

## The never-ending story of access to medicines

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### Abstract:

Ever since the TRIPS Agreement became into force WTO member countries have had the need to implement minimum standards of protection, which extended IP right to pharmaceutical products and processes. The race toward balancing stakeholder's rights has been marked by the Doha Declaration, implementation of flexibilities, Medicine Patent Pool (MPP) efforts, and the Re:Search initiative by WIPO. However, we seem to be far from finding a one-size fit all solution.

Following the Millennium Goals, The Global Commission on HIV and the Law, the report Of The Commission On Intellectual Property Rights Public Health Innovation And Intellectual Property Rights, and the 2030 Development Agenda, the United Nations Secretary-General, on 19 November 2015 the appointment of the United Nations Secretary-General's High-Level Panel on Access to Medicines was announced. This panel "is to review and assess proposals and recommend solutions to remedying the *policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health in the context of health technologies that is impeding access and the right to health* for millions".<sup>1</sup>

Previous research has denoted the need to not only balance the potential policy incoherence but also to find suitable or a side system of incentives<sup>2</sup> to promote both further R&D and also to increase access to medicines. The corner stone question of all times, has been also addressed within the High-Level panel, 'how to promote innovation and increase access to medicines, vaccines, diagnostics and related health technologies in low-, middle-, and high-income countries.'<sup>3</sup> Thus this paper will review the on-going and traditional debate between patents as the right venue to foster pharmaceutical innovation, and the claim that the system in itself only raises the price of medicines while diminishing the trade-offs between innovation and access. The aim of the paper is threefold, first we will look at the 2030 Development Agenda, the High-Level Panel upcoming preliminary report, and the Trilateral Report (WIPO, WTO and WHO) Promoting Access to Medical Technologies And Innovation, to dissect on the current challenges or incoherence between policies (TRIPS) and public health concerns (access). The second part of the paper will address the feasibility in using open innovation as a tool to moderate the cost of R&D, and also the use of prize funds as an incentive to foster R&D in the field of neglected diseases. And the third part of the paper will draft the conclusions derived from the previous analysis while at the same time juxtaposing them to the suggestions given within the upcoming preliminary report from the High – Level panel aiming to find a possible solutions to tackle the incoherence between policies or to strike a balance between stakeholders rights.

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<sup>1</sup> United Nations Secretary-General's High-Level Panel on Access to Medicines, 'Terms of Reference: United Nations Secretary-General's High-Level Panel on Access to Medicines' UNDP and UNAIDS (2015), 1-5 at 3

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<sup>2</sup> Cadillo Chandler, D. 'The Role of Patents in the Latin American Development: Models of Protection of Pharmaceutical Patents and Access to Medicines in Brazil, Chile and Venezuela' (2014) 220-226

<sup>3</sup> Intellectual Property Watch, 'Brief: UN Initiative On Access To Medicines Calls For Contributions' from January, 1<sup>st</sup> 2016

<[www.ip-watch.org/2016/01/07/un-initiative-on-access-to-medicines-calls-for-contributions/](http://www.ip-watch.org/2016/01/07/un-initiative-on-access-to-medicines-calls-for-contributions/)> (accessed 26 January, 2016)