



# No Monopolies in a Pandemic

Internal Debriefing &  
IO/AC information sharing  
April 07, 2022



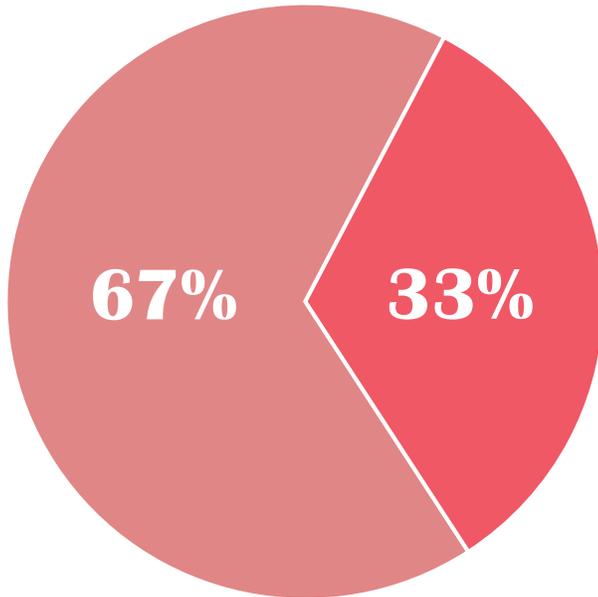
# How did the story begin?

- In March 2020, MSF PR calls for 'No Patents, No monopolies in a Pandemic'
- October 2020, initiated by South Africa and India, at World Trade Organization
- A proposal for temporarily allowing countries to put aside major intellectual property protection during the pandemic, to facilitate better production and supply of medical tools needed
- To date, officially sponsored by 65 developing countries, including all countries in Africa Group and Least-developed countries group; and supported by more than 100 countries in WTO
- Opposed by a group of countries, particularly high-income countries including
  - Outright oppositions: UK, Switzerland, EU (counterproposal on compulsory licensing)
  - Only supports vaccines: US
- Discussion about existing flexibilities being enough. (Latam)

# Pandemics and access to medicines

24 years after  
ART approval

HIV/AIDS

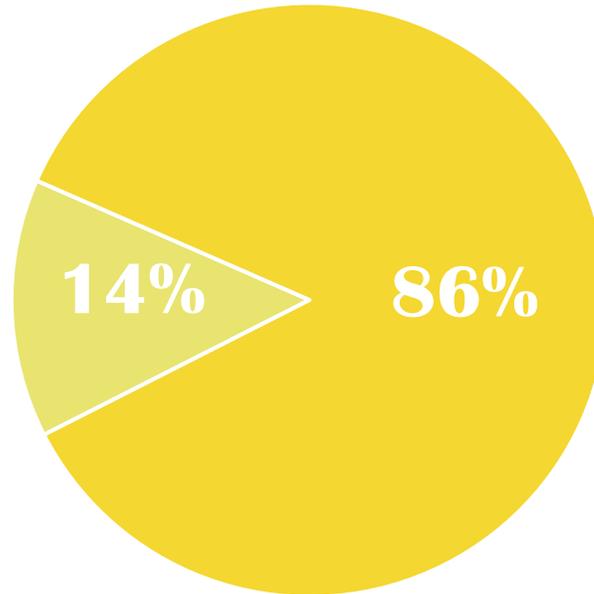


- People on treatment
- People without treatment

Source: UNAIDS  
-Global HIV & AIDS statistics, 2020 fact sheet

7 years after  
DAAs approval

Hepatitis C

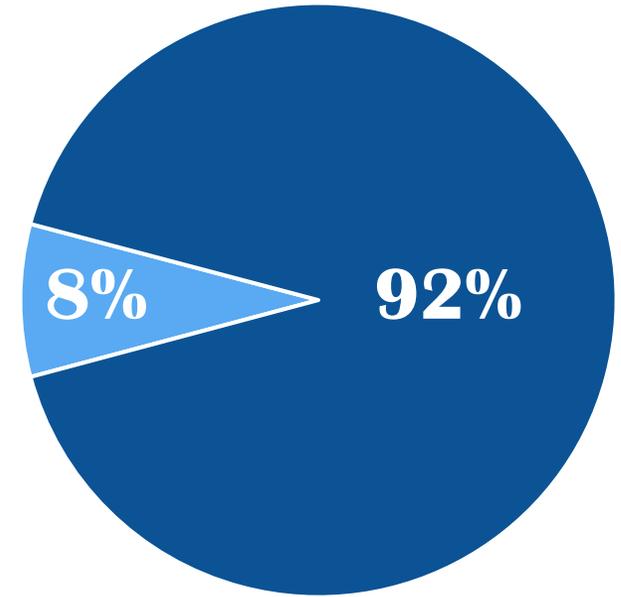


- People treated
- People without treatment

Source: DNDI  
Webinar World Hepatitis Day 2020

8 years after  
new TB drugs approval

Resistant - TB



- People treated
- People without treatment

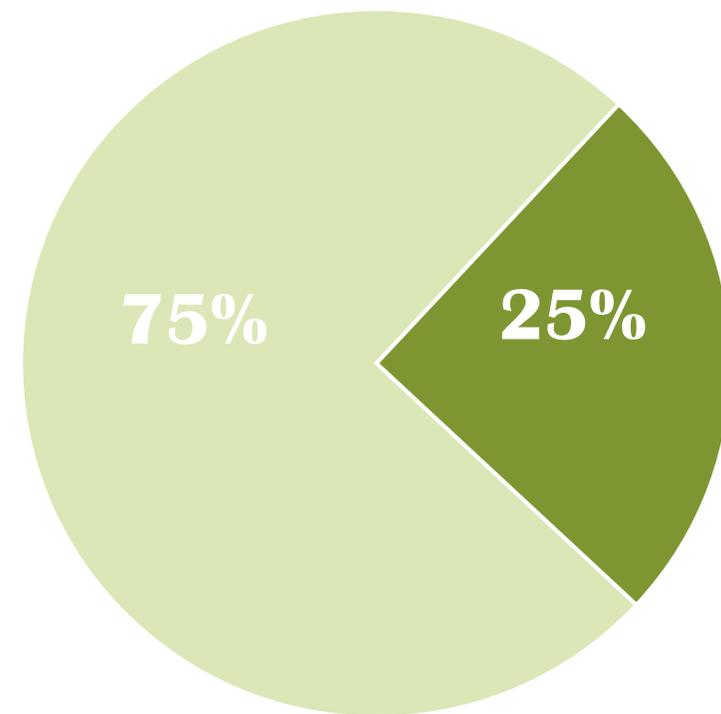
Source: MSF  
<https://www.doctorswithoutborders.org/what-we-do/news-stories/news/msf-calls-johnson-johnson-lower-price-life-saving-tb-drug>



# Pandemics and access to vaccines



## Pneumonia



- countries that introduced PCV
- countries that not introduced PCV

# Historical context

2003

**Resolution WHA56.27**

*Intellectual property rights, innovation and public health*

Commission on Public Health, Innovation and Intellectual Property Rights

**Public health**  
innovation and intellectual property rights

REPORT OF THE COMMISSION ON INTELLECTUAL PROPERTY RIGHTS, INNOVATION AND PUBLIC HEALTH



2006

**Resolution WHA59.24**

*Public Health, innovation, essential health research and intellectual property rights: towards a global strategy and plan of action*

Intergovernmental Working Group

**Global Strategy and Plan of Action**  
on Public Health, Innovation and Intellectual Property



2008

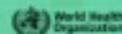
**Resolution WHA61.21**

*Global strategy and plan of action on public health, innovation and intellectual property*

Expert Working Group on Research and Development: Financing and Coordination

**Research and Development**  
Coordination and Financing

Report of the Expert Working Group



2010

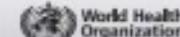
**Resolution WHA63.28**

*Establishment of a consultative expert working group on research and development: financing and coordination*

Consultative Expert Working Group on Research and Development: Financing and Coordination

**Research and Development to Meet Health Needs in Developing Countries: Strengthening Global Financing and Coordination**

Report of the Consultative Expert Working Group on Research and Development: Financing and Coordination



2016

**UN High Level Panel on Access to Medicines**

Report of the UNITED NATIONS SECRETARY-GENERAL'S HIGH-LEVEL PANEL ON ACCESS TO MEDICINES

*Promoting innovation and access to health technologies*



September 2016



# Why does MSF support the original Waiver?

- Historical lessons learned
  - Systemic deficiency to allow corporate control over producing and supplying lifesaving medical tools in responding to health crisis – experiences with HIV, hep C, TB, PCV
  - HIV/AIDs movement – addressing access and policy issues to enable better medical interventions and to save more lives
- Pandemic challenges
  - Need to leverage global capacity to ensure reliable and sustainable production and supply vs. Insufficiencies with monopoly-based production and supply model
  - Major legal risks on IP for raw materials, components, finished products, underlying technologies and process, need to remove rapidly and concurrently – limitations with existing legal tools
  - IP barriers (esp. patents, trade secrets) hindering options for local production and supply of medical tools, for instance, present challenges in Latin America on therapeutics
- Future implication – precedent setting for future health challenges
  - If successful, set a precedent to seek more health-centred law and policy to enable opportunities to depart from monopolising life-saving medicines
  - One of the critical policy issues on addressing IP and technologies, in the context of pursuing equity --- part of the ongoing WHO discussion on future architecture for health challenges and pandemic

# What now?

## Current state of play in the negotiation

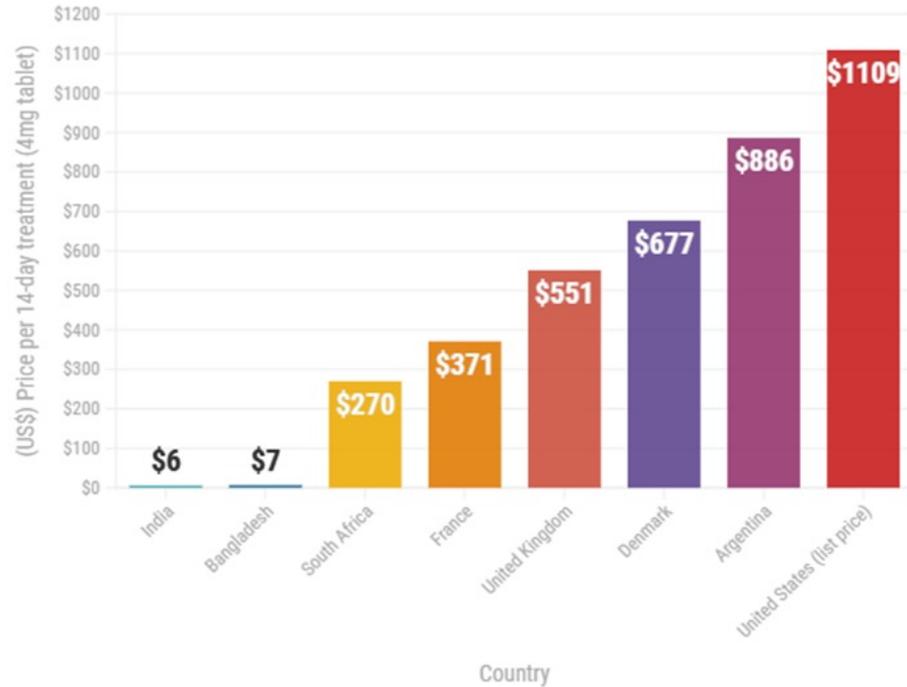
- **A leaked text emerged in mid-March 2022** from four parties negotiation – EU, US, India, South Africa
- Leaked text shows a dramatic turn from the fight for the TRIPS waiver, heading toward a dangerous precedent setting for future global health challenges
- WTO Ministerial Conference resumes in June 2022 – expecting outcome for the overall WTO response to the pandemic

## Access to COVID19 tools

- Vaccine inequity remains; some dose redistribution delayed due to resurging of cases and previous contract restrictions
- Treatment access challenges increasing alongside the emerging promising candidates
- Diagnostics gap remains for various reasons, lacking open sharing of technologies to stimulate local innovation and production as part of the reasons
- Restrictive voluntary licensing remains -- bringing more uncertainties for countries that have generic production capacity

# Access to COVID-19 treatments

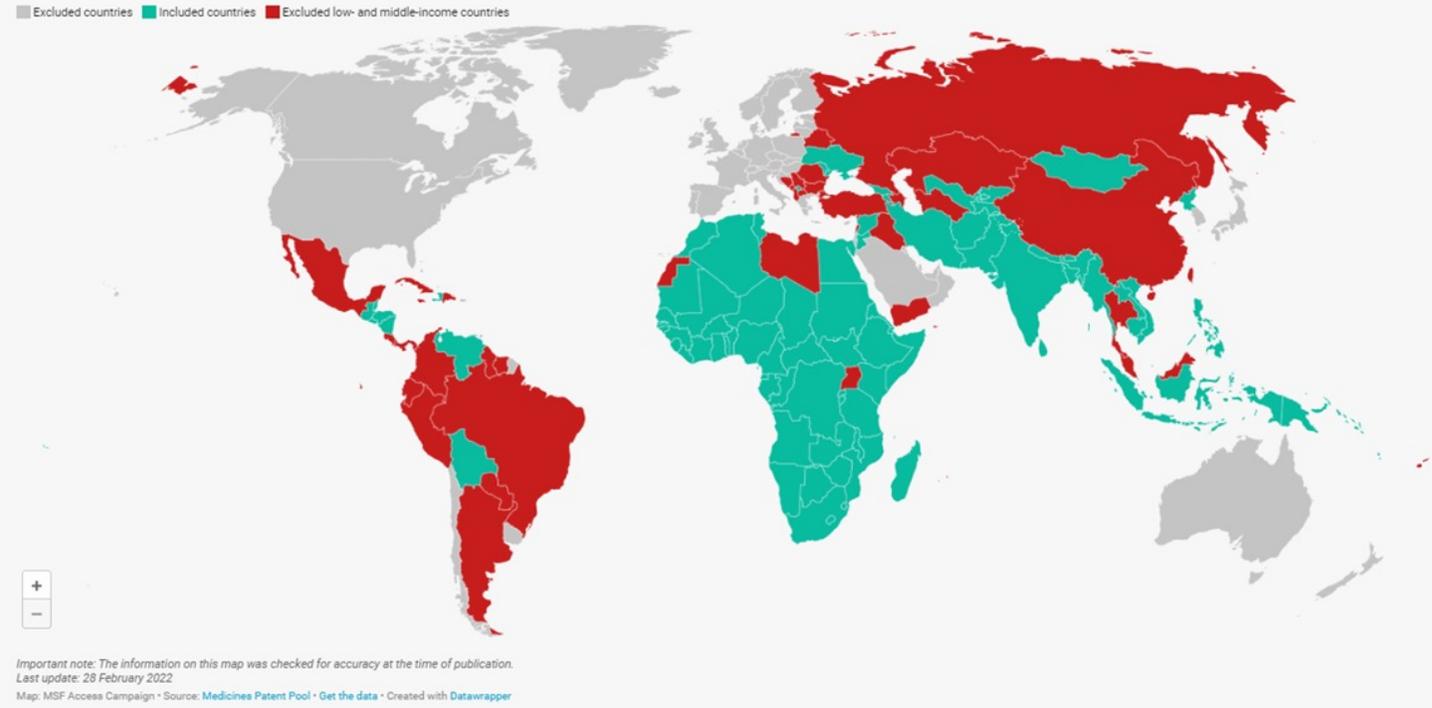
## Price comparisons for COVID-19 treatment baricitinib



Source: [Melissa J Barber and Dzintars Gotham, South African National Department of Health](#)  
Last updated: 07 March 2022

## Pfizer's licensing deal shuts out countries across the globe

In addition to countries across Central and Southeast Asia and the Middle East and North Africa, most Latin American and Caribbean countries have been excluded from the deal signed by Pfizer and the Medicines Patent Pool for the new COVID-19 drug nirmatrelvir/ritonavir. This means those countries will not be allowed to buy the Active Pharmaceutical Ingredient (API) to make the drug or the low-cost generic versions of this drug that are produced under the deal.



Source: <https://msfaccess.org/latin-america-how-patents-and-licensing-hinder-access-covid-19-treatments>

# The leaked text – setting a dangerous precedent if adopted

- MSF redlines

- Include all essential medical tools (esp. therapeutics, vaccines, diagnostics), their underlying technologies, components, materials, process of production
- Includes all major types of intellectual property – patents, confidential information/trade secrets esp.
- Includes all countries
- Sufficient duration to allow production and supply

- <https://msfaccess.org/msf-position-scope-and-duration-trips-waiver-covid-19>

- The leaked text -- no longer the waiver!

- Only covers vaccines (*i.e. US position*)
- Only covers compulsory licensing on patents (*i.e. EU position*)
- Does not waive any IP protection
- Limited possibility for export (+)
- **Introduces new and unnecessary obligations detrimental for all health challenges**
- Arbitrarily excludes countries – historical regression
  - Non-WTO member LMICs cannot import
  - Unclear whether includes LDC
  - Excludes China as the only developing countries vaccine exporter
  - Excludes all developed countries

- <https://msfaccess.org/neither-waiver-people-need-nor-solution-fit-pandemic>

# Our responses

## We urge WTO members

to reject the current text and pursue a more ambitious outcome for a game-changing waiver that **supports everyone, everywhere, for all medical tools,** in line with the original proposal put forward by India and South Africa.



- Technical analysis: <https://msfaccess.org/msf-comments-reported-draft-text-trips-waiver-negotiation>
- Press release: <https://msfaccess.org/msf-urges-governments-reject-draft-covid-19-text-wto-would-set-negative-precedent>
- Explainer listicle: <https://msfaccess.org/neither-waiver-people-need-nor-solution-fit-pandemic>
- Video explainer: <https://msfaccess.org/why-were-asking-governments-reject-leaked-text-covid-19-wto>
- Annotated text: <https://msfaccess.org/neither-waiver-people-need-nor-solution-fit-pandemic>

# Challenges in Latin America

- **Disproportionate mortality.** 1,6 million deaths, 28 % of total COVID-19 deaths – despite only 8.4 percent of the world's population living in the region.
- **Growing inequality:** 17 million people in Latin America moved into poverty in 2020. Worst economic recession in 120 years.
- **Abusive deals:** 13 countries had to change their laws to be able to accept conditions in vaccine purchase agreements
- **Exclusion from treatments:** Only 8 countries included in the Pfizer license. Most of the countries have patents granted for Baricitinib.
- **Failed political coordination:** Only 3 countries in the region have co-sponsored the original Waiver proposal.
- **Regional cooperation at risk:** Anti-diversion text will harm PAHO pooled procurement strategies

**Latin American countries need to push harder for a more ambitious outcome.**

Q&A

Thank you!

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[https://twitter.com/msf\\_access](https://twitter.com/msf_access)

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SHOULDN'T BE  
A LUXURY

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