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EUROPEAN PARLIAMENT ISSUES RESOLUTION ON WAIVER OF PATENTS ON COVID-19 VACCINES

In the currently ongoing discussions about waiving patent rights for authorized COVID-19 vaccines in order to accelerate vaccine availability, particularly for countries that are more heavily affected by the COVID-19 virus at this time, on June 10, 2021 the European Parliament issued a resolution after extensive debate.

In the resolution, the European Parliament stresses that the global response to health emergencies should encompass both a “needs-oriented ‘demand-side’ approach” providing joint financing and globally coordinated advance purchases, and an “integrated ‘supply-side’ strategy” for scaling up production capacity across the whole value chain. In this context, the European Parliament urges the European Commission to engage with vaccine-producing countries to rapidly eliminate export barriers.

The European Parliament also considers that investments should be made in the production capabilities of developing countries in order to make them more self-sufficient. In this context, the European Parliament believes that effective transfer of technology and know-how are required to make this happen, and in its resolution it emphasizes that voluntary licensing agreements and voluntary transfer of technology and know-how to countries with existing vaccine-producing industries should be incentivized, as these represent the best way to achieve this goal.

Also in its resolution, the European Parliament expresses the view that intellectual property protection is a key incentive for innovation and research across the globe, and that such protection is the basis for voluntary licensing agreements and the transfer of know-how. The European Parliament thus views the protection of intellectual property as an enabler of vaccine availability, rather than as a barrier to it. Indeed, faced with the potential unenforceability of patents, research-driven companies might opt to keep their inventions secret in order to protect them, which of course would be detrimental to one of the pillars of the patent system: the disclosure of inventions to the public. Thus, the European Parliament states that an indefinite TRIPS Agreement waiver would pose a threat to research finance, hitting researchers, investors, developers and clinical trials particularly hard.

For this reason, the European Parliament has asked the European Commission to draw up objective criteria to be applied when facilitating the use of compulsory licensing, where necessary, with a view to ensuring rapid global access to vaccine production, while reiterating that cooperation and voluntary licensing are the most effective tools to help expand vaccine production.

In its resolution, the European Parliament encourages a pragmatic approach to the vaccine shortage crisis by stressing the need to support manufacturing capacities on the African continent and the importance of an adequate regulatory framework for pharmaceutical products. In this context, the European Parliament supports the establishment of an African Medicines Agency and believes that local approval authorities should also be supported. Similarly, training local qualified medical and technical personnel to administer vaccinations, help with managing vaccine distribution chains, and assistance with overcoming limitations, ranging from cooling infrastructure to vaccine hesitancy, should also be supported by the European Union.

Overall, with its resolution the European Parliament seems to have struck a wise and practical balance between acknowledging the need for exceptional measures and actions to deal with the exceptional situation deriving from the COVID-19 pandemic, while refraining from disrupting the positive effects of the patent system on innovation and society at large. The position of the European Parliament reflects the significance attributed to the patent system by European organizations in general, including the European Patent Office.

The patent waiver debate will now continue at the World Trade Organization.