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Q5(c)

Why is the compromise reached at WTO regarding the Covid-19 vaccine manufacturing not a Trade Related Intellectual Property Rights (TRIPS) waiver?

UPSC Civil Services Mains 2023 · PSIR GS 2 · 10 marks · Comparative Politics

Comparative Politics: Nature and major approaches; political economy and political sociology perspectives; limitations of the comparative method.

Core demand of the question

- Comment on the WTO COVID-19 vaccine decision as a compromise rather than a TRIPS waiver
- Keep the answer within a 10-mark length

Revision summary

India and South Africa asked for a wide TRIPS waiver on COVID health products.

The 2022 Ministerial Decision was a limited, conditional easing for vaccines.

Tests and treatments were not given the same treatment.

Technology transfer, not only law, remained the production bottleneck.

The outcome was a compromise that preserved TRIPS more than it waived it.

Introduction

India and South Africa proposed a broad TRIPS waiver in 2020 so that patents would not block COVID-19 vaccines, diagnostics, and therapeutics. The **June 2022 Ministerial Decision** was a narrower, time-bound compromise. It was not the waiver as drafted.

Body

What a TRIPS waiver would have been

- A waiver would have suspended specified TRIPS obligations for a set of COVID products so that more producers could copy and export without each patent-holder's permission.
- Developing-country demand was for speed, coverage of vaccines plus treatments and tests, and simple eligibility.

What the 2022 decision was

- Members authorised a limited easing of compulsory-licensing rules for COVID-19 vaccines, with conditions on eligible members, duration, and notification.
- **Diagnostics and therapeutics** were left for later discussion, not covered in the same way.
- Legal complexity remained. Many manufacturers still needed technology transfer, not only a legal permission.
- Export and eligibility clauses were tighter than the India-South Africa text.

Comment

- **Keohane's regime view fits:** the WTO produced a bargain that kept the TRIPS regime standing rather than opening a hole in it.
- **Cox's view also fits:** intellectual-property order serving research firms in the core was protected while a public-health emergency was met with a minimum deal.
- India could still use existing TRIPS flexibilities and its own vaccine production. The political point is that the club did not rewrite IP for the South.
- Calling the outcome a waiver in headlines was inaccurate. It was a compromise that left TRIPS largely intact.

Flow diagram

India South Africa waiver 2020 -> WTO 2022 Ministerial
WTO 2022 Ministerial -> Limited vaccine CL ease
WTO 2022 Ministerial -> Diagnostics therapeutics deferred
Limited vaccine CL ease -> TRIPS regime still standing

Conclusion

The COVID-19 vaccine decision at the WTO eased some compulsory-licensing steps for vaccines. It was not the broad TRIPS waiver India and South Africa sought. The regime survived the pandemic with a narrow carve-out.

Facts & figures

October 2020 proposal

India and South Africa asked WTO members to waive TRIPS on COVID-19 medical products.

June 2022 Ministerial Decision

Time-bound, conditional authorisation related to compulsory licensing of COVID-19 vaccines.

TRIPS Article 31

Existing compulsory-licensing path that the decision tried to simplify in part, not abolish.

Diagnostics and therapeutics

Left outside the core 2022 vaccine compromise for later work.

COVAX and production

Supply initiatives that ran beside the legal fight; law alone did not fill factories.