

INTERNATIONAL LEGAL INSTRUMENTS AS THE RULE OF THE GAME FOR THE TRADE IN COVID-19 VACCINE

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Abstract

This article discusses international legal instruments that guide the trade in COVID-19 Vaccine. After efforts to discover and develop COVID-19 Vaccine which in fact are in favor of developed countries and high-tech countries as well as rich countries and high-income countries, and then this condition continues to have an impact on the distribution and trade stages resulting in difficulty in accessing the COVID-19 Vaccine fairly and equitably for developing countries and least-developed countries. Tracking international legal instruments from upstream to downstream have been needed to form a comprehensive mindset and find the right of rule of the game of trade in COVID-19 Vaccine. Finally, it was found that various of international legal instruments in form of international agreement that were closely related to the trade in COVID-19 Vaccine is already available, as well as being able to frame the interest of developing countries and least-developed countries on a reasonable basis, that is the occurrence of a national health emergency due to the COVID-19 disease. The principle of pacta sunt servanda must be used as a basic reason that binding all world countries to obey and comply with the contents of international agreement in accordance with the legal will of the competent authorities through the ratification process of that international agreement.

Keywords: COVID-19 Vaccine, International Agreement, Trade.

Abstrak

Artikel ini membahas instrumen hukum internasional yang menjadi pedoman perdagangan Vaksin COVID-19. Setelah upaya penemuan dan pengembangan Vaksin COVID-19 yang notabene berpihak pada negara maju dan negara berteknologi tinggi serta negara kaya dan negara berpendapatan tinggi, kemudian kondisi ini terus berdampak pada tahapan distribusi dan perdagangan. mengakibatkan kesulitan dalam mengakses Vaksin COVID-19 secara adil dan merata bagi negara berkembang dan negara kurang berkembang. Tracking instrumen hukum internasional dari hulu ke hilir diperlukan untuk membentuk pola pikir yang komprehensif dan menemukan right of rule of the game of trade Vaksin COVID-19. Akhirnya ditemukan bahwa berbagai instrumen hukum internasional berupa perjanjian internasional yang erat kaitannya dengan perdagangan Vaksin COVID-19 telah tersedia, serta mampu meringkai kepentingan negara berkembang dan negara kurang berkembang atas dasar yang wajar, yaitu terjadinya keadaan darurat kesehatan nasional akibat penyakit COVID-19. Asas pacta sunt servanda harus dijadikan dasar alasan yang mengikat semua negara di dunia untuk tunduk dan patuh terhadap isi perjanjian internasional sesuai dengan kehendak hukum dari otoritas yang berwenang melalui proses ratifikasi perjanjian internasional tersebut.

Kata kunci: Vaksin COVID-19, Perjanjian Internasional, Perdagangan.

INTRODUCTION

The COVID-19 Vaccine is a health need for everyone during in pandemic period, and the goal is to strengthen the human body's immune system so that is able to fight SARS-CoV-2. According to WHO, in a press briefing that was held on 13 May 2020, Dr. Michael Ryan (WHO Emergency Director) said that SARS-CoV-2 is a new type of virus which is predicted not to disappear or will be in the world very long, and it could be that its existence will continue to coexist with human life.¹ The spread of the COVID-19 disease can only experience a decline, but it will still be endemic in certain groups of people, such as HIV which continues to exist today as an endemic in the middle of society.²

In August 2020, the UK Government approved pre-purchasing agreement for 340 million doses of vaccine from 6 different pharmaceutical companies, including Adenovirus ADZ1222 Vaccine (Oxford University-AstraZeneca and Janssen), mRNA 1273 Vaccine (BioNTech/Pfizer), Protein Adjuvant Vaccine (Sanofi-GlaxoSmithKline and Novavax), and *Whole Inactivated Virus Vaccine* (Valneva).³ The UK Government have a view that, ordering COVID-19 Vaccine from a variety of different producers is a safe policy, and it's related to the success or efficacy of the vaccine, limited supply (dosage) of vaccine, and the length of time to increase vaccine production that must be at stake.⁴

This article tries to finding the rule of the game that regulate trade in COVID-19 Vaccine, but still to attention the urgency of the need for COVID-19 Vaccine toward developing countries and least-developed countries. An inventory, including collecting and analyzing of legal materials is needed, to search, find, and understand comprehensively the legal issues that occur, starting from the international convention as a legal basis relating to human rights, the regulation of international trade law, to international agreement that relating to intellectual property rights, and also annexes derivatives for trade in COVID-19 Vaccine.

Access to COVID-19 Vaccine as a Human Right

Understanding the definition of health is a difficult thing, where previously the broad meaning has been mentioned in the Preamble of the WHO Constitution, which states that health is a complete physical, mental and social well-being, all of which are summarized as the highest health as a fundamental right and should be enjoyed by every human being regardless of race,

¹ World Health Organization, 'WHO Emergencies Press Conference on Coronavirus Disease Outbreak 13 May 2020' (*World Health Organization*, 2020) <www.who.int/docs/default-source/coronavirus/transcripts/who-pressconference-13may2020.pdf?sfvrsn=Od2cde_2> accessed 30 September 2020.

² *Ibid.*

³ Ingrid Torjesen, 'Covid-19: Pre-purchasing Vaccine- sensible or selfish?' (2020) 370 *The British Medical Journal*. [1].

⁴ *Ibid.*

religion, political beliefs, economic and social conditions, by fulfilling these, peace and safety can be achieved in them.⁵ In general, the right to health is a form of human right that has been guaranteed through Article 25 Paragraph (1) Universal Declaration of Human Rights, that every person has the right to an adequate life for the health and welfare of himself, and his family, including necessary health care and social services.

Table 1. Right to Health Definitions on Treaty in All Sectors⁶

	Number of Articles	Descriptions
ICERD Year 1965 ⁷	Article 5 (e): (iv)	The right everyone..... in the enjoyment of economic, social and cultural rights: the right to public health, medical care , social security and social services.
CEDAW Year 1979 ⁸	Article 1 (f)	The right to protection of health and to safety in working conditions , including safeguarding of the function of reproduction .
	Article 12 (1) and (2)	To eliminate discrimination against women in the field of health care in order to ensure , on basis of equality of men and women, access to health care services , including ensure to women appropriate services in connection with pregnancy.....
CRC Year 1989 ⁹	Article 24	The right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health..... followed by an enumeration of six measures to pursue full implementation of this right.
CRPD Year 2006 ¹⁰	Article 25 person with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability, followed by an enumeration of six measures.

Source: International Agreement of ICERD, CEDAW, CRC and CRPD

⁵ World Health Organization Constitution Year 1946

⁶ Jose M. Zuniga dkk., *Advancing the Human Right to Health* (Oxford University Press 2013).[8].

⁷ International Convention on the Elimination of All Forms of Racial Discrimination Year 1965 adopted and opened for signature and ratification by General Assembly of 21 December 1965.

⁸ Convention on the Elimination of All Forms of Discrimination against Women Year 1979 adopted and opened for signature, ratification and accession by General Assembly of 18 December 1979.

⁹ Convention on the Right of the Child Year 1989 adopted and opened for signature, ratification and accession by General Assembly of 20 November 1989.

¹⁰ Convention on the Rights of Persons with Disabilities Year 2006

The right to health is the main spotlight in this pandemic period. The viewpoint of the international law, prioritizing national needs is justified, especially on the basis of reasonable with the urgency of national health emergency handling which also requires the role of a sovereign government through its various policies.

Legal Standing of International Agreement and International Trade Contract

There are certain restrictions and criteria for an agreement (written) can be said to be an international agreement, if you have fulfilled “the international agreement definition” based on the Vienna Convention 1969 and Vienna Convention 1986, in Article 2 Paragraph 2: (a), that:¹¹

*An International Agreement concluded between States (and International Organization) in written form and governed by International Law, whether embodied in a single instrument or in two or more related instruments and whatever is particular designation.*¹²

There are three basic conditions for an agreement (written) as an international agreement, they are:¹³

1. An International Agreement, so the agreement must be international characterized, and not categorized as a national agreement.
2. Between States (and International Organization), the legal subject are countries and/or international organizations (excluding agreements between the government or states and multinational companies).
3. Governed by International Law, then the two conditions the agreement submits the international law regime, but the agreements subject to national civil law are not categorized as the international agreement.

The international agreement made between the subjects of the international trade law to conduct trade transactions, is usually known as “the international trade contract,” so this type of agreement can be used as a regulation of a commercial activity.¹⁴ It can be understood that, international agreements have characterized as a public law, namely in the form of “international legal instruments,” that are usually made and signed by the states and/or international organizations, and are used to regulate international trade traffic. Meanwhile, the international trade contract is the one of the sources of international trade law as the most important part of carrying out trade activities for the parties, which applies to binding and become laws for the

¹¹ Damos Dumoli Agusman, *Hukum Perjanjian Internasional: Kajian Teori dan Praktik Indonesia* (Refika Aditama 2017).[20].

¹² Vienna Convention on the Law of Treaties Year 1969 and Vienna Convention on the Law of Treaties Between States and International Organization or Between International Organization Year 1986.

¹³ Damos Dumoli Agusman.,*Ibid.*

¹⁴ *Ibid.*,[17].

parties who make, agree, and sign it,¹⁵ so this international trade contract have characterized as a private law. In this case, for example: APAs, agreement for pre-purchasing COVID-19 Vaccine, or other types of pre-production agreements are more precisely referred to as “the international trade law.” Apart from the clearly of legal standing of the international trade contract, the implementation trade in COVID-19 Vaccine must be designed with international legal instruments, both in the scope of international law in general and within the scope of international trade law in particular.

The establishment of the covenants initiates with agreement of both parties, at this point the principle of *pacta sunt servanda* is the underlying thing. *Pacta sunt servanda* which means promises must be kept, rooted in the freedom of contracts with the principle of autonomy according to the will of the parties involved as the subject of the law of the agreement, which requires that they are bound by what is promised in the agreement.¹⁶ The principle of *pacta sunt servanda* is the basis for the binding power of international agreements for the parties in carrying out international trading (COVID-19 Vaccine). Juristically, existence the principle of *pacta sunt servanda* is mentioned in Article 2 Paragraph (2) UN Charter:

All Members, in order to ensure to all of them the rights and benefits resulting **from membership, shall fulfill in good faith the obligations** assumed by them in accordance with the present Charter.¹⁷

As for Paragraph 3 Preamble Vienna Convention 1969 and Vienna Convention 1986 also mentioning the recognizing and universal applicability the principle of *pacta sunt servanda*¹⁸ in all form of international agreement. That the reason, why even through the parties are free to carry out trade in COVID-19 Vaccine, and on the basis the principle of *pacta sunt servanda* which binding the parties in international trade contract, still must follow the signs of an international agreement that have legal standing to regulate it based on the principle of *pacta sunt servanda* which applies to the international agreement. Finally, a common thread can be drawn that international agreement and international trade contract have the same and equal legal standing as the rule of the game in international civil law relations between parties carrying out commercial activity, like as trade in COVID-19 Vaccine.

¹⁵ *Ibid.*, [20].

¹⁶ Nury Khoiril Jamil, ‘Implikasi Asas Pacta Sunt Servanda Pada Keadaan Memaksa (Force Majeure) Dalam Hukum Perjanjian Indonesia’ (2020) 8 Jurnal Kertha Semaya.[1048].

¹⁷ Charter of the United Nations and Statute of the International Court of Justice Year 1945

¹⁸ Vienna Convention on the Law of Treaties Year 1969 and Vienna Convention on the Law of Treaties Between States and International Organization or Between International Organization Year 1986.

Implementation of Special and Differential Treatment of Trade in COVID-19 Vaccine

One of the international legal instruments regulating the international trade is the WTO Agreement which is under the auspices of the World Trade Organization, known as WTO. In its development, the WTO Agreement can be said to be a successive agreement from GATT, which is integrated through the rules of trading in goods (Multilateral Agreement on Trade in Goods).¹⁹ As need to know, that WTO Agreement has 4 annexes, where in the Annex 1A and Annex 1C in sections of the WTO Agreement are two general rules of international trade that are closely related to the trade in COVID-19 Vaccine.

Legal consequences that arise, after member countries ratify the Agreement Establishing the World Trade Organization and WTO Agreement, so member countries or States Parties of the WTO are obliged to adhere to the TRIPs Agreement as the minimum standard that is enforced in their national law. A broader result is the occurrence of competition between world countries that both adopt and submit towards the TRIPs Agreement, so developing countries become increasingly difficult to obtain (access) pharmaceutical industry products in order to fulfill the needs of the right to health for citizens in their territories, whether it is due to inadequate technological sophistication or the lack of financing (budget) to buy these pharmaceutical products, which is exacerbated by the patent of pharmaceutical products. In other words, developing countries are at an unfavorable condition as a result of the increasingly clear technological gap between developed countries and developing countries, especially patents in the health sector which hinder the access of poor people in developing countries to get essential medicine,²⁰ because the selling price of patented medicines is higher so people with low buying power is unable to reach them.

Apart from the various consequences of TRIPs Agreement for the States Parties, the international community needs to notice the asymmetric conditions of the international society, as well as strive to empowering and equalize competitiveness in order to create a condition of reasonable free competition.²¹ The application of classical liberalism (Adam Smith) freedom for economic actors to pursue their own personal interests.²² But the equal condition of all competition participants are required for free and open competition, which in the end results in a market system automatically created through natural circulation in the market.²³ More concretely,

¹⁹ Hata, *Perdagangan Internasional Dalam Sistem GATT dan WTO: Aspek-Aspek Hukum dan Non Hukum* (Refika Aditama 2006).[87].

²⁰ Putu Ayu Sriasih Wesna, 'Doha Declaration sebagai Perlindungan Masyarakat atas Akses Obat Esensial di Negara Berkembang Pasca TRIPs Agreements' (2020) 14 Jurnal Kertha Wicaksana: Sarana Komunikasi Dosen dan Mahasiswa.[57].

²¹ Ida Bagus Wiyasa Putra dkk., *Hukum Perdagangan Internasional* (Refika Aditama 2017). [47].

²² Muslim Mufti, *Ekonomi Politik* (Pustaka Setia 2018).[19].

²³ *Ibid.*

this issue is seen in the two main principles of international trade law according to the WTO, as follows:²⁴

1. Principle of non-discrimination, reciprocity and tariff reduction, and
2. Principle of safeguard, special treatment and exclusion of developing countries and least-developed countries.

After view these matters, it requires that, special treatment for developing countries is appropriately recognized in various international agreement, the main purpose is to balance capabilities and resources between developed countries and developing countries, as this is confirmed by Charter of Economic Rights and Duties of States. Basically, it is explained that international cooperation and providing active assistance to developing countries is the common goal and duty of all countries world to accelerate their economic and social development. In addition, developed countries are also required to improve the system of non-reciprocity and preferential tariffs for non-discrimination to developing countries, as well as to prohibit actions that have a negative impact on the economic development of developing countries, with the main purpose of providing more special treatment that profitable in fulfilling in trade and development needs of developing countries.²⁵ In short, based on Article 17, 18 and 19 Charter of Economic Rights and Duties of States so provision of special treatment for developing countries is certainly a matter of reason because of the economic disparity between developed countries and developing countries.²⁶ WHO Ministerial Conferences have also demonstrated the existence of special and differential treatment for developing countries, such as:²⁷

1. WTO Ministerial Conference I in Singapore (1996), which recognizes the importance of integrating developing countries into the multilateral trade system to expand world trade, for example by means of import duty-free access, encouraging favorable investment conditions for developing countries, or expanding access to exports of products from developing countries to developed countries market.
2. WTO Ministerial Conference II in Geneva (1998), which given attention to the marginalization experienced by least-developed countries and small economics countries towards a number of debts that grip these countries, by increasing market access for export products of least-developed countries.

²⁴ Ida Bagus Wiyasa Putra dan Ni Ketut Supasti Dharmawan, *op.cit.*[48].

²⁵ Charter of Economic Rights and Duties of States Year 1974, the General Assembly resolution 3281 (XXIX).

²⁶ Huala Adolf dkk., *Prinsip Hukum Perdagangan Internasional: Kebijakan Subsidi dan UMKM* (Refika Aditama 2018).[20].

²⁷ Hata, *op.cit.*[241-248].

3. WTO Ministerial Conference III in Seattle (1999), which failed to be held due to large demonstrations in the United States of America, but this negotiation was actually to discuss the problems faced by least-developed countries.

Table 2. the General Principle on the TRIPs Agreement²⁸

	Number of Articles	Descriptions
Principle of Minimum Standard	Article 1 (1)	TRIPs Agreement is the minimum standard for the national laws of Member States.
Principle of National Treatment	Article 3	Each Member States must provide equal treatment to citizens of other Member States.
Principle of Most-Favored Nation	Article 4	Any form of intellectual property rights protection, interest, assistance, privileges or immunities given to nationals of other Member States must be granted unconditionally (the same) to citizen of all Member States.
Principle of Territoriality	Article 1 (1), Article 8 (1) and (2)	Intellectual property rights are regulated based on the sovereignty and jurisdiction of each Member States.
Principle of Technology Transfer	Article 7	The occurrence of technology transfer to the development of technological innovations for the common interest.
Principle of Protection the Public Health and Other Public Interest	Article 8 (1)	Member States are given the freedom to adopt important measures aimed at protecting public health and nutrition, as well as the public interest in vital economic and social sectors and technological development.

Implicitly, implementation of special and differential treatment on TRIPs Agreement can be seen in various forms, for example: giving a period of time in implementing TRIPs Agreement to the national law for developing countries and least-developed countries [Article 65 Paragraph (4) and Article 66 Paragraph (1)], obligation to transfer technology [Article 66 Paragraph (2)], or technical cooperation for the establishment of national legal instrument concerning intellectual property rights [Article 67].

Interpretation of Special and Differential Treatment of the TRIPs Agreement through the Doha Declaration

The provisions of the TRIPs Agreement regarding special and differential treatment or preferential treatment for developing countries and least-developed countries are abstract arrangements, and are only in the form of an appeal, so that in their implementation, they certainly require provisions that are technical and more concrete, such as international covenant

²⁸ A. Zen Umar Purba, 'TRIPs dan Negara-Negara Berkembang' (2004) 1 Indonesian Journal of International Law.[247-256].

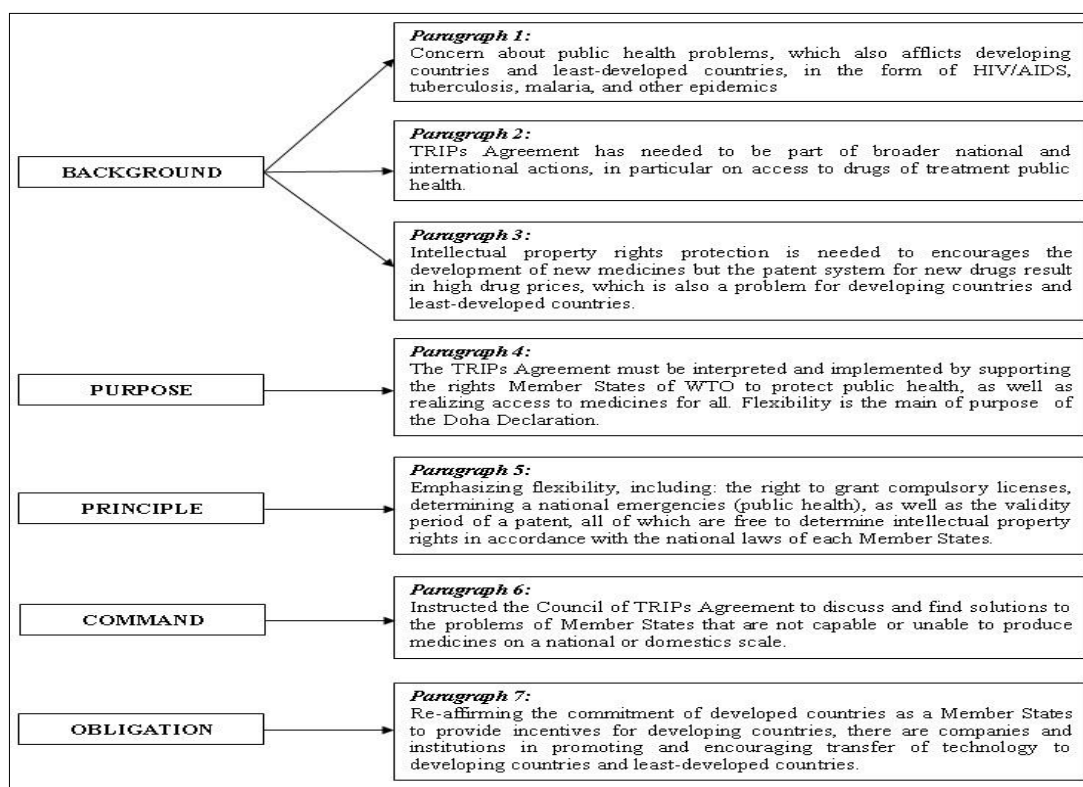
derivatives or regulatory levels of government if it's within the scope of national law. For that, the Group of Africa which supported by members of other developing countries submitted a request to the Council for the TRIPs Agreement to specifically handle the implementation of special and differential treatment or preferential treatment for developing countries and least-developed countries, including solution to the relationship between the TRIPs Agreement and public health in it.²⁹

On date 14 November 2001, international covenant derivatives on the TRIPs Agreement and Public Health, known as the Doha Declaration was approved by WTO Member States, which is aimed to framing public health policies from intellectual property rights system, as well as being used to address public health problems afflicts developing countries and least-developed countries,³⁰ especially during a endemic, epidemic, or pandemic due to an outbreak or certain disease. The Doha Declaration is an international legal instrument under the TRIPs Agreement that integrates the importance of protecting intellectual property rights, in addition to public health emergencies which of course require access to medicines and other pharmaceutical products without obstacles, quickly, fairly and equally for developing countries and least-developed countries.

²⁹ Carlos M. Correa, *Implication of the DOHA Declaration on the TRIPs Agreement and Public Health* (University of Buenos Aires-World Health Organization Published 2002).[1].

³⁰ World Trade Organization, 'TRIPs and Public Health,' (*World Trade Organization*, 2001) <www.wto.org/english/tratop_e/trips_e/pharmpatent_e.htm> accessed 30 September 2020

Chart 1. Content of Doha Declaration³¹



Literally, the nomenclature “declaration” has a different meaning with “agreement,” where in the legal dictionary the terms of declaration (English) or *declaratie* (Dutch) in Indonesia is translated into *pernyataan*³² (a declaration or statement), while the terms of agreement (English) or *overeenkomst* (Dutch) in Indonesian is translated as *persetujuan*³³ (an agreement from the state. The Doha Declaration contains the statement, emphasis, or affirmation of the facts and special needs of developing countries and least-developed countries regarding the relationship between TRIPs Agreement and public health, so that the Doha Declaration has the power of binding as in international agreements in generally.

The main of goals of the Doha Declaration exist in Paragraph 6, which the Council for TRIPs Agreement is required to seek and find how the compulsory license works properly as the safeguard for the patent of COVID-19 Vaccine. The root of the problem is that it begins with a conflict of norms in the TRIPs Agreement which causes developing countries and least-developed countries to implement compulsory license for a patent.

³¹ Ministerial Conference Fourth Session Doha on 9-14 November 2001, Ministerial Declaration on TRIPs and Public Health Year 2001 adopted on 14 November 2001

³² Subrata Kubung, *Kamus Hukum Internasional & Indonesia* (Permata Press [s.a]).[107].

³³ *Ibid.*,[308].

Article 31 TRIPs Agreement confirming the use of patents for drugs and other pharmaceutical products with compulsory licenses, however Article 31 (f) the TRIPs Agreement does not allow the implementation of compulsory licenses outside the domestic market,³⁴ and Article 31 (h) TRIPs Agreement which also presents difficulties for developing countries because the provisions of this Article require that licensed users are required to make adequate (high price) payments for patent rights holders. Finally, on 30 August 2003, the Council for TRIPs Agreement announced a decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health, which basically explained:³⁵

1. It is determined that, what is meant by pharmaceutical products that are patented and needed by importing countries, they are developing countries and least-developed countries which due to national health emergencies due to diseases or epidemics and other epidemics, involve exporting countries to produce and export the pharmaceutical products to the intended importing countries.
2. The parties, both importing country and exporting country in the compulsory licensing system (Paragraph 6 Doha Declaration) are allowed to override or ignore the provisions of Article 31(f) TRIPs Agreement as long as they comply with the requirements of the regulated procedures.
3. The payment of compensation for compulsory licenses must be adjusted to the economic value to the importing country from the use that has been permitted by the exporting country, where the waiver of the provisions of this Article 31 (h) TRIPs Agreement is possible.
4. To ensure that imported pharmaceutical products are used appropriately by importing countries, and there is a prohibition on transferring trade or re-exporting of its pharmaceutical products.
5. To ensure the availability of adequate legal means to prevent the implementation of imports outside the specified areas and compulsory license system (Paragraph 6 Doha Declaration).
6. To increase power of selling and facilitate local production of pharmaceutical products for importing countries that are in need due to national health emergencies and other health problems.
7. To promote cooperate in connection of the States Parties or Member States with the transfer of technology in accordance with Article 66 Paragraph (2) TRIPs Agreement and Paragraph 7 of the Doha Declaration.

³⁴ Tomi Suryo Utomo, 'Implementasi Lisensi Wajib Terhadap Produk Obat Yang Dipatenkan Pasca Deklarasi Doha' (2009) 4 Jurnal Ilmu Hukum REFLEKSI HUKUM.[30].

³⁵ Decision of the General Council of 30 August 2003 about Implementation of Paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health

8. The Council for TRIPs Agreement to review of the practice of compulsory license system (Paragraph 6 Doha Declaration) in accordance with the provisions of the Article IX Agreement Establishing the World Trade Organization.
9. To omission of Article 31 (f) and (h) TRIPs Agreement is done when deemed necessary.
10. Lawsuits from the State Parties on the basis of Article 31 (f) and (h) TRIPs Agreement is not allowed as long as they have complied with the terms and conditions of this decision.
11. Prior to the set and enactment of the amendment of the TRIPs Agreement, the provisions on this decision, including the enabling to disregard Article 31 (f) and (h) TRIPs Agreement remain in force.

RESEARCH METHODS

This study adopts a qualitative research method, with a desk study of existing literature, reports, and legal documents related to international legal instruments that govern vaccine trade. The study analyzes the legal instruments and their effectiveness in promoting equitable access to vaccines. The research uses a thematic approach to identify common themes and trends in the literature.

RESULTS AND DISCUSSION

The study finds that there are several international legal instruments that govern vaccine trade, including the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Agreement on the Implementation of the Provisions of the TRIPS Agreement (TRIPS Agreement), and the Access to COVID-19 Tools Accelerator (ACT-A) framework. These legal instruments have different mechanisms to promote equitable access to vaccines, including compulsory licensing, technology transfer, and voluntary licensing. However, the study finds that these mechanisms have limitations, and the current legal framework has not been effective in promoting equitable access to vaccines.

CONCLUSION

The study concludes that the current international legal framework for vaccine trade needs to be strengthened to promote equitable access to vaccines. The study recommends that countries should consider adopting measures such as compulsory licensing, technology transfer, and voluntary licensing to ensure the equitable distribution of vaccines. Furthermore, there is a need for international cooperation and coordination to ensure that the legal framework is effective in promoting equitable access to vaccines.

Trade in COVID-19 Vaccine carried out based on international trade contracts made, agreed and signed by the parties so as to bind the parties to implement what has been promised. To prevent the world from taking sides with developed countries and high-tech countries, or rich countries and high-income countries, the trade in COVID-19 Vaccine should follow international legal instruments as a public law regulating international trade traffic.

Based on the principle of *pacta sunt servanda*, trade in COVID-19 Vaccine was designed by international legal instruments that related with buying-selling activity that occur across international territorial borders, as follows:

1. Annex 1C of WTO Agreement, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement) effective since Year 1995;
2. Annex 1C of WTO Agreement, Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement as amended on 23 January 2017), especially in Article 31bis;
3. Ministerial Conference Fourth Session Doha on 9-14 November 2001, Ministerial Declaration on TRIPs and Public Health Year 2001 adopted on 14 November 2001; and
4. Decision of the General Council of 30 August 2003 about Implementation of Paragraph 6 of the Doha Declaration on the TRIPs Agreement and Public Health.

The various international legal instruments above have been arranged in such a way that developing countries and least-developed countries can still fulfill the need for vaccines as the rights to health for their citizens becomes the human rights.

In carrying out trade in COVID-19 Vaccine, international cooperation is urgently needed. Besides that, the awareness and compliance of the international society to follow the rule of the game that have been provided is the key to the well-organized of trade in COVID-19 Vaccine, so that everyone in the world has the right to access vaccines quickly, fairly and equally. Without doing these things, these international legal instruments would be meaningless, which would only be wishful thinking.

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