

REF: Recommendations for the implementation of the COVID-19 Technology Access Pool (C-TAP).

Santiago, Chile, 30 December 2022

Dr. Tedros Adhanom Ghebreyesus
Director General
World Health Organization

Dear Director General,

Kind regards from NGO INNOVARTE, a non-profit organization based in Chile, dedicated to the promotion of a balanced intellectual property system that fosters development and ensures access to knowledge and health¹.

We are reaching out to you in light of the work we have been doing since 2020 as part of the COVID-19 Innovations For All (CIFA) coalition for the regional promotion of the C-TAP initiative.

Since the launch of the platform, NGO INNOVARTE has organized several instances in which it has not only sought to promote the participation in the initiative of research centers and technology holders in Latin America but has also sought to promote the development of public policies that encourage collaboration in this type of platforms, especially in the context of pandemics.

¹NGO INNOVARTE is a non-governmental organization, based in Santiago, Chile, whose mission is to build capacity to design, understand and use a balanced system of intellectual property rules that promotes, according to the Universal Declaration of Human Rights, the economic and social development of peoples. Website: <https://www.corporacioninnovarte.org>

The different experiences we have had in working towards the implementation of C-TAP have shown us that, if certain aspects of the initiative were strengthened, we could achieve greater effective participation in addition to those that have already materialized today with the provision of technologies by the Spanish National Research Council (CSIC) and the National Institutes of Health (NIH) of the United States.

Therefore, the purpose of this letter is to present, as a proposal, ways in which the C-TAP initiative could be strengthened and thus incorporate more technologies to the platform. The above with special emphasis on the recent study published by WEMOS "*Make pooling work to end pandemics: A qualitative analysis of the Covid-19 Technology Access Pool*"² which highlights how the lack of resources and political support, as well as the unwillingness of pharmaceutical companies, have led to the limited success of the World Health Organization's (WHO) Covid-19 Technology Access Pool (C-TAP). In this scenario, following the proposal of the aforementioned study, we believe it is important to emphasize these aspects of the study:

1) Be proactive in the search for relevant research and products:

C-TAP should actively seek out holders of intellectual property rights for relevant research and products. In this regard, we believe that the platform should target these right holders and actively pursue them by providing information about C-TAP and thus arouse their interest in licensing through its technology transfer mechanism.

2) Focus on government research institutes and those that receive significant public funding:

Member States can significantly influence public research institutes to license C-TAP on a voluntary basis, contrary to the case of private industry. Hence, it would be ideal if Member States simultaneously encouraged these institutes to collaborate with C-TAP with the simultaneous support of C-TAP in encouraging Member States to undertake this support.

² WEMOS (November, 2022) Report: Make pooling work to end pandemics: A qualitative analysis of the Covid-19 Technology Access Pool. Available: https://www.wemos.nl/wp-content/uploads/2022/11/Wemos_Make-pooling-work-to-end-pandemics_November-2022.pdf

3) Develop more concrete information material on C-TAP:

C-TAP should be promoted more intensively at the WHO and Member State levels, including among national funders, research institutes and private industry. In this regard, there is a need to develop more information material that can be used to inform research institutes and other interested parties about its structure, benefits, standard procedures and requirements for licensing a product (sharing intellectual property, R&D and clinical trial data, transparency requirements) and the necessary steps. The material would be in the form of a video, a user's guide and a manual, as well as further documentation on the C-TAP web pages on the WHO website. Ideally, a manual should be created that can be shared digitally with and by the different stakeholders.

4) The acceptance of products that do not yet have regulatory approval:

Technology transfer mechanisms should not be limited to focusing only on certain types of products or accepting only products that have obtained regulatory approval. In practice, convincing an IPR holder to license the technology transfer mechanism is easier in the early stages of research, before it enters the market as an approved product. Therefore, it is important to encourage open science by licensing research that may be useful in the future or that may contribute to the development of another product. As a result, C-TAP should actively seek and license products pending regulatory approval or research that may become useful.

5) Ensure a flexible and transparent governance structure:

The technology transfer mechanism should not have an overly bureaucratic internal governance structure. Leadership and delegation of tasks must be clear, with strong accountability and transparency requirements on the process. Working groups must remain adaptable and flexible to deal with emergency situations. Collaboration with external organizations such as the MPP (Medicines Patent Pool) should be encouraged but avoiding confusing third parties about the governance structure.

6) Ensure sufficient resources and encourage them through high-level promotion:

A technology transfer mechanism under WHO must be adequately staffed and funded. A variety of staff competencies are needed, from management and negotiation skills to recruitment and communication. High-level advocacy by WHO and the UN with Member States, backed by funding proposals and detailed operational strategies, is needed. To this end, we recommend that a high-level ambassador be appointed to carry out promotional activities and meet regularly with Member States, industry and delegations.

7) Advocate for a more active engagement of SC2A signatory Member States to promote C-TAP:

The WHO C-TAP initiative should advocate for more concrete measures and actions to be taken by the Member States that signed the Solidarity Call To Action (SC2A). These actions may involve Member States actively approaching publicly funded research centers and facilitating contact and communication with the C-TAP initiative. Governance structures should be put in place to facilitate interaction between C-TAP, IPR holders and the MPP. For instance, one strategy would be to establish national contact points and delegate this responsibility to a specific person to ensure longevity of contact and overview.

8) Provide a model agreement and a written overview of the costs of technology transfer:

The technology transfer mechanism should have a model license agreement available on its website. This agreement should provide an overview of the relevant clauses, terms of rights and exemptions, as well as which party should bear the costs of technology transfer, such as experts, equipment and travel. In addition, the different conditions under which a license may be agreed, such as global license, non-exclusive license and others, along with the possibility for IPR holders to benefit from royalties through the mechanism, need to be clarified.

The content of this letter is far from exhaustive, and we believe that it is essential to take into consideration the contribution that could be made by all the other actors who, in addition to us, have put their efforts into promoting C-TAP to help this initiative gain momentum and serve as an example for future pandemics.

We are grateful for the warm welcome and will be pleased to provide you with more information upon request.

Yours sincerely,

NGO INNOVARTE

CC: Erika Dueñas, Division of Access to Medicines & Health Products | Intellectual Property, WHO.