arise under such agreements.

<https://www.southcentre.int/research-paper-135-september-2021/>

Canada's Political Choices Restrain Vaccine Equity: The Bolivia-Biolyse Case (Research Paper 136, September 2021)

By Muhammad Zaheer Abbas, PhD

The COVID-19 pandemic has already claimed more than 4.6 million lives and caused significant economic harm. The Coronavirus is still circulating to cause further damage. In this context, this research paper argues that Canada's political choices have restrained the equitable distribution of COVID-19 vaccines. Part I evaluates Canada's nationalistic approach of procuring COVID-19 vaccines more than its needs through secretly concluded pre-purchase agreements with brand-name pharmaceutical corporations as advised by a secretly born task force having clear ties with the vaccine industry. Part II examines Canada's wavering and non-committal position on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Waiver proposal. Canada's confusing position of 'not blocking' the TRIPS Waiver while not supporting it either lacks legal clarity. Part III analyses the Bolivia-Biolyse case which highlights clear contradictions between statements and actions of the Canadian government. Since March 2021, Biolyse Pharma has been hamstrung by the first step in Canada's Access to Medicines Regime (CAMR), where a preliminary requirement is that the COVID-19 vaccine must be added to Schedule 1 of the Canadian federal *Patent Act* before applying for an export-oriented compulsory licence. The Bolivia-Biolyse case is important as a test case for the CAMR system. Workability of this export-oriented compulsory licensing regime is critical for low- and middle-income countries in the Global South lacking the domestic capacity to manufacture COVID-19 vaccines. The Bolivia-Biolyse case is also important as Canada has argued at the World Trade Organization (WTO) that the TRIPS Waiver is not required because the existing mechanisms are working as intended.

<https://www.southcentre.int/research-paper-136-september-2021/>

The Ocean Economy: trends, impacts and opportunities for a post COVID-19 Blue Recovery in developing countries (Research Paper 137, October 2021)

by David Vivas Eugui, Diana Barrowclough and Claudia Contreras

This paper discusses preliminary and still quite unknown trends on trade, finance, and technology of the ocean economy, outlines key impacts and measures taken to respond to the COVID-19 pandemic and raises awareness about the potential of the ocean economy to contribute to a sustainable and resilient recovery. Based on these findings, the paper argues that sustainability and resilience considerations should be more highly prioritized in ocean-based value chains in a post COVID-19 recovery. To support this, the paper highlights the importance of securing sufficient and reliable long-term investment and the creation of capacities to develop new and adapt existing service innovations. It calls for a **global trade, investment and innovation Blue Deal** as sister to the Green New Deal already gaining support around the world, particularly for developing countries.

<https://www.southcentre.int/research-paper-137-october-2021/>

Beyond Corporate Social Responsibility: Strengthening Human Rights Due Diligence through the Legally Binding Instrument on Business and Human Rights (Research Paper 138, October 2021)

by Daniel Uribe Terán

The discussion on the need for mandatory human rights due diligence (HRDD) requirements has permeated the interests of policy makers, civil society organizations and international organizations. The current trend on the adoption of domestic legislation concerning HRDD standards shows a variety of options and models that might serve as a step forward to the adoption of a strong international framework of corporate accountability and remedy for human rights violations in the context of business activities.

This research paper aims at identifying the elements that characterize human rights due diligence to find a possible common definition for its implementation. It does so through analyzing current regional and State practice in the adoption of mandatory HRDD legislation in different sectors. Finally, it will discuss the principles that characterize the approach taken by the United Nations Open-ended Intergovernmental Working Group in charge of adopting a Legally Binding Instrument on transnational corporations and other business enterprises and how it could serve as an important cornerstone for modern rule making on the issue of business and human rights.

<https://www.southcentre.int/research-paper-138-october-2021/>

Governing Seed for Food Production: The International Treaty on Plant Genetic Resources for Food and Agriculture (Research Paper 139, October 2021)

By Nina Isabella Moeller

Plant genetic resources for food and agriculture (PGRFA) are part of the foundation of agriculture and of central importance to food sovereignty. These gain an increasingly pivotal role in the context of climate crises, which are threatening predictable crop production, and the erosion of agricultural biodiversity. The main instrument for the governance of PGRFA is the International Treaty on Plant Genetic Resources for Food and Agriculture. Strengthening the Treaty is crucial. The Treaty establishes a binding international framework for the conservation and sustainable use of plant genetic resources for food and agriculture, and the fair and equitable sharing of the benefits arising from their use. Since 2013, negotiations have been underway to enhance the functioning of the Multilateral System of Access and Benefit-sharing. Current informal consultations may pave the way for constructive negotiations at the next Governing Body meeting in May 2022.

<https://www.southcentre.int/research-paper-139-october-2021/>

Del SIDA al COVID-19: La OMS ante las crisis sanitarias globales (Documento de Investigación 140, Noviembre 2021)

Por Germán Velásquez

Este documento de investigación es una compilación de artículos de Germán Velásquez publicados por el "Monde Diplomatique" (ediciones francesa y española) entre el 2003 y el 2021. El autor analiza como la OMS enfrentó las grandes crisis sanitarias de los últimos 20 años. El SIDA y la llegada de los primeros antiretrovirales, la gripe H1N1 con el despilfarro del Oseltamivir (nombre de marca "Tamiflu") y las vacunas que al final fueron destruidas en grandes cantidades, el ébola donde la OMS llegó con cuatro meses de atraso, la hepatitis C y los fármacos que podrían curarla pero fueron lanzados al mercado con precios inaccesibles y, actualmente, la pandemia devastadora del COVID-19 que ha demostrado una vez más la insostenible desigualdad en el acceso a la salud y a las vacunas y tratamientos, entre los países del Norte y los países del Sur.

El denominador común a todas estas crisis sanitarias mundiales ha sido la reacción de los países miembros de la OMS de querer reformar la Organización de tal manera que ésta pueda responder mejor a la crisis del momento. Este es exactamente el movimiento que ha desatado la COVID-19 y el tema y las negociaciones que probablemente nos ocuparán en los próximos años.

<https://www.southcentre.int/documento-de-investigacion-140-noviembre-de-2021/>

Mise en œuvre d'une dérogation ADPIC pour les technologies et produits de santé pour la COVID-19: prévenir les réclamations dans le cadre des accords de libre-échange et d'investissement (Document de Recherche 135, Novembre 2021)

Par Carlos M. Correa, Nirmalya Syam et Daniel Uribe

Bien que le soutien croissant des membres de l'OMC pour une proposition de dérogation à certaines obligations de l'Accord sur les ADPIC concernant les produits de santé nécessaires pour répondre à la pandémie COVID-19 ait rendu imminente une décision sur la dérogation ADPIC, celle-ci devra être mise en œuvre au niveau national par les membres de l'OMC par le biais de mesures législatives, administratives ou judiciaires appropriées, y compris par le biais de décrets qui ont été utilisés pour mettre en œuvre des mesures d'urgence dans le contexte de la pandémie COVID-19. À cet égard, la portée de la dérogation ADPIC, ainsi que les termes des accords de libre-échange (ALE) et des accords internationaux d'investissement (AII) applicables, auront également un impact sur la marge de manœuvre dont disposent les pays pour mettre en œuvre la dérogation. Il sera essentiel de garantir un large champ d'application de la dérogation, ainsi que des mesures complémentaires pour protéger la mise en œuvre de la dérogation contre d'éventuelles contestations dans le cadre des ALE ou des AII. Ce document de recherche examine certaines options qui pourraient être explorées pour permettre la mise en œuvre de la dérogation ADPIC en surmontant les obstacles qui pourraient survenir dans le cadre de tels accords.

<https://www.southcentre.int/document-de-recherche-135-novembre-2021/>

Implementación de una exención de los ADPIC relacionados con tecnologías y productos sanitarios para la COVID-19: Evitar reclamaciones en virtud de acuerdos de libre comercio e inversión ((Documento de Investigación 135, Noviembre 2021)

Por Carlos M. Correa, Nirmalya Syam y Daniel Uribe

Aunque el creciente apoyo de los miembros de la OMC a una propuesta de exención de determinadas obligaciones en virtud del Acuerdo sobre los ADPIC con respecto a los productos sanitarios necesarios para responder a la COVID-19 ha hecho que sea inminente una decisión sobre la exención de los ADPIC, los miembros de la OMC tendrán que aplicar la exención a nivel nacional a través de medidas legislativas, administrativas o judiciales apropiadas, incluidas las órdenes ejecutivas que se han utilizado para aplicar medidas de emergencia en el contexto de la pandemia de la COVID-19. En este sentido, el alcance de la exención de los ADPIC, así como los términos aplicables en los acuerdos de libre comercio (ALC) y los acuerdos internacionales de inversión (AII) también influirán en el espacio de política disponible para que los países apliquen la exención. Será fundamental garantizar un amplio alcance de la exención, así como medidas complementarias para salvaguardar la aplicación de la exención de posibles impugnaciones en el marco de los ALC o los AII. Este documento de investigación analiza algunas opciones que podrían explorarse para permitir la aplicación de la exención de los ADPIC superando los posibles impedimentos que podrían surgir en el marco de dichos acuerdos.

<https://www.southcentre.int/documento-de-investigacion-135-noviembre-de-2021/>

Utilising Public Health Flexibilities in the Era of COVID-19: An Analysis of Intellectual Property Regulation in the OAPI and MENA Regions (Research Paper 141, November 2021)

By Yousuf A Vawda and Bonginkosi Shoji

The paper explores the unique approaches to IP protection in the countries belonging to the Organisation Africaine de la Propriété Intellectuelle/African Intellectual Property Organization (OAPI) and the Middle East and North Africa (MENA) regions; the limited extent to which legal and policy frameworks with regard to TRIPS flexibilities have been adopted and implemented in pursuit of access to medicines in those countries; and makes recommendations in order to optimise the use of the flexibilities in advancing public health objectives. In the context of the COVID-19 pandemic, the impact of IP rights on access, and some approaches to countering the challenges to access are also discussed.

<https://www.southcentre.int/research-paper-141-november-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 Dianyí 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 overcome 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/>

Compulsory license in Germany: Analysis of a landmark judicial decision (Policy Brief 91, April 2021)

By Christoph Spennemann and Clara Warriner

This policy brief analyzes how the German Federal Court of Justice addressed compulsory licensing under German patent law, where the request for a compulsory license was used in preliminary proceedings as a defense against alleged patent infringement.

<https://www.southcentre.int/policy-brief-91-april-2021/>

Could COVID-19 trigger ‘localizing’ of international investment arbitration? (Investment Policy Brief 21, April 2021)

By Danish

In light of the challenges and travel restrictions due to the COVID-19 pandemic, many developing countries have been unable to effectively participate in international investment arbitration proceedings, traditionally held in locations like Washington D.C. and The Hague. To ease the heavy burdens currently being placed on States and ensuring investor confidence, this Policy Brief argues for the ‘localization’ of investor-State dispute settlement (ISDS) proceedings in host States and regions where the investment is actually located. It highlights the various advantages that localizing ISDS can bring, and the different regional initiatives already working towards this purpose. The brief also considers relevant legal and policy aspects, and seeks to provide concrete suggestions for the localization of ISDS as a small step towards the holistic reform of international investment arbitration.

<https://www.southcentre.int/investment-policy-brief-21-april-2021/>

Expanding the production of COVID-19 vaccines to reach developing countries Lift the barriers to fight the pandemic in the Global South (Policy Brief 92, April 2021)

By Carlos M. Correa

The unfolding of COVID-19 has shown that the international system has been unable to ensure equal access to the vaccines and other products necessary to fight the pandemic. While the need for a strong response remains obvious, proposals for scaling up the production of COVID-19

vaccines across the globe are still blocked in the World Trade Organization.

<https://www.southcentre.int/policy-brief-92-april-2021/>

A New WHO International Treaty on Pandemic Preparedness and Response: Can It Address the Needs of the Global South? (Policy Brief 93, May 2021)

By Dr. Germán Velásquez and Nirmalya Syam

A recent joint communiqué by 25 Heads of Government and the WHO Director-General have called for the negotiation of a pandemic treaty to enable countries around the world to strengthen national, regional and global capacities and resilience to future pandemics. The COVID-19 pandemic has demonstrated the fragility of the mechanisms at the disposal of WHO for preparedness and response to pandemics. The use of binding instruments to promote and protect health in the context of pandemics is needed. If WHO Member States decide that an international treaty to prepare and respond to pandemics is the way forward, it would be important to have clarity from the outset on the elements and areas that will be the subject of negotiation. The first step should be to identify the aspects of pandemic preparedness and response that the current crisis has revealed are not working, and how to build up on the existing instruments, notably the International Health Regulations (IHR). This paper discusses some of the critical issues that should be addressed in such a treaty if negotiations are launched, in view of the needs of countries at different levels of development and with disparate capacities to implement treaty obligations.

<https://www.southcentre.int/policy-brief-93-may-2021/>

The Tax Sovereignty Principle and Its Peaceful Coexistence with Article 12B of the UN Model Tax Convention (Tax Cooperation Policy Brief 14, June 2021)

By Kuldeep Sharma, ADIT (CIOT, UK)

Article 12B of the United Nations (UN) Model Tax Convention (MTC) provides developing countries with a practical and easy way to administer policy solutions for taxing the digital economy, in particular income from Automated Digital Services. It merges seamlessly with the existing provisions of the UN MTC and it is completely aligned and coexistent with the Tax Sovereignty Principle.

<https://www.southcentre.int/tax-cooperation-policy-brief-14-june-2021/>

Conceptualizing a UN Multilateral Instrument (Tax Cooperation Policy Brief 15, June 2021)

By Radhakishan Rawal

Recent changes to the United Nations (UN) Model Tax Convention have resulted in provisions that are more advantageous for developing countries in raising revenue through international taxation, i.e. taxation of foreign income. These include taxation of income from automated digital services, software payments, capital gains and others. Normally, these would be incorporated into bilateral tax treaties through time-taking negotiations. A UN Multilateral Instrument (MLI) provides a speedy manner for updating multiple tax treaties through a single negotiation. This will help developing countries in collecting revenue more quickly. This Policy Brief discusses the possible structure of such an MLI.

<https://www.southcentre.int/tax-cooperation-policy-brief-15-june-2021/>

The Role of Courts in Implementing TRIPS Flexibilities: Brazilian Supreme Court Rules Automatic Patent Term Extensions Unconstitutional (Policy Brief 94, June 2021)

By Vitor Henrique Pinto Ido

This policy brief provides a background, summary and analysis of the Brazilian Federal Supreme Court decision of 6 May 2021 that ruled automatic patent term extensions unconstitutional, striking down Article 40, Sole Paragraph, of the Brazilian Industrial Property Code of 1996. It concludes that this is a landmark ruling that contributes to the implementation of a more balanced patent regime in Brazil, with a positive impact on access to medicines in the country. It is an important precedent in relation to the role that courts may play in defining the contours of intellectual property protection and the TRIPS flexibilities.

<https://www.southcentre.int/policy-brief-94-june-2021/>

Systemic reform of the international debt architecture is yet to start (Policy Brief 95, June 2021)

By Yuefen Li

The COVID-19 pandemic has pushed the reform of the international debt architecture to the policy agenda. Up to now policy measures to address the crushing debt burden of developing countries have focused on boosting time bound liquidity provision, which is insufficient in amount and restrictive in scope as debt-ridden and pandemic struck middle-income countries have not been covered. Even the

implementation of these policy measures has been hindered by existing systemic problems. The reform of the debt architecture is yet to start. However, complacency seems to emerge. The risk of “wasting” the crisis should be avoided.

<https://www.southcentre.int/policy-brief-95-june-2021/>

Investment Policy Options for Facing COVID-19 Related ISDS Claims (Investment Policy Brief 22, June 2021)

By Daniel Uribe and Danish

Developing and least developed countries have undertaken a number of measures to fight against the multidimensional impacts of the COVID-19 pandemic. Such measures and those that may be adopted in the context of the recovery efforts are, however, susceptible to challenges by foreign investors using investor-State dispute settlement mechanisms.

This policy brief first considers the kinds of measures States have adopted to limit the spread of COVID-19, protect their strategic sectors and promote economic recovery, including through foreign investment aftercare and retention. It then addresses how the investor-State dispute settlement system (ISDS) has been used by investors in times of crises, based on the analysis of the awards in several cases brought against both developed and developing countries.

Against this backdrop, the brief elaborates on the different options and initiatives States can take for preventing ISDS claims at the national, bilateral, regional and multilateral levels. It concludes with some policy advice for developing and least developed countries to face possible COVID-19 related ISDS claims in the future.

<https://www.southcentre.int/investment-policy-brief-22-june-2021/>

**UNCITRAL Working Group III: Moving forward towards consensus or losing balance?
(Investment Policy Brief 23, July 2021)**

By Daniel Uribe and Danish

This policy brief considers some concerns arising from the ongoing discussions on procedural reform of investor-State Dispute Settlement (ISDS) in the United Nations Commission on International Trade Law (UNCITRAL) Working Group III. It highlights the need to allocate sufficient time to deliberate upon the important issues being raised by developing countries. It further discusses some structural reform options that have been identified by the Working Group and reflects on some concerns arising from a possible 'single undertaking' approach being implemented through a future possible multilateral agreement on ISDS.

<https://www.southcentre.int/investment-policy-brief-23-july-2021/>

Article 12B – A tax treaty solution by the UN Tax Committee for taxing digital incomes (Tax Cooperation Policy Brief 16, July 2021)

By Rajat Bansal

Taxation of income of multinational enterprises engaged in digitalised businesses by source or market jurisdictions is currently the most important challenge before the international tax community. The current membership of the United Nations Tax Committee in April 2021 finalised a tax treaty solution to address this challenge. This brief explains the rationale for coming up with a particular solution of inserting a new Article in the United Nations Model Tax Convention, its merits and how it can be beneficial for all countries, especially the developing ones.

<https://www.southcentre.int/tax-cooperation-policy-brief-16-july-2021/>

Precios justos para la cobertura sanitaria universal: El impacto de la judicialización de la salud (Informe sobre políticas 96, Julio 2021)

Por Silvina Andrea Bracamonte y José Luis Cassinerio

En el presente trabajo se describen las principales directrices y recomendaciones sobre políticas de precios para ayudar a los países a desarrollar estrategias efectivas, como herramientas para lograr el acceso equitativo a los productos sanitarios con precios asequibles, desechando el creciente fenómeno de la judicialización de la salud como vía adecuada para abordar con un enfoque sistémico esta problemática compleja.

<https://www.southcentre.int/informe-sobre-politicas-96-julio-2021/>

An Albatross Around the Neck of Developing Nations – MFN Clause in Tax Treaties incomes (Tax Cooperation Policy Brief 17, July 2021)

By Deepak Kapoor, IRS

The Most Favoured Nation ("MFN") clause in double taxation avoidance conventions epitomises the basic principle of non-discrimination and intends to bring parity in business and investment opportunities among treaty partner countries and jurisdictions. Inclusion of provisions like MFN and non-discrimination clauses in tax treaties are intended to promote equity among treaty partners. In the context of tax treaties between developed and developing countries, the MFN clauses also act as negotiating tools to bargain for better treaty tax rates.

<https://www.southcentre.int/tax-cooperation-policy-brief-17-july-2021/>

The WTO TRIPS Waiver Should Help Build Vaccine Manufacturing Capacity in Africa (Policy Brief 97, July 2021)

By Faizel Ismail

The current global health crisis created by the COVID-19 pandemic has re-focused our attention on the inadequacy of the TRIPS agreement and the patent system to address global public health crises. This time, developing countries must ensure that the TRIPS waiver succeeds in creating the impetus for the building of manufacturing capacity in the poorest countries, especially in Africa, for vaccines, pharmaceuticals and other health technologies. This is the only effective way in which African countries can reduce their dependence on imports of essential medicines and build their health security, contributing to the achievement of the sustainable development goals, for the poorest countries.

<https://www.southcentre.int/policy-brief-97-july-2021/>

The Implementation of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas: what is next? (Policy Brief 98, July 2021)

By Luis Fernando Rosales Lozada

The UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP) was adopted in December 2018. However, its application seems challenging. The South Centre organized a virtual meeting to discuss the implementation of the UNDROP on 4th June 2021, aiming to promote a debate about future actions to move forward the implementation of the UNDROP. The meeting provided an opportunity to listen to the views of government representatives, peasants' associations, civil society organizations and academia. During the meeting, different questions were discussed such as how the current health and social crisis, caused by the COVID-19 pandemic, has impacted the situation of peasants, the role of the UNDROP in promoting and protecting peasants' rights, the latest developments in the realization of the rights of peasants under the UNDROP and what steps are needed to promote its implementation.

<https://www.southcentre.int/policy-brief-98-july-2021/>

Un nuevo tratado internacional de preparación y respuesta ante pandemias: ¿Podrá atender a las necesidades del Sur Global? (Informe sobre políticas 93, Julio 2021)

Por Germán Velásquez y Nirmalya Syam

Un reciente comunicado conjunto de 25 Jefes de Gobierno y el Director General de la OMS han pedido que se negocie un tratado sobre pandemias que permita a los países de todo el mundo reforzar las capacidades y resiliencia nacionales, regionales y mundiales ante futuras pandemias. La pandemia del COVID-19 ha demostrado la fragilidad de los mecanismos a disposición de la OMS para la preparación y la respuesta a las pandemias. Es necesario utilizar instrumentos vinculantes para promover y proteger la salud en el contexto de las pandemias. Si los Estados miembros de la OMS deciden que el camino a seguir es un tratado internacional para la preparación y respuesta a las pandemias, sería importante tener claro desde el principio los elementos y áreas que serán objeto de negociación. El primer paso debe ser identificar los aspectos de la preparación y la respuesta ante una pandemia que la crisis actual ha puesto de manifiesto que no funcionan, y cómo aprovechar los instrumentos existentes, especialmente el Reglamento Sanitario Internacional (RSI). Este documento analiza algunas de las principales cuestiones que deberían abordarse en un tratado de este tipo si se inicia la negociación, teniendo en cuenta las necesidades de países que están en diferentes niveles de desarrollo y con capacidades dispares para aplicar las obligaciones del tratado.

<https://www.southcentre.int/informe-sobre-politicas-93-julio-2021/>

Un nouveau traité international de l'OMS sur la préparation et la riposte aux pandémies: pourra-t-il répondre aux besoins des pays du Sud? (Rapport sur les politiques 93, Juillet 2021)

Par Dr. Germán Velásquez et Nirmalya Syam

Dans un récent communiqué signé par 25 chefs de gouvernement et le Directeur général de l'OMS, ceux-ci ont appelé à la négociation d'un traité sur les pandémies afin de permettre aux pays du monde entier de renforcer les capacités et la résilience des pays aux niveaux national, régional et mondial face aux futures pandémies. La pandémie de COVID-19 a démontré la fragilité des mécanismes dont dispose l'OMS pour se préparer et réagir aux pandémies. L'utilisation d'instruments contraignants pour promouvoir et protéger la santé dans le contexte des pandémies est nécessaire. Si les États Membres de l'OMS décident que le recours à un traité international de préparation et de riposte aux pandémies est la voie à suivre, il serait important de clarifier dès le départ les éléments et les domaines qui feront l'objet de négociations. La première étape devrait consister à identifier les aspects de la préparation et de la réponse aux pandémies dont la crise actuelle a révélé les inefficacités, et à déterminer comment s'appuyer sur les instruments existants, notamment le Règlement sanitaire international (RSI). Ce document examine certaines des questions essentielles qui devraient être abordées dans un tel traité si les négociations sont lancées, en tenant compte des besoins des pays à niveaux de développement différents et des capacités disparates pour mettre en œuvre les obligations découlant du traité.

<https://www.southcentre.int/rapport-sur-les-politiques-93-juillet-2021/>

The TRIPS COVID-19 Waiver, Challenges for Africa and Decolonizing Intellectual Property (Policy Brief 99, August 2021)

By Yousuf Vawda

The intellectual property (IP) regimes of African countries are a function of their colonial past, which imposed strong protections, and which have been entrenched through the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement). This has had a devastating effect on their ability to access necessary health products both before and during the current COVID-19 pandemic. It is important to reflect on the challenges that African countries face, before considering the implications of the WTO TRIPS waiver on COVID-19 (henceforth, waiver). In assessing the challenges faced by these countries, as well as the possibilities of improving access, this paper argues that while the waiver offers the best available solution to overcome the current supply shortages of a range of COVID-19 health products, in the longer term a break from this past—the decolonization of IP regimes—is necessary.

<https://www.southcentre.int/policy-brief-99-august-2021/>

EU Proposals regarding Article 31bis of the TRIPS Agreement in the Context of the COVID-19 Pandemic (Policy Brief 100, August 2021)

By Nirmalya Syam

This Policy Brief presents an analysis of the proposal by the European Union (EU) with regards to Article 31bis of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), as part of a Declaration on the TRIPS Agreement and Public Health in the circumstances of a pandemic. It discusses the EU's proposed clarifications, why Article 31bis does not provide an effective solution to promote access to pharmaceutical products and possible options.

<https://www.southcentre.int/policy-brief-100-august-2021/>

The Investment Facilitation Framework & Most Favoured Nation (MFN) Treatment (Policy Brief 101, September 2021)

By Peter Lunenborg

The issue of Investment Facilitation (IF) is one of the 'Joint Statement Initiatives' which has been under negotiation for a number of years between certain World Trade Organization (WTO) Members. It has not been without controversy as there is no multilateral mandate at the WTO for these negotiations. Questions have been raised about how the outcomes of these IF negotiations can be brought into the WTO framework. Despite these uncertainties, there is a draft Investment Facilitation Framework (IFF) text. This Policy Brief discusses the Most Favoured Nation (MFN) treatment as contained in Article 2 of the Investment Facilitation Framework (IFF), also referred to as the Investment Facilitation for Development Agreement (IFDA). This brief highlights the potential implications of the proposed text and proposes some options.

<https://www.southcentre.int/policy-brief-101-september-2021/>

Combatting Tax Treaty Abuse: Tools available under the BEPS Multilateral Instrument (Tax Cooperation Policy Brief 18, September 2021)

By Kuldeep Sharma, ADIT (CIOT,UK)

The anxiety of taxpayers, consultants and advisors over the consistent application of Principal Purpose Test (PPT) provisions in tax treaties can now be put to rest as tax authorities are expected to consistently read the PPT provisions in conjunction with the preamble, i.e. the key to application of PPT provisions lies in the preamble of the treaty itself. This follows on taking a leaf out of the Preamble to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion & Profit Shifting (MLI), Vienna Convention, Commentaries on PPT in the respective Organisation for Economic Co-operation and Development (OECD) and United Nations (UN) Model Tax Convention (MTC), 2017 and Australian Taxation Office's (ATO) instructions on PPT which abundantly highlight on conjoint application of the preamble in the course of invocation of PPT provisions. Now, the entire focus of extending treaty benefits has shifted to undertaking bonafide transactions and preventing double taxation as against a tendency of securing tax savings through tax avoidance. Therefore, PPT as read with the preamble can clearly be invoked to combat treaty-shopping arrangements, abusive tax planning and abusive tax avoidance arrangements or transactions. At the same time, tax authorities in any part of the world may not be inclined to invoke PPT as read with the preamble in respect of any arrangement or transaction when taxpayers are able to discharge their onus establishing that (below mentioned conditions to be satisfied in tandem):

- genuine business and commercial reasons for a transaction exist;
- a purpose for the transaction cannot be ascribed to non-taxation or reduced taxation through tax evasion or tax avoidance;
- despite no tax advantages, the transaction would be carried out exactly in the same way; and
- it cannot reasonably be considered that one of the principal purposes of the arrangement or transaction is to obtain treaty benefits and that the object and purpose of the treaty is getting defeated.

<https://www.southcentre.int/tax-cooperation-policy-brief-18-september-2021/>

O papel dos tribunais na implementação das flexibilidades do TRIPS: Supremo Tribunal Federal (STF) do Brasil declara inconstitucionais as extensões automáticas de prazos de patentes (Policy Brief 94, Setembro de 2021)

Por Vitor Henrique Pinto Ido

Este *policy brief* traz uma contextualização, um resumo e uma análise da decisão do Supremo Tribunal Federal do Brasil, de 6 de maio de 2021, que declarou inconstitucionais as extensões automáticas de prazos de patentes, revogando o Artigo 40, Parágrafo Único, da Lei de Propriedade Industrial do Brasil, de 1996. Conclui-se que esta é uma decisão histórica que contribui para a implementação de um regime de patentes mais equilibrado no Brasil, com impacto positivo no acesso a medicamentos no país. É um precedente importante no que se refere ao papel que os tribunais podem desempenhar na definição dos contornos da proteção à propriedade intelectual e das flexibilidades do Acordo TRIPS.

<https://www.southcentre.int/policy-brief-94-setembro-de-2021/>

Accelerating COVID-19 Vaccine Production via Involuntary Technology Transfer (Policy Brief 102, September 2021)

By Dr. Olga Gurgula

This policy brief explains that the currently discussed proposals at the WTO related to increasing the production of COVID-19 vaccines, including the EU proposal to clarify the use of compulsory licensing and the submission by South Africa and India on the intellectual property (IP) waiver, require complementary mechanisms to rapidly improve the production of COVID-19 vaccines that are urgently needed today. The key problem is that to accelerate the manufacture of COVID-19 vaccines, access to knowledge and know-how, that are protected by trade secrets owned by several pharmaceutical companies, is required. It is therefore important that governments implement an additional mechanism of compulsory licensing of trade secrets that would allow an involuntary transfer of COVID-19 vaccine technologies. Such a mechanism would be compliant with the TRIPS Agreement and relevant whether the TRIPS waiver is adopted or not agreed upon. While this mechanism must provide full access to the information necessary to manufacture the vaccines in question, it must also ensure the protection of the transferred trade secrets.

<https://www.southcentre.int/policy-brief-102-september-2021/>

Strong Intellectual Property Protection, Weak Competition Rules – or the Other Way Around to Accelerate Technology Transfer to the Global South? Ten Considerations for a “Prodevelopment” IP-Related Competition Law (Policy Brief 103, September 2021)

By Klaus D. Beiter

Competition law provisions relating to intellectual property (IP) rights should play an enhanced role in facilitating the domestic and international transfer and dissemination of technology. IP-related competition rules in the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) create an obligation for Member States to apply competition law in the IP context. TRIPS competition rules should be read in a “prodevelopment” fashion – IP rights need to be read reductively, IP-related competition law expansively. Ten considerations for a “prodevelopment” IP-related competition law are formulated.

<https://www.southcentre.int/policy-brief-103-september-2021/>

Developing Country Demands for an Equitable Digital Tax Solution (Tax Cooperation Policy Brief 19, October 2021)

By Abdul Muheet Chowdhary

The taxation of the digitalized economy is the foremost challenge in international taxation today. Countries around the world, especially developing countries, are struggling with taxing the rising profits of major tech giants which operate on entirely new business models that have made traditional international tax rules obsolete. A “Two Pillar solution” is being negotiated in the OECD / G20 Inclusive Framework on BEPS that seeks to update these rules, re-allocate taxing rights and

establish a global minimum tax. However, as it stands, the solution has very limited tax revenue benefits for developing countries and is administratively complex. For the solution to be durable, it must be equitable, and accordingly must incorporate the concerns of developing countries going forward.

<https://www.southcentre.int/tax-cooperation-policy-brief-19-october-2021/>

Some Key Elements for Developing Countries in Climate Change Negotiations of COP 26: Climate Finance, Article 6 Negotiations and Implications (Climate Policy Brief 26, October 2021)

By M. Natalia Pacheco Rodríguez and Luis Fernando Rosales

Human influence is deepening the climate crisis at an unprecedented pace. Developing countries' economies have been hit hard by the crisis caused by COVID-19. Means of implementation are crucial for them to contribute to the achievement of the Paris Agreement goal. Developed countries must fulfill their commitments to provide US\$ 100 billion per year by 2025 to climate finance. The latest years' negotiations have shown the importance of improving the reporting methodology and the need for an agreed operational climate finance definition. In turn, Article 6 negotiations offer an opportunity to ensure higher ambition of both mitigation and adaptation through cooperative approaches while respecting the agreed balance between market and non-market approaches. What should developing countries expect on these issues at COP 26?

<https://www.southcentre.int/climate-policy-brief-26-october-2021/>

Making the UN Tax Committee's Subcommittees More Effective for Developing Countries (Tax Cooperation Policy Brief 20, October 2021)

By Abdul Muheet Chowdhary, Sebastien Babou Diasso, and Aaditri Solankii

New United Nations (UN) Tax Committee Members have been appointed by the UN Secretary-General and among them 13 out of 25 are from developing countries. The Committee sets international tax standards, vital for financing for development, and works mainly through its Subcommittees. However, an unhealthy trend over time has been the disproportionate involvement of business representatives in the Subcommittees, which can be harmful for promoting the interests of developing countries. This policy brief examines this trend and outlines some of the tools available to developing countries to promote their interests in the Subcommittees.

<https://www.southcentre.int/tax-cooperation-policy-brief-20-october-2021/>

Compulsory licensing vs. the IP waiver: what is the best way to end the COVID-19 pandemic? (Policy Brief 104, October 2021)

By Olga Gurgula

This policy brief examines the currently discussed proposals at the World Trade Organization (WTO) that aim to resolve the problem of the production shortages of COVID-19 vaccines. This includes the two key submissions, ie the proposal by South Africa and India on the Intellectual Property (IP) waiver, partially supported by the United States (US), and the European Union (EU) proposal to clarify the use of compulsory licensing. While each of these mechanisms may help to improve the production of COVID-19 vaccines to various degrees, there is intense debate about which of these proposals is the most effective. This policy brief outlines the strengths and weaknesses of each of them with a view to informing the policy decisions by WTO Members on the best way to promptly accelerate the vaccine production that is urgently needed today.

<https://www.southcentre.int/policy-brief-104-october-2021/>

The International Treaty on Plant Genetic Resources for Food and Agriculture: Saving, Sharing and Taking Care of the Plants and Seeds that Feed the World (Policy Brief 105, October 2021)

By Dr. Kent Nnadozie

This Policy Brief provides an introduction to the International Treaty on Plant Genetic Resources for Food and Agriculture and its contribution to conserve, sustainably use and fairly and equitably share the benefits of plant genetic resources for food and agriculture, for sustainable agriculture and food security. The brief also provides an update on the involvement of the ITPGRFA in the prevailing issues under discussion in various biodiversity-related fora, including ongoing negotiations for a Post-2020 Global Biodiversity Framework, and response to the COVID-19 global pandemic.

<https://www.southcentre.int/policy-brief-105-october-2021/>

Strengthening WHO for Future Health Emergencies while Battling COVID-19: Major Outcomes of the 2021 World Health Assembly (Policy Brief 106, November 2021)

By Nirmalya Syam and Mirza Alas

The 74th World Health Assembly of the World Health Organization (WHO) took place in May 2021 in a time when developing countries had to confront a substantial surge in COVID-19 infections and fatalities, while continuing to face inadequate access to vaccines. Meanwhile, the majority of the global supplies were secured by a few rich countries, ignoring the pleas of the WHO Secretariat. However, even though discussions around the COVID-19 response and strengthening emergency preparedness and response dominated the Assembly, WHO Member States could not achieve any concrete outcome to addressing the question of equitable access to vaccines and other health technologies for COVID-19. In this context, this policy brief describes some of the major outcomes of the Assembly.

<https://www.southcentre.int/policy-brief-106-november-2021/>

Streamlining the Architecture of International Tax through a UN Framework Convention on Tax Cooperation (Tax Cooperation Policy Brief 21, November 2021)

By Abdul Muheet Chowdhary and Sol Picciotto

The architecture of international taxation at present is fragmented among multiple institutions. The UN Tax Committee, the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and the Global Forum on Transparency and Exchange of Information for Tax Purposes are some of the key institutions which set multiple and overlapping international tax standards. The lack of a genuinely global international tax body has long been a lacunae in the international economic system and a disadvantage for developing countries, who are unable to participate in international tax standard setting as full and equal participants. This has been borne out most recently by the Two Pillar Solution for taxing the digital economy that has come from the OECD/G20 Inclusive Framework. The G-77's renewed demand for a global tax body shows the issue continues to remain a priority for developing countries.

This Policy Brief provides a way for bringing the existing plethora of institutions under unified, universal and democratic control through a UN Framework Convention on Tax Cooperation (UN FCTC). This idea builds on the long-standing idea of a UN Tax Convention, which has also been recommended by the UN FACTI Panel. A UN FCTC would function similarly to the UN Framework Convention on Climate Change (UN FCCC), through a Conference of Parties (COP) which would give the existing institutions such as the UN Tax Committee and Inclusive Framework mandates to work on. In this regard, it would replace the narrow mandates of the OECD and G20 with mandates coming from all the Parties to the UN FCTC, which could be all countries, both developed and developing. A UN FCTC thus provides a practical and realistic way forward for a genuinely

universal, intergovernmental framework for international tax rule making under the auspices of the United Nations.

<https://www.southcentre.int/tax-cooperation-policy-brief-21-november-2021/>

The Doha Ministerial Declaration on TRIPS and Public Health on its Twentieth Anniversary (Policy Brief 107, November 2021)

By Nirmalya Syam, Viviana Munoz, Carlos M. Correa and Vitor Ido

This Policy Brief reviews the role of the Doha Declaration on TRIPS and Public Health in the twenty years since its adoption. It finds that the Doha Declaration has contributed to advance the use of the TRIPS flexibilities to promote public health and should be considered an important subsequent agreement to the TRIPS Agreement, despite the continuing challenges for WTO members to implement the TRIPS flexibilities in full. This brief also analyses the extent to which the Paragraph 6 System that became an amendment of the TRIPS Agreement as a new article 31 bis, pursuant to the Doha Declaration, has facilitated access to medicines and vaccines for countries with none or insufficient pharmaceutical manufacturing capacity. It finds that the system to date has not lived up to its promise. The Policy Brief recommends that WTO members assess and identify the challenges for the full use of the TRIPS flexibilities to promote public health, and advances that supplementary tools will need to be designed to never again allow such inequity in access to life saving vaccines and treatments as in the present COVID-19 pandemic.

<https://www.southcentre.int/policy-brief-107-november-2021/>

Potential Claims related to IP and Public Health in Investment Agreements: COVID-19, the Proposed TRIPS Waiver and Beyond (Investment Policy Brief 24, 9 December 2021)

By Cynthia Ho

An under-examined issue during the COVID-19 crisis is the potential liability of countries under investment agreements for taking steps to mitigate COVID issues. This Policy Brief provides an overview of how countries may be liable to companies for taking domestic action to protect public health, including pre-COVID claims related to Intellectual Property (IP), as well as possible claims because of COVID emergency measures, including claims that could result if the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) Waiver was adopted. The current COVID-19 crisis opens the opportunity to consider and reevaluate the unnecessary threat of international agreements that allow for investment claims and potentially consider their termination.

<https://www.southcentre.int/investment-policy-brief-no-24-9-december-2021/>

Conceptualisation d'un instrument multilatéral des Nations Unies (IML des NU) (Rapport sur les politiques en matière de coopération fiscale 15, Juin 2021)

Par Radhakishan Rawal

Les récentes modifications apportées au modèle de convention des Nations unies concernant les doubles impositions entre pays développés et pays en développement ont donné lieu à l'introduction de dispositions plus avantageuses pour les pays en développement en matière d'imposition des revenus, en permettant en particulier l'imposition des revenus étrangers. Il s'agit notamment des revenus tirés des services numériques automatisés, des rémunérations sur les logiciels, de plus-values et autres. Ces dispositions sont généralement intégrées, au terme de longues négociations, dans les conventions fiscales bilatérales. Une convention des Nations Unies, en tant qu'instrument multilatéral, permet en une seule négociation de modifier plusieurs conventions fiscales et contribue ainsi à ce que les pays en développement puissent percevoir plus rapidement des recettes fiscales. Le présent rapport sur les politiques examine la forme qu'un tel instrument multilatéral peut revêtir.

<https://www.southcentre.int/rapports-sur-les-politiques-en-matiere-de-cooperation-fiscale-15-juin-2021/>

Article 12B – Une solution de convention fiscale par le Comité fiscal des NU pour taxer les revenus numériques (Rapport sur les politiques en matière de coopération fiscale 16, Juillet 2021)

Par Rajat Bansal

L'imposition sur les revenus des entreprises multinationales dans des activités numériques par les juridictions de la source ou de marché est actuellement le défi le plus important pour la communauté fiscale internationale. La composition actuelle du Comité fiscal des Nations Unies a finalisé, en avril 2021, un accord de convention fiscale pour relever ce défi. Ce rapport explique la raison d'être d'une solution particulière consistant à insérer un nouvel article dans le Modèle de convention des Nations Unies, ses mérites et comment il peut être bénéfique pour tous les pays, en particulier les pays en développement.

<https://www.southcentre.int/rapports-sur-les-politiques-en-matiere-de-cooperation-fiscale-16-juillet-2021/>

Un albatros autour du cou des pays en développement – Clause NPF dans les conventions fiscales (Rapport sur les politiques en matière de coopération fiscale 17, Juillet 2021)

Par Deepak Kapoor, IRS

L'inclusion dans les conventions en matière de double imposition d'une clause de la nation la plus favorisée (« NPF ») est une incarnation du principe fondamental de la non-discrimination et vise à permettre aux pays signataires de tirer également parti des perspectives en matière de commerce et d'investissement. L'objectif de dispositions telles que les clauses NPF et de non-discrimination dans les conventions fiscales est de favoriser l'équité entre les différents pays signataires. Dans les conventions fiscales conclues entre pays développés et pays en développement, les clauses NPF servent également d'outils de négociation pour obtenir de meilleurs taux d'imposition.

Cependant ces clauses ont aujourd'hui des effets négatifs pour les pays de source des revenus, qui sont pour la plupart des pays en développement. Lorsqu'elles sont appliquées entre deux pays également développés, les clauses NPF ne constituent pas, généralement, une source de danger potentielle, mais lorsque la convention est conclue entre un pays développé et un pays en développement, où l'un des pays reçoit plus d'investissements de l'autre qu'il n'en réalise, le danger est réel. De fait, des difficultés sont apparues récemment en raison d'interprétations divergentes de ces clauses par les tribunaux, qui ont contraint les pays source à appliquer, sur la base des termes contenus dans la clause NPF, un taux d'imposition plus avantageux que celui prévu dans la convention fiscale et à modifier son champ d'application, remettant en cause l'objectif et l'utilité même des clauses NPF.

Il ressort des procédures judiciaires intentées en Afrique du Sud et en Inde que les clauses NPF peuvent aboutir à une réduction de la fiscalité et entraîner une érosion involontaire de la base d'imposition des pays de source des revenus. Le problème réside également dans la rédaction et la formulation ambiguë des clauses NPF, qui entraînent des répercussions négatives inattendues pour les pays ayant pris des engagements dans le cadre de ces conventions. Il est aujourd'hui urgent pour les pays source de procéder à un examen approfondi des clauses NPF figurant dans les conventions fiscales existantes, de la manière dont elles s'articulent entre elles et des retombées négatives qu'elles pourraient avoir sur d'autres conventions.

<https://www.southcentre.int/rapports-sur-les-politiques-en-matiere-de-cooperation-fiscale-17-juillet-2021/>

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/>

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/>

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)

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-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/>

Policy Paper on National Strategies for South-South and Triangular Cooperation (South Centre and IsDB Joint Publication, April 2021)

This paper was developed jointly by the Islamic Development Bank (IsDB) and the South Centre based on the concept of the Islamic Development Bank on National Ecosystems for South-South and Triangular Cooperation.

For developing countries to realize the full potential of South-South and Triangular Cooperation (SSTrC) for achieving their national sustainable development objectives, it is important to formulate national SSTrC strategies as part of their national SSTrC ecosystems. Such national strategies would serve as guidance for a country's SSTrC activities, initiatives and institutional framework, both as provider and beneficiary of SSTrC. This policy brief highlights the importance of developing national SSTrC strategies for achieving national development objectives and lays out the main elements that can be taken into consideration by developing countries for designing their national SSTrC strategies. While many developing countries do not have an explicit SSTrC strategy in place yet, the state of play shows that its elements can be found in various policies, institutional guidance and national development strategies. The absence of a holistic approach and a nationally acknowledged strategy carries the risk of fragmentation and incoherence in undertaking SSTrC activities. The potential of national SSTrC strategies for enabling effective responses to crises (such as COVID-19) is also explored.

<https://www.southcentre.int/sc-and-isdb-joint-publication-april-2021/>

Submission to the Special Session of the General Assembly on Challenges and Measures to Prevent and Combat Corruption and Strengthen International Cooperation

South Centre, 28 May 2021

The South Centre submission to UNGASS2021 highlights the need for strong inter-institutional and cross-sectorial coordination and more effective and open government tools. The UNGASS2021 should support the implementation of the FACTI Panel recommendations as means to enhance States' effort to combat corruption.

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

Propiedad intelectual y acceso a medicamentos: una introducción a cuestiones clave – algunos términos y conceptos básicos (Material de capacitación 1, Junio 2021)

Por Germán Velásquez

La propiedad intelectual y las patentes en particular se han convertido en uno de los temas más debatidos sobre el acceso a los medicamentos, desde la creación de la Organización Mundial del Comercio (OMC) y la entrada en vigor del Acuerdo sobre los Aspectos de los Derechos de Propiedad Intelectual relacionados con el Comercio (ADPIC). Las patentes no son de ninguna manera las únicas barreras para el acceso a medicamentos que salvan vidas, pero pueden desempeñar un papel significativo, o incluso determinante. Durante el período de protección de la

patente, la capacidad del titular de la patente para determinar los precios, en ausencia de competencia, puede hacer que el medicamento resulte inalcanzable para la mayoría de las personas que viven en los países en desarrollo. Este primer número de los “Materiales de capacitación del South Centre” pretende, en su primera parte, ofrecer una introducción a cuestiones clave en el ámbito del acceso a los medicamentos y la propiedad intelectual. La segunda parte describe y define algunos términos y conceptos básicos de esta área relativamente nueva de las políticas farmacéuticas, que son los aspectos comerciales de los derechos de propiedad intelectual que regulan la investigación, el desarrollo y el suministro de medicamentos y las tecnologías sanitarias en general.

<https://www.southcentre.int/material-de-capacitacion-1-junio-2021/>

Written Contribution to the United Nations Committee on the Economic, Social and Cultural Rights Draft General Comment on Land and Economic, Social and Cultural Rights (July 2021)

As mentioned by the UN Committee on Economic, Social and Cultural Rights (CESCR), the purpose of the general comment is to clarify the specific obligations of States parties relating to land and the governance of tenure of land under the International Covenant on Economic, Social and Cultural Rights (ICESCR). In line with such an objective, the South Centre is keen to submit the following written contribution to the draft general comment on Land and Economic, Social and Cultural Rights (draft general comment). It will consider some of the concerns that developing countries have raised in relation to their development realities and needs, mainly arising from the challenges they face due to the current COVID-19 pandemic crisis and the need for a fair and inclusive recovery.

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

Comments on the STATEMENT ON A TWO-PILLAR SOLUTION TO ADDRESS THE TAX CHALLENGES ARISING FROM THE DIGITALISATION OF THE ECONOMY (South Centre Contribution, August 2021)

The BEPS Monitoring Group, 31 July 2021

On 1 July 2021 a statement was issued by the OECD outlining the agreement reached through the Inclusive Framework of the OECD/G20 base erosion and profit shifting (BEPS) project. These comments by the BEPS Monitoring Group (BMG) aim to contribute to a wider public understanding of the issues involved. The BMG is a network of experts on various aspects of international tax, set up by a number of civil society organizations which research and campaign for tax justice including the Global Alliance for Tax Justice, Red de Justicia Fiscal de America Latina y el Caribe, Tax Justice Network, Christian Aid, Action Aid, Oxfam, and Tax Research UK. This report has not been approved in advance by these organizations, which do not necessarily accept every detail or specific point made here, but they support the work of the BMG and endorse its general perspectives. It is based on previous reports, and has been drafted by Sol Picciotto with comments and contributions by Abdul Muheet Chowdhary (Senior Programme Officer, South Centre Tax Initiative), Jeffery Kadet, Annet Oguttu, Sudarshan Rangan, Attiya Waris, and Francis Weyzig.

<https://www.southcentre.int/sc-contribution-august-2021/>

South Centre Submission to the 18th Session of the CGRFA (August 2021)

The South Centre presents its compliments to the Commission on Genetic Resources for Food and Agriculture (CGRFA) and is pleased to send to the Commission the following information on its programmes and activities relevant to the prioritized themes for the 18th session of the CGRFA.

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

Virtual Consultation in support of the UN Working Group's 2021 Report to the UN General Assembly on Human Rights-Compatible International Investment Agreements (Report, August 2021)

South Centre, 23 June 2021

Foreign direct investment (FDI) should support States' efforts to "bring the SDGs and goals of the Paris Agreement to life for all people, everywhere." However, achievement of these objectives is slowed down in the current situation where investor-State dispute settlement (ISDS) mechanisms are included in international investment agreements (IIAs). These mechanisms have increased the exposure of States to claims from foreign investors against regulatory measures taken to protect and guarantee a clean and safe environment, public health, human rights, social inclusion, and poverty reduction.

In the current scenario marked by the impact of the COVID-19 pandemic, FDI can be a valuable source of financing a better and fairer recovery, including investment needed to achieve the full realisation of all human rights. But to achieve this potential, there is a need to reshape the international investment regime, including through the reform of its substantive rules and standards, as well as of the ISDS mechanisms embedded in existing IIAs.

The South Centre and the United Nations Working Group on human rights and transnational corporations and other business enterprises convened a virtual consultation to identify and assess the different challenges developing countries face while negotiating or reforming IIAs in line with their international human rights obligations. The virtual consultation aimed at highlighting and discussing some of the most common concerns and challenges those developing countries face in the promotion of responsible investment practices, including an exploratory discussion about balancing the rights and obligations of investors in IIAs and safeguarding the sovereign right of States to regulate in the public interest for building back better and fairer in face of the COVID-19 pandemic. It also discussed possible reforms of the ISDS mechanism.

<https://www.southcentre.int/south-centre-report-august-2021/>

Patenting of Plants and Exceptions to Exclusive Rights: Lessons from European Law (Study, September 2021)

Biotechnology has increased the use of patent law to protect the outcomes of plant breeding. While the TRIPS Agreement allows countries to exclude the patentability of plants and essentially biological processes to obtain them, many developing countries are granting patents on plants and plant components, such as seeds, cells, and genes. These patents can limit access to plant materials for further research and breeding and prevent farmers from saving and re-using seeds that incorporate patented materials. This study shows how European legislation has sought to strike a balance between the protection of plant-related inventions and the rights of breeders and farmers through the introduction of specific exceptions to patent rights and discusses what lessons can be drawn for developing countries.

<https://www.southcentre.int/south-centre-study-september-2021/>

Contribution of the South Centre to the Report of the Secretary-General on the Implementation of UN General Assembly Resolution A/75/L.97 dated 9 June 2021 on the "Necessity of ending the economic, commercial and financial embargo imposed by the United States of America against Cuba" (September 2021)

This input by the South Centre is prepared in response to the UN Secretary-General's request as a contribution to the report of the Secretary-General as per resolution A/75/L.97, with respect to the imposition of unilateral economic, financial and trade measures against Cuba, in violation of basic principles of the UN Charter.

<https://www.southcentre.int/sc-contribution-to-unsg-report-on-us-embargo-against-cuba-2021/>

Comments on Draft Agenda of the UN Tax Committee (September 2021)

The South Centre welcomes the UN Tax Committee's invitation of public comments into its draft agenda and four-year work plan. By engaging the public in preparing the work plan, the UN Tax Committee's work can be more responsive to the needs of developing countries, and of UN Member States as a whole. By stating that "the goal to ensure that the Committee's agenda is practical and relevant to developing countries and includes the most pressing challenges they face in tax policy and administration" the Committee has shown a laudable intent which is also in line with its mandate, which is to give special attention to developing countries. The South Centre offers its written comments on the three topics on which inputs have been requested. These have been prepared based on consultation with the South Centre's Member States, which are exclusively developing countries.

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

International Taxation from Global South Perspectives (Report, October 2021)

By Badr Mandri, Sebastien Babou Diasso, and Aaditri Solankii

South Centre (SC) in collaboration with the Policy Center for the New South (PCNS) organized on October 13, 2021, a webinar on the issue of International Taxation from the Global South perspectives.

Tax revenue mobilization plays a key role in financing the economic and social development of countries. When well designed and implemented, tax policy can help developing countries raise revenue and increase their spending, especially in the social sector. Indeed, tax revenue as a share of GDP represent only 15% to 20% in low and middle-income countries, because of obstacles such as the imbalanced and complex international standards designed for developed countries, and the difficulties in collecting taxes in developing countries.

<https://www.southcentre.int/report-international-taxation-from-global-south-perspectives/>

A New Treaty on Pandemics: Some Key Issues from a Global South Perspective (Working Paper, 23 November 2021)

By Tamara Luciana Bustamante, Josefina del Rosario Lago, Mariana Magliolo, & Lucas Javier Segal, Facultad de Derecho, Universidad de Buenos Aires

In view of both the difficulty that negotiations on a possible new treaty will present for States of the Global South and their special needs, this paper aims to contribute by identifying and giving content to certain key issues —though not exhaustive— that should be taken into account by negotiators of a possible new treaty on pandemics or any other instrument on the subject in the future. The selected key issues are addressed through four cross-cutting questions: (i) Why is each issue relevant for the Global South, (ii) where it is currently regulated, (iii) what are the problems it entails, and (iv) how could a new instrument address them.

<https://www.southcentre.int/working-paper-on-pandemic-treaty-23-november-2021/>

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 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

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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/>

Technology and inequality: can we decolonise the digital world? (SouthViews No. 215, 6 April 2021)

By Padmashree Gehl Sampath

In this article, the author argues that techno-centric explanations of progress and industrialisation are deeply entrenched in a wider social context that encourages us to ignore the historical roots of current inequalities – which, in fact, are not amenable to a technological solution alone. Making the data economy work for all will require a serious reflection on how we want to frame this debate, and how to align ourselves to a common vision of social progress that technology could help to accomplish.

<https://www.southcentre.int/southviews-no-215-6-april-2021/>

An Introduction to the UN Technology Bank for the Least Developed Countries (SouthViews No. 216, 4 May 2021)

By Spring Gombe

Adoption, adaptation and diffusion of technology offer Least Developed Countries (LDCs) substantial potential to increase economic productivity and development and to narrow the technological gap with developed countries. It is in recognition of the need for sustained and sustainable mechanisms to enable the transfer of technologies between countries that the United Nations (UN) Technology Bank for the Least Developed Countries was born.

<https://www.southcentre.int/southviews-no-216-4-may-2021/>

Financing for development from the perspective of the right to development (SouthViews No. 217, 14 May 2021)

Summaries of two reports by Saad Alfarargi, Special Rapporteur on the right to development

In 2020, the United Nations (UN) Special Rapporteur on the right to development, Saad Alfarargi, submitted two reports, one to the UN Human Rights Council (HRC) and the other to the UN General Assembly, on the issue of financing for development (FFD) from the perspective of the right to development (RTD). The first report (A/HRC/45/15) analyzed national-level FFD, while the second report (A/75/167) focused on the international dimension of FFD. In both reports the Special Rapporteur highlighted relevant challenges, with a particular focus on how to ensure the meaningful participation of rights-holders.

<https://www.southcentre.int/southviews-no-217-14-may-2021/>

The Proposed Pandemic Treaty and the Challenge of the South for a Robust Diplomacy (SouthViews No. 218, 19 May 2021)

By Obijiofor Aginam

The motivation for a pandemic treaty is infallible because of the 'globalization of public health' in a rapidly evolving interdependence of nations, societies, and peoples. Notwithstanding the lofty purposes of the proposed pandemic treaty as a tool for effective cooperation by member-states of the WHO to address emerging and re-emerging disease pandemics in an inter-dependent world, the proposal nonetheless raises some structural and procedural conundrums for the Global South. The negotiation of a pandemic treaty should, as a matter of necessity, take into account the asymmetries of World Health Organization member-states and the interests of the Global South.

<https://www.southcentre.int/southviews-no-218-19-may-2021/>

Opportunities and Challenges: Tax Cooperation and Governance for Asia-Pacific Countries (SouthViews No. 219, 31 May 2021)

By Sakshi Rai

An informal technical meeting was organised on April 8th 2021 by the Secretariat of the High Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel) for tax officials from the Asia-Pacific, to discuss the relevance of the Panel's recommendations in the context of the region as well as to familiarise tax officials with its final report.

<https://www.southcentre.int/southviews-no-219-31-may-2021/>

Improve nexus rule for fair distribution of taxing rights to developing countries (SouthViews No. 220, 28 June 2021)

By Radhakishan Rawal

One of the open issues for Pillar One in the discussion on the taxation of the digital economy is the nexus threshold, which would determine which Multinational Enterprises (MNEs) have a taxable presence. Big developed economies or smaller developing economies both may be deprived of taxing rights as a result of nexus thresholds as presently described in the Pillar One proposal. Further, even where smaller thresholds are adopted, some countries may still be denied taxing rights. Financial threshold was never a parameter of distributing taxing rights between the countries. A minor tweaking of the tax certainty process could address the issue.

This article recommends giving the taxing right over Amount A of Pillar One, which covers the main portion of taxable profits from the digital economy to all the market jurisdictions, but to give rights related to affected tax jurisdictions only to those countries meeting the nexus thresholds. This approach will result in a fair distribution of taxing rights and will also ensure that there is no additional burden on the tax certainty process, which will be easier for developing countries.

<https://www.southcentre.int/southviews-no-220-28-june-2021/>

South-South and Triangular Cooperation: lessons from partnership between Argentina and Mozambique (SouthViews No. 221, 6 July 2021)

By Federico Villegas

This article reviews some fruitful South-South and Triangular Cooperation (SSTrC) initiatives between Argentina and Mozambique. The initiatives received political support from both countries and showed that the relationship between South-South Cooperation and Triangular Cooperation can be mutually reinforcing. SSTrC may channel financial resources from development partners to projects and initiatives that can produce highly effective development results.

<https://www.southcentre.int/southviews-no-221-6-july-2021/>

Development Priorities for Africa in 2021 and Beyond (SouthViews No. 222, 12 July 2021)

By Judith Amelia Louis

The author posits that Covid-19 is not the only major problem facing the global South and Africa in particular, although it is the most pressing for the times 2020-2021. The writer attempts to present important priority areas for attention by policymakers and decision makers at the national and regional levels in Africa within the context of the Covid-19 pandemic.

The paper recognizes that the social, economic, and political problems facing Africa are common to all its nation States and calls upon the African Union to play a more proactive role in shaping policy programs to address these persistent problems, including the crafting of statesmen genuinely committed to 'people-centered development'. The article discusses the issues impacting select priorities of socio-economic welfare; improved governance; human capital investment; regularization of migration and stemming the 'brain drain'. Suggested policy actions are prescribed as solutions towards achieving development. Urgent action in controlling their economies with the acquisition and retention of requisite skills and technology is the undertone of the paper given the picture of poverty characterizing basic needs data for the continent. For example, in the health sector there are shortages of medical personnel, a situation magnified by the Covid pandemic.

The author envisions Africa's development utilizing its vast untapped potential including, inter alia, a young population.

<https://www.southcentre.int/southviews-no-222-12-july-2021/>

Financial integrity for sustainable development: Importance of developing country joint action on tax, corruption and money-laundering (SouthViews No. 223, 14 July 2021)

By Dr. Ibrahim Mayaki

Countries are beginning to realize that the landmark agreement on the Sustainable Development Goals will be unrealized if financing is not found for the agenda. Much of that financing can be found if illicit financial flows are stopped. In March 2020, the Presidents of the United Nations General Assembly and Economic and Social Council convened a High-Level Panel on International Financial Accountability, Transparency and Integrity for Achieving the 2030 Agenda (FACTI Panel) to review global cooperation and recommend further actions by the international community as a contribution. Dr. Ibrahim Mayaki, the Co-Chair of the FACTI Panel, outlines the measures that the FACTI Panel recommended to combat tax abuse, corruption and money-laundering. He emphasizes the importance of developing countries taking a leading role in proposing solutions, and the value of inclusive international institutions. The text below is based on remarks that were made at a briefing to the Group of 77 and China in Geneva in April 2021, jointly

organized by the FACTI Panel Secretariat and the South Centre. The Panel's full report can be read at: <http://www.factipanel.org/report>.

<https://www.southcentre.int/southviews-no-223-14-july-2021/>

Vaccination inequalities and the role of the multilateral system (SouthViews No. 224, 19 July 2021)

By Carlos M. Correa

The COVID-19 crisis has evidenced the fragility of the multilateral system to address a global health challenge. There are multiple reasons behind it. Since donations are not enough, a global solution to the pandemic would have required concerted actions in several fronts. The author suggests that, while examining how the proposed "pandemic treaty" might contribute to a global solution in future health emergencies, immediate actions are needed.

<https://www.southcentre.int/southviews-no-224-19-july-2021/>

Vaccine Nationalism (SouthViews No. 225, 21 July 2021)

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.

<https://www.southcentre.int/southviews-no-225-21-july-2021/>

Issues in Financing Education as a Human Right: Central principles for public policy responses (SouthViews No. 226, 3 September 2021)

By Kishore Singh

The realization of the right to education requires adequate financing of education. Public policy responses to the need and importance of financing education remain inadequate. And now there is a trend towards decreasing public investment in education. Not only should States shoulder the primary responsibility for education under human rights law, but non-State actors should also invest in education because of corporate social responsibility. Besides, the need and importance of preserving education as a public good and public interest in education should be kept in the forefront as regards multi-stakeholders and provision of education through public-private partnerships. The role devolves upon the parliamentarians in shaping regional and global architecture. In the conclusion, the author proposes ten central principles for a Global Alliance to do the task of world-wide advocacy in support of the architecture for financing education.

<https://www.southcentre.int/southviews-no-226-3-september-2021/>

Ending Extreme Poverty by Ending Global Tax Avoidance (SouthViews No. 227, 29 September 2021)

By Abdul Muheet Chowdhary

The world is estimated to lose around USD 500-600 billion in revenues from corporate tax

avoidance each year. Ensuring that governments can collect this revenue through ending global tax avoidance will play a major role in ending extreme poverty. Overseas aid provided to developing countries focused on eliminating extreme poverty must therefore incorporate addressing tax avoidance, especially by Multinational Enterprises, as a core component of their efforts.

<https://www.southcentre.int/southviews-no-227-29-september-2021/>

Carving Out a Role for Human Rights in International Investment Law (SouthViews No. 228, 15 October 2021)

By Barnali Choudhury

The public health burdens that have been imposed on governments by Covid-19 serve as an important reminder of the importance for states to be able to regulate public health as well as other human rights issues. Commentators are already describing the myriad of investment arbitration claims that states may expect to face for their acts in handling the Covid-19 crisis. By carving out a role for human rights in international investment law, states can ensure that protection of human dignity, not property interests, will continue to be their ultimate objective.

<https://www.southcentre.int/southviews-no-228-15-october-2021/>

The Post COVID-19 Recovery: A Stringent Test for the Business and Human Rights Discourse (SouthViews No. 229, 25 October 2021)

By H.E. Ambassador Luis Benigno Gallegos Chiriboga

Although the global economic outlook seems to be improving for the rest of 2021 and 2022, such benefits seem to only affect developed economies, while furthering the gap with emerging markets and developing economies. This shows that 'recovery for all' will remain gloomy for several years, as access to the COVID-19 vaccine continues to showcase the global inequalities between the rich and the poor. In this scenario, States require to make full use of their regulatory and policy space to protect and promote the human rights of all people and persons in their jurisdictions, including the right to health, while safeguarding the necessary fiscal space towards guaranteeing development expenditures to build back fairer and better. It is time for reducing inequalities rather than increasing the gap between developed and developing nations.

<https://www.southcentre.int/southviews-no-229-25-october-2021/>

The Place of Multilateralism in Tax Reforms: Exclusionary Outcomes of a Purported Inclusive Framework (SouthViews No. 230, 25 November 2021)

By Alexander Ezenagu

Countries have come to accept the wide application of international tax rules in both their domestic and international tax affairs. However, where international tax rules fall short of the legitimate expectations of countries and fail to provide necessary guidance, countries may be compelled to seek other sources of guidance. In this paper, it is argued that in the absence and failure of international tax rules to provide adequate guidance and encourage a fair tax system, countries should not be prohibited from exercising their fiscal sovereignty.

<https://www.southcentre.int/southviews-no-230-25-november-2021/>

Waive IP Rights & Save Lives (SouthViews No. 231, 29 November 2021)

By Srividhya Ragavan

In October of 2020, when India and South Africa proposed a waiver from certain provisions of the TRIPS agreement, it was meant to increase local manufacturing capacity in these countries. The waiver was proposed as a tool to kick-start prevention, containment and treatment of COVID-19. While there is an imminent need to meet a growing supply-demand gap for all medical products, COVID-19 related products are urgently required in poorer nations to contain the pandemic. The waiver has an additional role to play in the larger trade schema. In enabling vaccination of populations across the globe, the waiver would be critical to normalize global trade. The paper below captures the benefits of the waiver and compares it with the existing flexibilities under the trade regime, being compulsory licensing.

<https://www.southcentre.int/southviews-no-231-29-november-2021/>

Améliorer des règles du nexus pour une répartition équitable des droits d'imposition pour les pays en développement (SouthViews No. 220, 28 juin 2021)

Par Radhakishan Rawal

L'une des questions posées dans le Premier Pilier sur les discussions sur l'imposition de l'économie numérique est le seuil du nexus, c'est-à-dire le lien de rattachement au pays, qui déterminerait quelles entreprises multinationales (EMN) ont une présence imposable. Les grandes économies développées ainsi que les petites économies en développement peuvent être privées de droits d'imposition en raison des seuils des nexus tels que décrits actuellement dans la proposition du Premier Pilier. De plus, même si des seuils plus petits sont adoptés, certains pays peuvent encore se voir refuser des droits d'imposition. Un seuil financier n'a jamais été un paramètre de répartition des droits d'imposition entre les pays. Un ajustement mineur dans le processus de certitude fiscale pourrait résoudre le problème.

Cet article préconise d'accorder le droit d'imposition sur le montant A du Premier Pilier, qui couvre la portion principale des bénéfices imposables de l'économie numérique, à toutes les juridictions du marché, mais d'accorder les droits destinés aux juridictions fiscales concernées uniquement aux pays atteignant les seuils du nexus. Cette approche se traduira par une répartition équitable des droits d'imposition et garantira également qu'il n'y ait pas de charge supplémentaire dans le processus de la certitude fiscale, ce qui sera plus facile pour les pays en développement.

<https://www.southcentre.int/southviews-no-220-28-juin-2021/>

Jamaica's Perspective on Reform of the Global Investment Regime (SouthViews No. 232, 10 December 2021)

By Omar Chedda

The Covid-19 pandemic has dealt a severe blow to the world economy, and in particular, Jamaica's economy, due to supply chain bottlenecks and reduction of tourism, on which Jamaica is heavily dependent. This is the context in which Jamaica is now reviewing its investment regime to ensure that investments contribute to recovery, building resilience and sustainable development, while improving investor rights and obligations in line with global trends.

<https://www.southcentre.int/southviews-no-232-10-december-2021/>

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