Progress or Profits?
The WTO's approach to pharmaceutical patents

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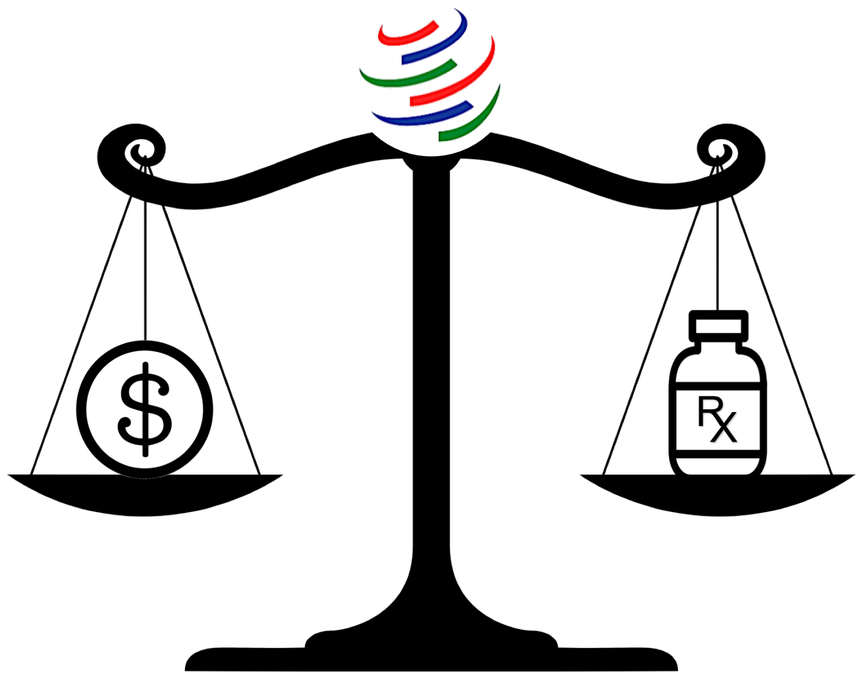

How does the World Trade Organization's approach to patent law affect the development and accessibility of pharmaceuticals worldwide?

Abstract

- Since the 1990s, WTO-lead trade agreements have contained provisions related to public health and intellectual property
- How have patent-related provisions affected global development and accessibility of pharmaceuticals?
- This project identified and contrasted the dominant narrative of the WTO and the counter narrative presented by outside sources
- The WTO insists that patents do not negatively affect pharmaceutical research or access to medicines because of public health flexibilities included in agreements since TRIPS and the Doha Declaration
- Other sources suggest that long patent terms have created monopolies and public health flexibilities have been underused
- The WTO is an authority on the intersection between health, IP and trade; it is responsible for using its status to improve the patent system for the betterment of global health

Key Terms

World Trade Organization (WTO)
An intergovernmental organization that negotiates trade and resolves trade disputes between its 160 member states

Trade Related Intellectual Property Rights (TRIPS)
A 1994 framework for intellectual property (IP) provisions included in WTO trade agreements

Doha Declaration
A 2001 clarification to TRIPS that identifies flexibilities in IP laws for public health purposes

Patent
An exclusive right to a product or process; the right can be held, licensed, or sold

Methodology

The dominant narrative came from the WTO itself, via its website and a 2012 report on medical innovation and intellectual property. The counter narrative came from investigative journalists and alternative media sources. The two narratives were compared in attempt to discover the true impact of the WTO on pharmaceutical development and access to medicines.

Findings

Dominant Narrative

- Patents are an incentive for pharmaceutical research and development
- Each member state can choose how TRIPS standards are implemented
- Flexibilities include compulsory licenses (permits use of a patent in an emergency or as a corrective measure) and research exemptions
- Most of the World Health Organization's essential medicines are not patented; for patented drugs, strategic licensing and tiered pricing can improve access to medicines in low and middle-income countries

Counter Narrative

- TRIPS has forced strong IP laws in the style of the American system
- Agreements like NAFTA and CETA are evidence of the lobbying power of the pharmaceutical industry; investor-state dispute settlement (ISDS) gives corporations the power to challenge local IP laws
- TRIPS flexibilities have been applied in few instances; WTO success stories are only of infectious diseases (AIDS, malaria, tuberculosis)
- Newly patented drugs are often limited to countries with lucrative markets; trade provisions have delayed the introduction of generics
- Medical innovation has slowed; less competition, more monopolies

Conclusion

- Historical and contemporary examples of trade agreements and patented pharmaceuticals show how the current patent system is flawed
- TRIPS flexibilities have not been used to their full extent; ISDS and lobbying have strengthened IP laws to the benefit of corporations
- The strong enforcement of patents is at odds with the key philosophy of the WTO, that lowering trade barriers leads to global prosperity and welfare
- While the WTO has positioned itself as a global health stakeholder, its current approach to patents places corporate profit over public health
- The WTO has a responsibility to model a version of international trade that is sensitive to global health issues