

Regional Seminar on Public Health and Intellectual Property

Jakarta, Indonesia 18-19 September 2019
Sari Pacific, Jakarta



Concept Note

Pursuant to the WTO TRIPS Agreement (1994), many developing countries had to amend their patent laws to implement patent protection for pharmaceutical products for a minimum term of 20 years. This has impacted the freedom to operate for the pharmaceutical industries in developing countries which predominantly manufacture generic medicines which are significantly more affordable for patients than patented medicines. However, the flexibilities in the TRIPS Agreement, reaffirmed by the WTO Doha Ministerial Declaration on TRIPS and Public Health (2001), provide policy space for governments to adopt measures to advance public policy modulated according to national needs and priorities, particularly in relation to the access to medicines necessary to realize the human right to health.

Given the substantial effects that patents can have on competition and, hence, prices of medicines, the criteria that are applied to examine and grant pharmaceutical patents are extremely relevant for public health policies, and not only a matter of concern for patent and industrial policy. The report of the UN Secretary-General's High-Level Panel on Access to Medicines has specifically recommended to fully utilize the various TRIPS flexibilities in relation to health technologies, including strengthening the capacity of patent offices at both national and regional levels to apply rigorous standards of patentability that reward genuine innovations while taking into account public health needs.

The implementation of the TRIPS flexibilities also depends on multi-sectoral and multi-institutional policy interventions, including the Ministry of Health, Ministry of Commerce, Ministry of Foreign Affairs, Ministry of Industry, Ministry of Law and Human Rights, and the national intellectual property office.

In this context, the South Centre and the Centre for Policy Analysis and Development, Ministry of Foreign Affairs, Republic of Indonesia are organizing a two-day regional seminar for policymakers for sharing experiences about policy options pursued by relevant agencies at the global, regional and

national levels to make full use of the TRIPS flexibilities to support access to medicines. This seminar will share and assess the experience of negotiations related to intellectual property (IP) and access to medicines in the World Intellectual Property Organization, the World Health Organization and the World Trade Organization, as well as debates in several other international fora with policymakers from ministries of health, foreign affairs, trade and commerce, industry and national IP authorities from the South and South East Asia region, including participants from the ASEAN countries and the OIC. The seminar address key themes relevant to the contemporary IP and public health agenda in the South and South East Asia region and around the world, with a focus on TRIPS-consistent measures that may be adopted for enabling access to affordable medicines and on the role of different government departments in designing and implementing such measures.

Objectives and Outcomes

Objectives:

1. Discuss recent developments and debates on negotiations in international forums related to access to medicines and intellectual property;
2. Explore policy measures and strategies pursued by different agencies at the national, regional and multilateral level to fully utilize the flexibility of TRIPS Agreement related to patents on drugs in developing countries; and
3. Examine lessons learned and best practices of countries, especially developing countries, in achieving policy coherence for fully implementing TRIPS flexibilities.

Outcomes:

1. Strengthened understanding among diverse national agencies from the region on issues and strategies for implementing the TRIPS flexibilities to increase access to medicines;
2. Evidence, ideas, and policy recommendations on those specific issues, captured in the official workshop summary.

Topics

Topics that will be discussed in the Workshop includes:

- Policy coherence on trade, intellectual property and public health;
- Building policy coherence at the multilateral level;
- National and regional experiences of building policy coherence;
- Flexibilities in the examination of pharmaceutical patent applications;
- Experience of using compulsory licensing/government use authorization;
- Use of TRIPS Flexibilities relating to protection of test data against unfair commercial use;
- Experiences of the use of competition law and policy;



- Achieving policy coherence for use of TRIPS Flexibilities for access to medicines in the context of Universal health coverage.

Format, Timing, and Participation

The Workshop will be held in two days, 18-19 September 2019. While the Workshop's outcomes are captured in official summary and widely disseminated, the substantive discussions will take place in "off-the-record" sessions, abiding by the Chatham House Rule. This format will encourage and enables frank and focused discussion, as well as networking and knowledge sharing.

The Workshop will also bring together up to 35 representatives from governments from Asia including the Association of Southeast Asian Nations (ASEAN) member states, and the WHO SEARO member states and national participants from Indonesia.

Furthermore, the resource persons of the Workshop will be coming from the ministries or government agencies, academia, or other organizations dealing with foreign affairs, public health, and intellectual property.

