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FEATURED Q&A

Is Now the Time to Break Patents on Pharmaceuticals?



Some lawmakers in Latin America are moving toward compulsory licensing, or disallowing exclusive patents on medicines, amid the coronavirus pandemic. // Image: e-Magine Art.

Q Amid the coronavirus pandemic, legislators in Latin America have moved toward allowing pharmaceutical manufacturers to produce patented drugs without the consent of the patent holders, a process known as compulsory licensing. In recent days, the lower house of Chile's Congress approved such a measure almost unanimously, and Ecuadorean lawmakers are considering similar action. Will more countries in the region follow suit? Is compulsory licensing the right action to take in order to ensure the availability of potentially life-saving drugs? How significant are the drawbacks to such actions, and what are some best practices around compulsory licensing in the region?

A Andrew Rudman, managing director at Monarch Global Strategies: "It is always tempting to 'not let a good crisis go to waste' in pursuit of longstanding policy objectives. Activists across the Americas have long pushed governments to issue compulsory licenses (CLs) to address the tragic lack of access to essential medicines, which they falsely ascribe to intellectual property rights protections. Recent efforts assume that vaccines to prevent Covid-19 and medications to treat it will not be made available absent issuance of CLs. Yet the Doha Declaration on the TRIPs Agreement and Public Health already grants signatory governments the right to issue CLs when necessary. The Covid-19 pandemic brings to mind the 2009 H1N1 pandemic, which originated in Mexico. Rather than issuing a CL (which many would have viewed as entirely consistent with the Doha Declaration), the

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TODAY'S NEWS

ECONOMIC

Moody's Downgrades Mexico, Pemex

Moody's downgraded ratings for Mexico and for state oil company Pemex, citing concerns about the economy and the company's finances amid the coronavirus pandemic.

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BUSINESS

Colombia's Rappi Using Robots for Food Delivery

Colombia-based start-up Rappi is piloting a project to use robots for restaurant deliveries in Medellín.

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POLITICAL

New Figures Show Soaring Deaths in Ecuador's Guayas Province

Deaths since the beginning of March in Guayas province have quadrupled from their typical level, according to government data. Interior Minister María Paula Romo said the number of deaths from Covid-19 is likely much higher than the official count.

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Romo // File Photo: Ecuadorean Government.

POLITICAL NEWS

New Figures Show Soaring Deaths in Ecuadorean Province

New government data in Ecuador shows a soaring number of deaths in Guayas province, the home to the city of Guayaquil, which has been among the areas hardest hit by the novel coronavirus, The Guardian reported Friday. Since the beginning of March, 10,939 people have died in Guayas province, according to the new data. The figures amount to nearly a quadrupling of the province's typical death rate, the newspaper reported. The data suggests that Covid-19 may have killed far more people than government figures indicate. As of today, the government has recorded 9,468 confirmed cases of the highly contagious disease and 474 deaths related to it. Ecuadorean Interior Minister María Paula Romo said the actual number of deaths is likely much higher. "The number of deaths is totally out of the ordinary," she told The Guardian. Hospitals and mortuaries have been overwhelmed in Guayaquil,

with residents falling dead in the streets and grieving families being forced to live alongside loved ones' corpses or abandon them outside, the newspaper reported. Approximately 70 percent of Ecuador's cases of Covid-19 have been in Guayas province. At the same time, Ecuadorians who suffer from other illnesses, such as cancer and kidney failure, are struggling to get treatment as medical supplies have fallen into short supply and hospitals have suspended some services, Reuters reported, citing local officials and patients.

ECONOMIC NEWS

Moody's Investors Service Downgrades Mexico, Pemex

Moody's Investors Service on Friday downgraded Mexico's sovereign rating to Baa1 from A3, with a negative outlook, citing concerns about the country's economy amid the Covid-19 pandemic, El Universal reported. The credit ratings agency also lowered state

NEWS BRIEFS

IMF Approves \$327 Million in Emergency Financing for Bolivia Amid Pandemic

The International Monetary Fund's executive board has approved \$327 million in emergency support to Bolivia for it to address the coronavirus pandemic, the Fund said on Friday. Bolivia had requested the emergency financial assistance, which the IMF said would go toward medical needs and relief measures to preserve social protection spending, under a Rapid Financing Instrument. The lender said additional support from other partners will be crucial to help Bolivia address its fiscal and balance of payment needs.

LATAM Airlines to Cancel 95% of Flights in May

Chile's LATAM Airlines, South America's largest carrier, will cancel 95 percent of its planned flights in May, the company said on Friday, maintaining similar levels to its current operations as the coronavirus pandemic has eviscerated demand, Reuters reported. The airline said domestic flights schedules in Brazil and Chile will be minimal, and it will restart two international routes, from Santiago and São Paulo to Miami, after having canceled all international flights in April.

Colombia's Rappi Using Robots for Food Delivery

Colombian on-demand delivery start-up Rappi has started a pilot project using robots to deliver restaurant delivery orders in Medellín, the country's second-largest city, Reuters reported. The boxy robots, which allow for orders to be delivered without human contact amid the coronavirus pandemic, travel on four wheels and are outfitted with orange flags on their antennae. The company is using them to transport food orders that are paid for digitally. The robots are disinfected before and after each use, said Rappi.

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Mexican government worked with the two major manufacturers of patented antivirals to ensure adequate supply without undermining its intellectual property rights regime. Contrary to H1N1, where known antivirals had demonstrated their efficacy in treating the illness, no medications to treat Covid-19 have been identified (though some trials are underway). Further, while many countries do not impose tariffs on medications and vaccines, many apply tariffs on basic hygiene and cleaning products (even soap) of up to 25 percent. A more effective legislative approach to support national efforts to combat current and future pandemics would consider reducing or removing tariffs and nontariff barriers that impede access to essential products. Such steps, combined with increased public spending on health care, including to address chronic conditions,

such as diabetes and heart disease, would likely have a greater impact on health than adoption of nonbinding resolutions aimed at not-yet available vaccines and treatments."



Núria Homedes, executive director of Salud y Fármacos:

"Presumably, Covid-19 will propagate quickly in the region, affecting especially those in the informal economy, who reside in crowded and unsanitary conditions. In addition to the health problems, Covid-19 will result in hunger and social unrest. Most Latin American constitutions guarantee access to health and medicines. However, since most pharmaceutical innovation has been delegated to for-profit companies, most new drugs launch at prices well above \$100,000 per year or per treatment, rendering them unaffordable

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oil firm Pemex's rating to Ba2 from Baa3, also with a negative outlook, given the "continued deterioration" of the company's finances and operations, Moody's said, effectively pushing Pemex to junk status. The agency is the third to lower Mexico's credit rating in recent weeks, after Fitch downgraded the country's rating by one notch to BBB- last week, and S&P Global Ratings lowered Mexico's rating to BBB in late March. It was also the second ratings firm to strip Pemex of its investment grade rating, a move that is expected to bring forced selling of the company's bonds by holders required to have investment-grade assets, The Wall Street Journal reported. Pemex's debt stood at \$105 billion at the end of the last year, the highest debt load of any state oil company. "Moody's expects medium-term growth to remain depressed, even when removing this year's severe economic contraction due to the coronavirus shock, with the economy growing at best 2 percent on average in 2021-23," Moody's said. Mexico's finance ministry said the rating cuts were a result of a series of sovereign downgrades over the past month given the economic fallout of the coronavirus pandemic, noting that Mexico remains an investment-grade country, The Wall Street Journal reported.

BUSINESS NEWS

Brazilian Gov't Loans for Airlines Likely Not Ready Until May

Government loans for Brazilian airlines struggling amid the coronavirus crisis would only be ready in May, and not later this month as some had hoped, Reuters reported Friday, citing two sources familiar with the matter. The government has already publicly announced the loans, which Brazilian development bank BNDES is coordinating. Local airlines such as Gol Linhas Aéreas and Azul have confirmed the talks, suggesting loans of around 3 billion reais (around \$568 million). The carriers "cannot assume that they will come out with no scratches or without some sacrifices from a crisis like this," one of the sources told Reuters.

CAPITOL HILL WATCH

A Look at U.S. Congressional Activity on Latin America

Florida Representatives Condemn Cuba for 'Exploiting' Pandemic

U.S. Rep. Mario Diaz-Balart (R-Fla.), Rep. Francis Rooney (R-Fla.) and Rep. Debbie Mucarsel-Powell (D-Fla.) on April 10 released a joint statement "condemning the Cuban regime's exploitation of the coronavirus pandemic for political gain, its continued trafficking of Cuban medical professionals, and spreading disinformation abroad." The three Florida representatives say the Cuban government is exploiting the country's health care workers, sending them abroad for political and financial gain during the global health crisis. "The Cuban regime has shamelessly exploited this Covid-19 pandemic to engage in a misleading medical diplomacy campaign by trafficking doctors from whom they pocket as much as 80 percent of their salaries, confiscate their passports, and impose strict monitoring," the statement said.

Torres Blasts Trump Deportations to Guatemala Amid Covid-19

U.S. Rep. Norma Torres (D-Calif.) on April 16 criticized continued U.S. deportations to Guatemala, where she was born and which has announced that deportees coming from the United States have tested positive for coronavirus. There are conflicting reports, with some Guatemalan government officials saying at least 44 Guatemalans deported on a flight from the United States last Monday were infected with the virus, while the presidential spokesman has said the official number of deportees who tested positive for Covid-19 remains at five. "These #Trump deportations are spreading #COVID19 to an already unstable region and only causing more migrants to flee to the US," Torres said on Twitter. "From the start, #POTUS' deportation force has outsourced challenges to unprepared countries—and now they're exporting death," she added. Guatemala's foreign minister said last week that the Central American country would again stop deportation flights from the United States, just days after having resumed them.

Engel 'Pleased' With Renewed U.S. Aid to Central America, Criticizes Initial Cut

U.S. Rep. Eliot L. Engel (D-N.Y.), who chairs the House Committee on Foreign Affairs, said in a statement that he was "pleased" that the administration of President Donald Trump had decided to resume a large portion of U.S. assistance to Central America, while criticizing the administration's cut in the first place. "While I am pleased that a large portion of U.S. assistance will resume, our extended absence from the region will have severe long-term consequences," he wrote. "First and foremost, President Trump's failed policy toward Central America has been a gift to China and other external actors who have relished the void left by the United States," he added. Trump cut off U.S. aid to El Salvador, Guatemala and Honduras last year in a bid to pressure the so-called Northern Triangle countries to curb emigration to the United States.

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to governments and individuals. In Latin America, about 70 percent of all pharmaceutical expenditures are out-of-pocket. In this context, and while the World Health Organization and others advance in creating a patent pool for all Covid-19 related products, Latin American governments must respond to what appears to be an unsurmountable challenge. In the past, Brazil and Colombia threatened to issue compulsory licenses (CLs) to negotiate better prices; the Chilean Congress approved the measure, but the president did not act; and Ecuador issued several CLs with limited success. The U.S. government, despite having benefited from the greatest number of CLs, has used commercial and political measures to retaliate against all countries that have prioritized populations' health above the interest of corporations, even ones that are not U.S.-based. The tide is changing; medicine prices have become unaffordable for high-income countries, and some are actively discussing the need to break pharmaceutical patents. International commerce laws recognize the legitimacy of CLs in response to public health priorities. Ideally, Latin American countries with production capacity should issue CLs that enable them to export where products are needed."

A **Stephen Ezell, vice president for global innovation policy at the Information Technology and Innovation Foundation (ITIF):** "The coronavirus pandemic has policymakers worldwide scrambling for responses. While some solutions have been laudable—such as Brazil and Colombia exempting medicines, vaccines and medical supplies from import duties and taxes—policymakers in countries such as Chile and Ecuador have lamentably turned to promoting compulsory licenses (CLs) on intellectual property (IP). This is

misguided for a number of reasons. Most fundamentally, IP is simply not a barrier to access in this crisis. The reality, although the global life-sciences industry has gone into overdrive in the search for a coronavirus vaccine or treatment, is that we don't have it yet; in other words, the problem isn't IP, it's the lack of IP we need. It will do countries

“It will do countries very little good to issue compulsory licenses on IP that doesn't yet exist.”

— Stephen Ezell

very little good to issue compulsory licenses on IP that doesn't yet exist. When innovative companies do come up with coronavirus solutions, many, such as Johnson & Johnson, have said they'll offer treatments on a not-for-profit basis (obviating the 'IP makes medicines too expensive, thus justifying CLs' argument). In many cases, solutions will be rushed into global markets before IP rights are formally secured (getting a patent can take several years). Instead of compromising the innovative potential of their own life-sciences innovation ecosystems and discouraging novel IP from being introduced in their nations by undermining IP rights, policymakers in Latin American nations should focus on policies such as simplifying and accelerating customs procedures to smooth movement of Covid-related supplies and readying their health care systems for the widespread distribution of coronavirus therapeutics when they come."

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