IBERIAN MUN GENERAL ASSEMBLY

Officer Report 2020

*The question of the ownership of vaccine patents and intellectual properties during epidemics and pandemics.*

Even though this year’s theme “Health and Wellness” was primarily chosen because of the Covid-19 pandemic, the goal of this debate isn't to just improve the present medical field and solve the challenges it is facing, but to reflect upon and learn from past pandemics and prepare effectively for future ones. Hence, this agenda issue isn’t just focused on the search for one vaccine, but rather to develop a system, put in place restrictions and agree on requirements that will ensure that the race to develop vaccines aims to benefit society as a whole and not just individual companies nor authorities.

The first focus of this agenda issue are patents. These are rights granting exclusivity for an invention (which can be a product, idea or process), so that the idea has an owner and is not in danger of being replicated or stolen. In other words, once an invention has been patented, it cannot be manufactured, distributed nor sold without the permission of the person/organization who owns the patent (“Patents”). Nevertheless, these patents are in place over a limited period (usually 20 years) until they are eligible for renovation, and they are also territorial since their requirements vary based on national laws (“Patents”). These legal differences between different Member States must be acknowledged and delegates must strive towards a consensus, even if this means that exceptions to patent laws are opened for vaccines.

Bear in mind that patents are often associated with commercialized products whose owners are more interested in the financial gain, but vaccines’ value is humanitarian, and they can save lives, so delegates must be willing to compromise. Only by establishing global standards regarding the ownership, manufacturing and distribution of vaccines, will it be possible for all Member States, and their different socioeconomic classes, to have equitable access.

The second part of the agenda issue refers to intellectual properties (IP). This term encompasses all the mind’s creations (including symbols, artistic pieces, brand names, among many others) and their protection under the law ("What is Intellectual Property?"). An example of an intellectual property is the creation of a vaccine (hence the two topics being discussed in the same issue). Regarding intellectual properties, the goal is to agree upon a balance that protects individuals but doesn’t limit creativity. Delegates are encouraged to design a plan that promotes innovation in the design of vaccines which reaches remote geographic areas and fosters smaller businesses and labs. The aim is to reach out to as many platforms as possible and protect their work, in order to speed up the process of creating and commercializing the vaccine. Therefore, it is of utmost importance that delegates define a rank of which work sectors, socioeconomic classes, professionals, age groups (among other factors) will be administered the vaccine first.

Thirdly, the difference between a vaccine and a drug must be clarified. While drugs can undergo tests in laboratories to demonstrate their efficacy, vaccines are usually tested following the procedure of clinical trials (Friede). Additionally, vaccines are not generic and are subjected to being updated in accordance to the evolution of the viruses’ mutations (Friede). Vaccines are also more controversial (as evident from anti-vaccination movements worldwide), so delegates should look forward to informing and educating the masses on their importance.

One of the most recent movements revolving around vaccine patents is the “Open COVID Pledge”. It is being led by the EU and it aims to establish an open patent pool, meaning that organizations involved in the search for the vaccine should give up their patent rights for the time being (Stoianoff). It also calls for the vaccine to be free of charge (Stoianoff). Currently, this Intergovernmental Organization (IGO) is attempting to draft a resolution for the World Health Organization (WHO), but this action is being defied by Member States such as the United States of America (USA) and the United Kingdom (UK). Despite this effort, very few companies adhered to the pledge, so the most common form of research is through public-private partnerships, which amplifies the need to set limits between the ownership and power of both over the hypothetical vaccine. Note that a well-managed IP can benefit the private and public sectors equally, as shown by Figure 1. Other Member States involved in the race for a vaccine creation are China and Russia, but the pre-existing trade wars and sanctions with the West pose a threat to collaboration and foreshadow that a vaccine might be used as political leverage, so this is an issue delegates should aim to tackle (Harasimowicz).



Figure I: Cycle of IP creations and of the patent industry. (Source: Friede)

Another document of reference is the report “Intellectual Property and License Management with respect to Vaccines” from the World Health Organization. A warning included in this report is that there are laboratories that register patents under the domain “vaccine” without already having the creation ready. This document also stresses that the problem is not IP but rather its management, and that Member States need to reinforce education of IP in developing countries because there is lack of respect towards patents, lack of competing offers and extended time periods due to off the record negotiations (Friede). LEDCs should also read this document to know how the WHO can help their national vaccine manufacturers, including offering legal opinion and sponsoring patent lawyers. Remember that patents are not a barrier to existing vaccines and their production, so the focus of the debate is always the future. Delegates should also research the “Patent Cooperation Treaty”, which outlines the measures needed to acquire an international patent that might breach national law but consents to international needs.

Other treaties and events include the 2012 World Health Assembly Global Vaccine Action Plan that endorsed the Global Vaccine Action Plan (GVAP), the 2010 meeting between Médecins Sans Frontiéres and Oxfam, the World Intellectual Property Day initiated by the World Intellectual Property Organization (WIPO) and the TRIPS Agreement (Crager). The latter has supervision by the World Trade Organization (WTO) and came into effect in 1995, focusing on combating monopolies of the vaccine industry, promoting tiered pricing (which involves setting a price range for the vaccine) and regulating bulk purchasing (Crager). For external funding, the main contributor is the Global Alliance for Vaccines and Immunizations (GAVI)

Essentially, delegates should develop guidelines as to how vaccine manufacturers should proceed once they produce a vaccine and limit their power (through regulating the ownership of the patent) over the price of the vaccine and the destinations for distribution, in order to ensure that there is equity and the most vulnerable are not left behind.

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