EVERYONE FOR THEMSELVES

How Ireland Undermined Efforts to Fully Vaccinate the World against COVID-19

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ACKNOWLEDGEMENTS

We were grateful for the substantial feedback from experts and Oxfam colleagues, including comments on initial drafts, methodologies and valuable insights. With sincere gratitude to Charlotte Bull, Dr. Carlos Bruen, Anna Marriott, Piotr Kolczyński, Pia Schwertner, Dana Abed, Jennifer Reid, Dr. Aideen Elliott, Simon Murtagh, Clare Cronin and Alice Dawson-Lyons.

While the report has greatly benefitted from these contributions, the views expressed in the summary and full report do not reflect the views of the listed individuals nor do they represent their endorsement of its content.

FOREWORD

In 1941, the French philosopher and author, Albert Camus, began writing a novel about the outbreak of a virus that spread from animals to humans, wiping out half the population of a coastal town in Algeria. *The Plague*'s protagonist, Dr Bernard Rieux, is both a humanist and an atheist whose sole motivation is to alleviate suffering and prevent the spread of disease. He resists any claim to personal heroism, concluding, as the outbreak subsides, that *"...the only way to fight the plague is with decency."*

Camus' novel is an augury of health and other threats to our world. It is a wake-up call to the randomness of life and the absurd frailty of our human condition. His remedy, embodied in the dutiful public health protagonist, is decency, kindness and compassion for our fellow-humans living lives in which joy and despair are arbitrarily visited upon us without rhyme or reason.

As the first cases of SARS-CoV-2 were identified on the island of Ireland in February and March 2020, Ireland's political leaders seemed to echo Rieux's call to human decency with the slogan 'we are all in this together'. For a time, it felt as if our fragile humanity was in solidarity against a deadly pathogen but it soon became clear that there was a strong association between Coronavirus mortality and socioeconomic status as measured by either COVID-19–attributed deaths or excess deaths. We realised that our collective humanity was never 'in this together' and this was no more evident than in the procurement battle for vaccines, which played out in the cacophonic global marketplace of high-income country hegemony. As decency was reflected in the mantra of the World Health Organization, public health specialists and scientists - *'nobody is safe until everybody is safe'* – our politicians adopted a different course. While the COVAX initiative was intended to coordinate international resources enabling low-to-middle-income countries (LMICs) access COVID-19 tests, therapeutics and vaccines, its spirit of collective decency was largely undermined by vaccine nationalism and a race to the bottom in which the lives of people in some countries mattered more than the lives of others.

"If access to health care is considered a human right, who is considered human enough to have that right?"

Paul Farmer

Vaccine nationalism was not inevitable because we had, as it were, been there before when prohibitively priced HIV treatments prevented low- and middle-income countries from protecting their citizens from sickness and AIDS-related death. Then, Ireland was at the forefront of international efforts to change World Trade Organization rules to allow generic manufacturers to sell antiretroviral treatment for less than $1 a day. A generation ago, Ireland thought it morally wrong that large pharmaceutical organisations should profit on the backs of the world's poorest nations. The question then begs to be asked as to why, 20 years later during a different pandemic, the Irish government opposed a temporary waiver of intellectual property rights for COVID-19 vaccines, therapeutics and diagnostics? Writing in the Irish Times (21st June 2022) journalist Fintan O'Toole claimed that Ireland has "entered into an unwritten Faustian pact" with the pharmaceutical industry, three of whose companies are in the top 10 payers of corporation tax in Ireland. This may well be true but if we accept that there is *"No such thing as innocent bystanding"*, and that our elected representatives reflect us as a *basic civic fact of life in a democratic republic*, then we, collectively, have also failed the test of decency towards the peoples of the world.

This report is an important and timely reminder by Oxfam Ireland that all is not lost and that Ireland now has an opportunity to remedy a wrong by supporting the expansion of the June 2022 World Trade Organization's TRIPS decision to include diagnostics and therapeutics. We can choose to be on the side of development of mRNA research and development in LMICs and support compulsory licensing of COVID-19 health technologies. Global solidarity wiped out smallpox in 1980 and from this we know that when we work with our European Union and multilateral partners, we can change the course of disease. Ireland's overseas development assistance programme has leveraged soft-power to great effect in past pandemics and is well-placed to ensure that the development of life-saving medicines and vaccines serves the public good, public health, human rights, and the principles of basic decency. For in the end, as Dr Rieux offers, *"Nothing in the world is worth turning one's back on what one loves."*

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EXECUTIVE SUMMARY

"We failed because of the greed of the North. We failed because of the greed of the pharmaceutical industry."

Dr. Mike Ryan, World Health Organisation, on the reasons the why the world hasn't addressed vaccine inequity, 17th October 2022[A]

The COVID-19 pandemic has wreaked untold harm around the world, leading to very high levels of morbidity and mortality.[1,2] This has been particularly pronounced in low-income countries[3] where vaccination rates are still very low.[4] This report will assess what role the Irish government played in addressing global COVID-19 inequity through a review of media reports, Irish government and EU documents, freedom of information requests, parliamentary questions and academic literature.

This report details Irish government opposition to a temporary waiver of intellectual property rights for COVID-19 vaccines, therapeutics and diagnostics. This was despite support for the measure from the WHO,[5] over 100 countries,[6] two Irish parliamentary committees,[7] the Seanad,[8] the majority of the Irish people[9] as well as over 350 leading Irish scientists and medical professionals[10] and 189 leading intellectual property experts from around the globe.[11] This wavier would have potentially facilitated some of the 120 companies in low- and middle-income countries (LMICs) where it was technically feasible to produce an mRNA COVID-19 vaccine.[12] This Irish government's position aligns with the pharmaceutical industry's stance. Our analysis shows that representatives of pharmaceutical companies lobbied the Irish Government on this issue, claiming that an intellectual property waiver would lead to reduced quality vaccines, despite the 120 companies mentioned above being approved by internationally recognised regulators.[12] The Irish government's opposition to the temporary waiver has critically undermined LMICs ability to develop an increased, timely and secure supply of vaccines.

The Irish government, along with other high-income countries, adopted a donation-based model to address global vaccine inequality, which failed. This model was favoured by the pharmaceutical industry and aligned with their financial interests. As of November 2022, Ireland had donated 4,051,500 vaccine doses to LMICs, over half of which were Johnson & Johnson,[13] despite Irish health authorities advising that mRNA are preferred for those aged under 50 years.[14] This is almost 20% short of what Ireland pledged to donate. Furthermore, 12% of doses donated were scheduled to expire within 70 days of arrival, contrary to WHO guidance.[15] Representatives of several LMICs have said that donations of near-expiry vaccines were undermining their vaccination campaigns.[16,17]

The primary global distribution mechanism of vaccine donations has been COVAX.[18] Ireland mostly used this mechanism for its donations. COVAX delivered less than half of its pledged doses to LMICs by the end of 2021 and just over 80% by November 2022.[19,20] COVAX's initial goal was to procure vaccines on behalf of all countries,[21]

[A] https://twitter.com/paimadhu/status/1582652052924420096?s=20&t=WQT_MKTkkPp620-qp8Hsqw

this was undermined by the European Commission (EC) and Ireland when they began procuring vaccines bilaterally.[22] The European Commission and Ireland procured far more vaccines than they needed, limiting access to LMICs.[23] The aforementioned bilateral procurement deals included an agreement not to donate doses without consent from the vaccine contractors.[24] Also, the contracts with vaccine manufacturers did not include any intellectual property sharing commitments.[25] This was contrary to the European Commission's initial agreement with member states (including Ireland) on vaccine procurement which included a commitment to ensure access to vaccine doses for LMICs by addressing the sharing of IP.[26] Finally, Ireland, along with the EU, made some bilateral donations,[27] outside the COVAX mechanism. All of these actions, the hoarding of vaccines, the lack of global procurement, and the donations of vaccines bilaterally, came together to critically undermine COVAX.

In terms of supporting the response to COVID-19 globally, Ireland has not provided its 'fair share'[B] of funding. In 2022, Ireland only contributed €10.7 million to the WHO's Access to COVID-19 Tools Accelerator, which was 6% of Ireland's 'fair share'. In the previous budget cycle, Ireland only contributed 2% of its 'fair share'. Official Development Assistance (ODA) is a mechanism to build pandemic preparedness and vaccine delivery capacity through health system resilience. However, In 2018,[28] 2019,[29] and 2020[30] Ireland only contributed 0.3% of gross national income (GNI) to ODA. This is less than half of the recommendation by the United Nations of 0.7% of GNI, which was committed to by the Irish government since 2005. In 2018[28] Ireland spent 0.02% of GNI on global health and in 2020[30] the figure was 0.04%. This was less than half of the 0.1% recommended by the WHO.[31]

These three aspects- failure to support the TRIPS waiver; prioritising a donation approach and then undermining the main delivery mechanism (COVAX) of the donation approach; and finally, not providing the requisite funding for health system strengthening in LMICs leads us to conclude that, taken as a whole, Ireland undermined efforts to address global vaccine inequity. Ireland's proposed solution to tackle vaccine inequity of supporting the private sector in increase supply, while ramping up donations has not worked. In fact, it could be argued that vaccine inequity has widened. At time of publication the vast majority of people in low-income countries have yet to receive their initial vaccine course against COVID-19, while high-income countries are offering their populations their second and third round of booster shots.

Overall, this report documents how Ireland came to undermine efforts to address global vaccine inequity, adopting approaches favoured by the pharmaceutical industry and opposing proposals for a TRIPS waiver supported by over 100 countries and the World Health Organisation. This runs contrary to the Irish government's claims that they were a very strong supporter of global vaccine equality.[32] The United Nations Committee on the Elimination of Racial Discrimination called on countries to support "the proposal of a comprehensive temporary waiver on the provisions of the (TRIPS) Agreement".[33] From the findings of this report it is clear that Ireland failed to do this and has failed in its human rights obligations by not supporting the TRIPS waiver. Global vaccine inequity has led to huge levels of mortality and morbidity, which has been more acutely felt in LMICs. This injustice has in turn negatively affected countries' ability to respond to subsequent crises such as the food crisis in East Africa.[34] Global vaccine inequity is still growing as variant-specific boosters come on the market.

[B] 'Fair share' is calculated by the WHO using Ireland's wealth level and the potential for economic recovery post COVID-19. For further details of how fair shares are calculated see: https://www.who.int/docs/default-source/coronaviruse/act-accelerator-financing-framework_8-feb-2022_web-%281%29.pdf

To address these issues, the report has several recommendations for the Irish government:

- Immediately support expansion of June's WTO TRIPS decision to include diagnostics & therapeutics.
- Support development of mRNA and other vaccine technology R&D and production capacity in LMICs. This should include support for the WHO-led mRNA technology transfer hub and spokes.
- Support use of TRIPS flexibilities, including compulsory licensing of COVID-19 health technologies, particularly in LMICs.
- Ensure that LMIC governments, affected communities, civil society and healthcare workers are represented in the development and oversight of the WHO Pandemic Treaty and the World Bank Financial Intermediary Fund.
- Irish & EU funding for R&D on life saving medicines and vaccines must come with conditionalities that ensure that for the resulting technologies there is technology transfer, equitable sharing of IP rights, fair allocation, and affordable pricing.
- Support the adoption of alternatives to the intellectual property system for health technologies such as publicly owned pharmaceutical organisations that conduct research and development.
- A full evaluation into the Irish state's response to the COVID-19 pandemic should be held. Ireland's response to vaccine inequity and its attendant risks to Irish and global health should be included as part of the terms of reference of this evaluation.
- Publish a clear plan for increasing annual Official Development Assistance for global health to at least 0.1% of GNI, as recommended by the WHO. This should be used to strengthen and improve LMIC's publicly financed and delivered health systems to achieve universal and equitable health care free at the point of use, with a commitment to realise human rights and gender equity.
- Make greater space for government consultation and interaction with civil society, and ensure all government decisions in relation to public health supports to developing countries, are based on independent legal and scientific advice and take into account Ireland's human rights obligations.

1. INTRODUCTION

In March 2020, the World Health Organization (WHO) declared COVID-19 a pandemic.[35] Since then, several vaccines against COVID-19 have been developed. COVID-19 vaccines have been shown to be very effective at preventing mortality and morbidity.[36,37] The first COVID-19 vaccine was administered to a member of the general public on the 8th of December 2020.[38] On the 22nd of February 2023, 75% of people were fully vaccinated in high-income countries (HICs).[4] In low-income countries (LICs), only 22% of people were fully vaccinated,[4] with women less likely to be vaccinated than males.[39]

This global COVID vaccine inequity has translated into a severe morbidity and mortality burden for low- and middle-income countries (LMICs).[1,3] Overall, it is estimated that there have been more than 18 million deaths worldwide in the years 2020 and 2021 because of the COVID-19 pandemic,[40] with this figure rising in 2022.[41] The infection fatality ratio has been approximately twice as high in LMICs compared to HICs.[3] Many of these deaths can be attributed to missed COVID-19 vaccine targets in LMICs.[42,43] These missed vaccine targets were as a result of lack of access to vaccines as well as lack of health system infrastructure,[44] among other causes. The COVID-19 pandemic has also led to a huge regression in the development of health systems around the world, putting huge pressure on the health systems of LMICs that already had limited capacity.[45] Michelle Bachelet, United Nations High Commissioner for Human Rights said that vaccination delays may mean 'a lost decade for development', and that due to vaccine inequity many countries would not be resilient to other crises, such as the food crisis in East Africa.[34]

Furthermore, LMIC economies have been ravaged by COVID-19. In 2021 alone, 163 million people were pushed into poverty due to COVID-19.[46] These economic issues are thought to have caused hundreds of thousands of excess deaths, including among infants.[47] All of these issues combined have led some to describe the global system of vaccine allocation as 'tantamount to a crime against humanity.'[48] The economic issues described above have had a greatly disproportionate effect in women and LMICs.[49] For example the longstanding gender gap in labour force participation was further widened by the pandemic, an effect which is expected to potentially be long lasting.[49] One of the primary reasons for women having to leave the workforce is that the pandemic and associated shutdowns led to a large unpaid care burden for women and girls.[50]

The Irish government has claimed to be playing a major role in addressing global vaccine inequity, describing itself as 'a very strong supporter of vaccine equality in the world'.[32] However, there is also evidence that the Irish government has failed in its goals to address global COVID-19 vaccine inequity. The aim of this report is to comprehensively examine the Irish state's response to global COVID-19 vaccine inequity.

2. METHOD

This examination of the Irish government response to global COVID-19 vaccine inequity is broken into four main areas;

1. Support/opposition for the intellectual property waiver of COVID-19 health technologies,
2. Government interactions with civil society and the pharmaceutical industry about global COVID-19 vaccine inequity,
3. Vaccine donations to LMICs
4. Official Development Assistance and vaccines.

These four areas were chosen as they were considered key factors relating to the Irish government's response to global COVID-19 vaccine inequity. However, it should be acknowledged that several other areas were important in relation to the Irish government's response to global COVID-19 vaccine inequity.

2.1 INTELLECTUAL PROPERTY WAIVER

Using Oxfam Ireland opinion polls, records of Oireachtas committees (Joint Oireachtas Committee on Foreign Affairs and Joint Oireachtas Committee on Enterprise, Trade and Employment), and records of the Seanad, a description was developed of recommendations by the public and representatives of the public for the Irish government to address global COVID-19 vaccine inequities. The Irish Government's response to these calls was documented using public statements by government ministers, and communications between government ministers and People's Vaccine Alliance Ireland[C] members.

To document the Irish government's response to civil society calls for sharing of COVID-19 health technologies, emails and letters received by the People's Vaccine Alliance Ireland or its members from the Taoiseach and/or the Tánaiste/Minister for Enterprise were gathered.

2.2. LOBBYING

Data was gathered on government lobbying by pharmaceutical companies with a direct financial interest in COVID-19 technologies and organisations who have lobbied on behalf of these companies. The list of organisations who have lobbied on behalf of these companies (Appendix H) was developed through a targeted search of the Irish public register of lobbying: lobbying.ie. The number of emails, calls, letters and meetings between relevant organisations and the Taoiseach and Tánaiste/Enterprise Minister between 1st May 2020 and 31st December 2021, was gathered using the Irish public register of lobbying: lobbying.ie. To understand the messaging of the pharmaceutical industry, an analysis was conducted of a meeting between the Tánaiste and Representatives from the Irish Pharmaceutical Healthcare Association (IPHA) and BioPharmaChem Ireland (BPCI) in June 2021, using documents related to the meeting accessed through FOI requests.[51] This meeting was chosen by the authors as it contained the most information relating to the pharmaceutical industry's views on

[C] The People's Vaccine Alliance Ireland is a coalition of Irish NGOs, health practitioners, faith groups, trade unions and academics who have campaigned for the original TRIPS waiver proposed by India and South Africa. These included Oxfam Ireland, Amnesty International Ireland, Goal, Royal College of Surgeons in Ireland and the Irish Nurses and Midwives Organisation among others

vaccine inequity and also involved the two main lobby groups for the pharmaceutical industry in Ireland. If a claim is made about a company in this report, then the company was provided with the information and offered an opportunity to comment.

To document the Irish government's engagement with civil society lobbying on COVID-19, emails, calls, and letters sent by the People's Vaccine Alliance Ireland or its members calling for a meeting with the Taoiseach and the Tánaiste/Minister for Enterprise were gathered. Information on the number of meetings that took place was also gathered from members of the People's Vaccine Alliance Ireland.

2.3 VACCINE DONATIONS

Through contact with the Irish Department of Foreign Affairs, details of vaccine donations were compiled. Specifically, information was provided on number of vaccines donated, number of vaccines pledged, vaccine type, weeks to expiry upon delivery, mechanism of delivery (multilateral or bilateral) and country delivered to.

To develop an outline of COVID-19 vaccine procurement by Ireland and the European Commission during the pandemic, a review of media reports, government documents and academic literature was conducted. Similarly, a review of media reports, government documents and academic literature was conducted to develop an outline of the strengths and weaknesses of COVAX (the primary multilateral vaccine sharing mechanism used by Ireland and the EU).

To understand Ireland's support for health systems in LMICs during the COVID-19 pandemic, contact was made with the WHO's Access to COVID-19 Tools Accelerator requesting figures for Ireland's contribution to the Accelerator and the requests by the Accelerator for contributions from Ireland.

2.4 OFFICIAL DEVELOPMENT ASSISTANCE AND VACCINES

To understand Ireland's support for health systems in LMICs prior to the COVID-19 pandemic, an analysis of the percentage of gross national income (GNI) devoted to Official Development Assistance (ODA) and the percentage of GNI devoted to global health, was conducted. Data for this was gathered from Irish Aid annual reports. These are then compared to the recommendations by the OECD for 0.7% of GNI to be devoted to ODA[52] and the recommendation by the WHO for 0.1% of GNI to be devoted to global health.[31]

3. RESULTS & ANALYSIS

The results and analysis section will first explore the proposed intellectual property waiver of COVID-19 health technologies. Then, it will examine Irish government interactions with civil society and the pharmaceutical industry about global COVID-19 vaccine inequity. Thirdly, vaccine donations from the Irish government to LMICs will be analysed. Finally, Official Development Assistance from the Irish government will be examined, with a focus on COVID-19 vaccine equity.

3.1 INTELLECTUAL PROPERTY WAIVER

In this section, the initial proposals for a temporary waiver of intellectual property (IP) rights of COVID-19 technologies will be described. The support for this proposal from elected bodies in Ireland, the Irish public and countries around the world will also be described. Following this, the Irish government response will be outlined, this will consist of both the official position of the Irish government, and contrary positions expressed by individual ministers.

3.1.1 PROPOSALS

South Africa and India made a proposal to the World Trade Organization (WTO) for a temporary waiver of IP rights of COVID-19 technologies in October 2020.[53] This proposal is known as the *TRIPS waiver*. This would involve temporarily waiving IP rights on COVID-19 health technologies (e.g. vaccines, medicines and diagnostics), allowing manufacturers in LMICs to produce their own COVID-19 health technologies for a limited period of time. India and South Africa, in their TRIPS waiver proposal, outlined several important contextual factors: 1) the least developed countries were being disproportionately impacted by COVID-19, 2) that there were 'significant concerns' that COVID-19 vaccines would not be made available 'promptly, in sufficient quantities and at affordable price' which was based on previous experience of 'Critical shortages in medical products' and 3) the potential for 'institutional and legal difficulties when using flexibilities available in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)'.[53] Other important contextual factors included 1) the large amounts of public funding for COVID-19 vaccine R&D,[54-58] 2) the fact that the pharmaceutical companies involved were some of the most profitable companies in the world prior to the pandemic,[59,60] and 3) the belief that patents are not meant to be used in crises (e.g. a pandemic).[61]

Over 100 governments declared their support for the TRIPS waiver proposed by India and South Africa.[6] Dr. Tedros Adhanom Ghebreyesus, Director-General of the WHO, supported a TRIPS waiver.[5] Also, 189 leading IP legal experts from around the globe wrote a letter in July 2021 supporting the TRIPS waiver.[11]

Human Rights Watch, with experts from Medicins Sans Frontieres (MSF) and AccessIBSA, in December 2021 identified over 100 companies across Africa, Asia, and Latin America where it was technically feasible to produce an mRNA vaccine meeting international quality standards but were unable to, because of the refusal of pharmaceutical companies to waive their IP rights and share the vaccine technology.[12]

3.1.2 IRISH RESPONSE

A representative poll of 1,000 adults in Ireland carried out by Coyne Research in February/March 2021 on behalf of Oxfam Ireland, found that 62% of respondents believed that the Government should ensure pharmaceutical companies do not have monopoly control over COVID-19 vaccines. They wanted the government to ensure that companies shared COVID-19 vaccine formulas and technology with other approved companies.[9] Furthermore, 55% of respondents believed that the Government should make pharmaceutical companies publicly release their formulas and technology for their COVID-19 vaccine to other approved companies. The People's Vaccine Alliance Ireland, a coalition of over 28 Irish NGOs, universities, faith groups, and trade unions called on the government to support a TRIPS waiver on several occasions in 2021 and 2022.[62,63] Over 350 leading Irish scientists and medical professionals called on the Irish government to commit to supporting the TRIPS waiver as proposed by India and South Africa.[10]

Minister for Health Stephen Donnelly,[64] Minister for Foreign Affairs Simon Coveney,[65] and Minister of State in the Department of Enterprise Robert Troy[66] all expressed forms of support for the TRIPS waiver. In March 2021, the Joint Oireachtas Committee on Foreign Affairs called on the government to formally endorse the COVID-19 Technology Access Pool (C-TAP).[7] The committee also called on the government to advocate for C-TAP and other mechanisms at the international level, particularly at the EU and at the UN Security Council.[7] C-TAP was an initiative launched in May 2020, by the WHO, calling on pharmaceutical companies to voluntarily share knowledge, intellectual property and data related to COVID-19 technologies.[67] However, by the end of 2020, there was no engagement with C-TAP by pharmaceutical companies and very little from high-income countries.[68] The Joint Oireachtas Committee on Foreign Affairs also recognised that "if voluntary mechanisms [e.g. C-TAP] do not achieve sufficient support, then mandatory measures such as suspending intellectual property rights under the WTO Council for Trade-Related Aspects of Intellectual Property Rights – TRIPS – waiver proposal will be needed and should be supported to encourage and achieve change."[7]

Seanad Éireann, on 15 December 2021, passed a motion[8] calling on government to: support a TRIPS waiver on COVID-19 technologies and to call on the European Commission to stop blocking the TRIPS waiver at the WTO. The motion also called on the Irish Government to sign up to C-TAP. The Irish Government has not publicly supported the initiative, despite emphasising the need for multilateral approaches and support for the WHO.[69]

The Government, who this motion was directed towards, never formally responded to its contents. Instead, in response to the Seanad motion, Dr Orlaigh Quinn, Secretary General of the Department of Enterprise, Trade and Employment wrote on 22nd December 2021 to Seanad Éireann claiming the TRIPS waiver proposal is 'primarily one of health policy, rather than a general trade or intellectual property issue' (Appendix B). However, the TRIPS waiver is under the purview of the Foreign Affairs (Trade) Council, on which the Minister for Enterprise, Trade and Employment sits. The European Commission sought approval from the Foreign Affairs (Trade) Council for their TRIPS waiver position.[70] Dr. Quinn restated the EU's opposition to the TRIPS waiver and outlined the EU proposed solution on compulsory licensing. Compulsory licensing involves an individual government allowing patents to be used without the patent holder's consent.[71] However, IP legal experts including Thambisetty and colleagues explain that 'compulsory licensing [is] incapable of addressing the present pandemic context adequately, in terms of both procedure and legal substance.'[72] A view largely shared by leading intellectual property expert Ellen 't Hoen.[71] And as outlined above, India and South Africa, in their proposal for a TRIPS waiver, discussed the potential for 'institutional and legal difficulties when using flexibilities [e.g. compulsory licensing] available in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)'.[53]

The Joint Oireachtas Committee on Enterprise, Trade and Employment, after holding a hearing on the TRIPS waiver, wrote a letter to the Tánaiste and Minister for Enterprise Leo Varadkar on the 18th of May 2022. In the letter, the committee called on the Tánaiste to recommend to the Government, that they support a TRIPS waiver in the context of COVID-19 vaccines, and other measures to ensure equitable and safe distribution of vaccines (Appendix C). In response to the Enterprise Committee's call for the Tánaiste to support a TRIPS waiver, the Tánaiste sent a letter (Appendix D) on the 26th May 2022 which restated the EU's opposition to the TRIPS waiver and expressed tacit support for the so called 'quad proposal'.

The 'quad proposal' was an alternative proposal to the TRIPS waiver developed by the European Commission after negotiations with the US, South Africa and India (though not necessarily supported by the latter three). The 'quad proposal' primarily involved modifications to existing flexibilities that the TRIPS agreement allowed, mostly around compulsory licensing.[73] The 'quad proposal' would have been an unwieldy and impractical process, described by legal experts Thambisetty and colleagues as 'not a workable alternative to the original COVID-19 TRIPS waiver proposal.'[73] An opinion shared by leading intellectual property expert Ellen 't Hoen who concluded that the 'quad proposal' would 'maintain the status quo'.[71]

In response to a letter requesting support for the TRIPS waiver, the Taoiseach stated (on 20th April 2022) that well-coordinated multilateral mechanisms, such as COVAX, have proven their worth (Appendix A). However, levels of vaccine inequity do not reflect the Taoiseach's position - on 20th April 2022, only 11% of people in low-income countries were fully vaccinated compared to 73% in high-income countries.[4] And similarly to the Tánaiste, the Taoiseach expressed tacit support for the so called 'quad proposal'. On 14th June 2022, the Taoiseach described the TRIPS waiver proposed by India and South Africa as 'more of a soundbite than a solution'.[74]

Consistently in these responses, the Irish government described the TRIPS waiver as a matter for the EU (Appendix A & Appendix D), while claiming that the Irish government had limited responsibility in this area. The EU was one of the few WTO members to oppose the waiver as proposed by India and South Africa. This led to over 20 months of delays until a very limited agreement on vaccines was reached in June 2022 (discussed below). Several organisations considered the EU's alternative proposals, which were supported by the Irish government, to be a deliberate strategy to delay and distract from the original TRIPS waiver proposal.[75,76] The Irish government in their tacit support of the EU's position on the TRIPS waiver and their statements that implied that responsibility primarily lies with the EU on the issue, failed to acknowledge that other EU countries were expressing support for a TRIPS waiver on vaccines (e.g. Spain[77]).

On the 17th June 2022, the WTO adopted a decision on the TRIPS Agreement[79] that was similar to the 'quad proposal'. This received support from the Irish government; the Tánaiste welcomed the decision.[80] However, civil society organisations did not.[81,82] Dr. Christos Christou, International President of MSF stated that the June 2022 TRIPS decision 'fails overall to offer an effective and meaningful solution to help increase people's access to needed medical tools during the pandemic, as it does not adequately waive intellectual property on all essential COVID-19 medical tools, and it does not apply to all countries.'[81] Max Lawson, Co-Chair of the People's Vaccine Alliance and Head of Inequality Policy at Oxfam, said it was 'absolutely not the broad intellectual property waiver the world desperately needs to ensure access to vaccines and treatments for everyone, everywhere.[...] This so-called compromise largely reiterates developing countries' existing rights to override patents in certain circumstances. And it tries to restrict even that limited right to countries which do not already have the capacity to produce COVID-19 vaccines.'[82] It should be noted that the pharmaceutical sector also did not welcome the decision.[83]

3.2 LOBBYING

During the pandemic, Oxfam Ireland, the People's Vaccine Alliance Ireland and members of the People's Vaccine Alliance Ireland made eight requests for a meeting with the Taoiseach and one request for a meeting with the Tánaiste (Appendix E). No opportunities were provided to meet with the Taoiseach or the Tánaiste[D].

Using data from the Irish register of political lobbying (lobbying.ie),[84] we found that pharmaceutical companies involved in the production or development of COVID-19 medical technologies (e.g. Pfizer) or lobbying organisations representing them had five meetings with the Taoiseach and four with the Tánaiste and Minister for Enterprise between May 2020 and December 2021. Two of these were about the TRIPS waiver and the rest were about COVID-19 vaccines more generally (more details in Appendix H).

3.2.1 PHARMACEUTICAL INDUSTRY LOBBYING THEMES

To understand the messaging of the pharmaceutical industry, an analysis was conducted of a meeting between the Tánaiste and representatives from the Irish Pharmaceutical Healthcare Association (IPHA) and BioPharmaChem Ireland (BPCI) in June 2021 (Appendix H, meeting IDs: 77266 & 74072) using documents related to the meeting accessed through FOI requests. The IPHA represents the international research-based pharmaceutical industry which includes companies such as Pfizer and Johnson & Johnson. BPCI is another representative body for the pharmaceutical industry and also represents companies such as Pfizer and Johnson & Johnson. Based on the analysis of these documents we developed four themes: 1) Intellectual property waiver would be counter-productive, 2) Implication of a reduction in quality, 3) Promoting approaches that do not affect industry profits and 4) Pharmaceutical 'industry's economic value'.

3.2.1.1 INTELLECTUAL PROPERTY WAIVER WOULD BE COUNTER-PRODUCTIVE

In the meeting and the briefing documents related to the meeting, the industry focussed on their view that an IP waiver on COVID-19 technologies should be opposed by the Irish government. IP rights are described by the IPHA (Appendix F) as 'the basis for the discovery of all new vaccines and treatments.' Based on this, they argued that IP rights will incentivise COVID-19 technological developments to address the virus as it mutates. Furthermore, the IPHA claimed that 'There is no evidence that intellectual property has impeded the production of COVID vaccines (or treatments) or that it has hindered partnerships between companies and governments or between partnering companies'. Similarly, BPCI stated (Appendix G) that 'Waiving patents of COVID-19 vaccines will not increase production but will lead to disruption'. The IPHA called on the Irish government to oppose 'a patent waiver for COVID vaccines at the EU and the WTO.'

The IPHA also implied that an IP waiver would lead to consequences for other areas of pharmaceutical research and development. The IPHA provided details of medicines developed for rare diseases, emphasising those developed for children. They then stated that: 'If IP incentives are weakened, new medicines development will

[D] The Minister for Foreign Affairs Simon Coveney did meet Oxfam International and Oxfam Ireland at a side meeting during COP 26 in Glasgow. The issue of the TRIPS waiver was raised by Oxfam at this meeting.

slow, leaving medical needs, in children and in adults, unmet. Because patient numbers are often small, unless originator companies take on the research and development project no one else will.'

In relation to these arguments, it should be noted that the TRIPS waiver would not apply to rare diseases, it would only apply to COVID-19 technologies and would be a temporary waiver.[53] Also, analysis from the National Bureau of Economic Research,[85] as well as academics such as Boldrin and Levine[86] have concluded that when patent rights are too broad or too strong it can have a negative impact on innovation. A view shared by many other academics.[87-89] Furthermore, research of previous health crises have found that overriding patents for medicines does not hinder innovation[90] and in some cases can foster greater innovation.[91] And even if IP rights were a strong incentive for innovation, much of the funding for the COVID-19 vaccines was public money,[54-58] as opposed to private investment for which a profit might be needed to incentivise. Also, for the private funding that was used for the research and development of the vaccines, it was de-risked due to the large pre-purchase agreements[22] made by the EU and other bodies. These pre-purchase agreements resulted in very large profits for pharmaceutical companies.[92] Despite this, the Irish state echoed the claims of the pharmaceutical industry repeatedly, claiming that intellectual property rights are vital to incentivise research and development[93] (Appendix A & Appendix D).

3.2.1.2 IMPLICATION OF A REDUCTION IN QUALITY

Several of the statements, included in the IPHA briefing for the Tánaiste, imply that an IP waiver would lead to a reduction in quality of COVID-19 technology production. Specifically, they state that: 'technology transfer [...] partners are rigorously selected for specialised expertise'. Furthermore, the IPHA-authored briefing document, when discussing voluntary licensing[E], says that 'The focus is on responsible COVID vaccine dose-sharing and maximising production without compromising quality or safety.'

Similarly, BPCI state in their letter to the Tánaiste that 'any move to weaken IP would be a concern to the industry as it could disrupt supply chains and lead to low-quality products being made.' With regard to quality, Human Rights Watch, in December 2021 identified over 100 companies where it was technically feasible to produce an mRNA vaccine. These facilities had all been approved by either the WHO, the US FDA, or the EMA.[12] Despite this, the Tániste Leo Varadker was reported to have made similar claims to the pharmaceutical industry: "very few countries in the global south have the infrastructural know-how or the materials to make those vaccines and there's no point in giving somebody a recipe if they don't have the kitchen or the cooking skills or the ingredients."[94]

[E] A process whereby a manufacturer such as AstraZeneca makes an agreement with another company for them to manufacture AstraZeneca's technology

3.2.1.3 PROMOTING APPROACHES THAT DO NOT AFFECT INDUSTRY PROFITS

The IPHA and BPCI recommended alternatives to an IP waiver, for example they recommended that the Irish government 'Continue to boost dose-sharing: Through COVAX' and 'Keep optimising production: Onboard, on a voluntary basis, suitable manufacturing partners and invest in existing sites.'

Also, the IPHA suggested approaches that may involve reduced regulation: 'Remove trade barriers: Expedite the cross-border supply of raw materials, vaccines and skills needed for surged vaccines production'. Similar approaches were suggested by BPCI: 'BPCI would rather see a focus on issues of concern in the fight against COVID-19 such as trade barriers, supply chain problems and scarcity of raw materials and ingredients in the supply chain.'

In an analysis by de Bengy Puyvallée and Storeng,[18] they describe this approach of boosted dose sharing, as one that 'conveniently' aligns with pharmaceutical companies' economic interest. They conclude this based on the rationale that a dose sharing approach allows vaccine manufacturers to continue making lucrative deals with HICs at full price (for them to donate these vaccines) and maximise profits as a result. Though it should be noted that some deals with HICs for vaccine doses that are intended for donation are for less than full price. Also, de Bengy Puyvallée and Storeng claim that the dose sharing approach 'obscures the power the industry holds over the global allocation of vaccines, placing primary responsibility for redistribution (or failure to do so) on wealthy country governments.'[18]

3.2.1.4 PHARMACEUTICAL 'INDUSTRY'S ECONOMIC VALUE'

One of the other primary areas that the pharmaceutical industry focussed on during meetings with government was the economic value of the industry to Ireland. For example, in the briefing provided by the IPHA to the Tánaiste Leo Varadkar it was stated that the 'industry's annual economic value is almost €15 billion' and that 'Medical and biopharmaceutical products make up 39% of all exports.' As well, it was highlighted that the pharmaceutical industry 'support[s] 45,000 jobs, spread across the regions'. Furthermore, the taxes paid by the pharmaceutical industry were highlighted in the context of COVID supports: 'Our tax revenues help the Government to pay for COVID supports'. Also, BPCI, in a letter to the Tánaiste Leo Varadkar emphasised the economic value of the pharmaceutical industry to the Irish state: 'The 2019 export figure for the sector in Ireland was €104b and 62% of exports.' It's been reported that in several other countries (e.g. Belgium and Indonesia), that pharmaceutical industry lobbyists threatened to reduce investment in the respective country if they supported the TRIPS waiver.[95]

It should be noted that the documents provide no evidence that a TRIPS waiver would have any affect on the Irish economy. Also, the Irish Government's first responsibility is to the health and safety of their citizens. The Government recognised that public health must take precedence over the economy by closing large sections of the economy during the pandemic.[96] However, when experts continually alerted the government to the increased likelihood of variants, given low vaccination rates in LMICs, and the need for a TRIPS waiver to address

this, the government continued its opposition to the TRIPS waiver.[10] During this period the Irish government prioritised meetings with the pharmaceutical industry and did not meet with civil society despite several contacts from civil society organisations seeking meetings.

3.3 VACCINE DONATIONS

Ireland's efforts to address global vaccine inequity were primarily focussed on vaccine donations. In total, Ireland has pledged to donate 5 million vaccine doses.[97] Ireland has also committed €13.5 million in financing to the COVAX facility to facilitate the purchase of vaccines for low- and lower-middle-income countries and to cover the transport and insurance costs associated with donations.[97]

Details of Ireland's vaccine donations that have been delivered to countries can be seen in Table 1. In total, as of November 2022, 4,051,500 doses had been delivered. This is almost 20% short of what Ireland pledged to donate. Also, of the delivered doses, 25.1% (N=1,015,500) of doses were AstraZeneca, 67.2% (2,724,000) were Johnson & Johnson, and 7.7% (N=312,000) were Pfizer. With regard to expiration dates, 11.9% (N=480,300) of donated doses were to expire within 70 days of delivery, this is contrary to WHO guidance.[15] Seventy percent (N=336,300) of these doses were donated prior to this WHO guidance being issued. However, even without WHO guidance, it is clear that the delivery of vaccines near expiry would present logistical challenges. There were also reports in December 2021 of EU donations being 'provided with little notice'.[98]

Table 1. Vaccine donations by Ireland as of November 2022[13]

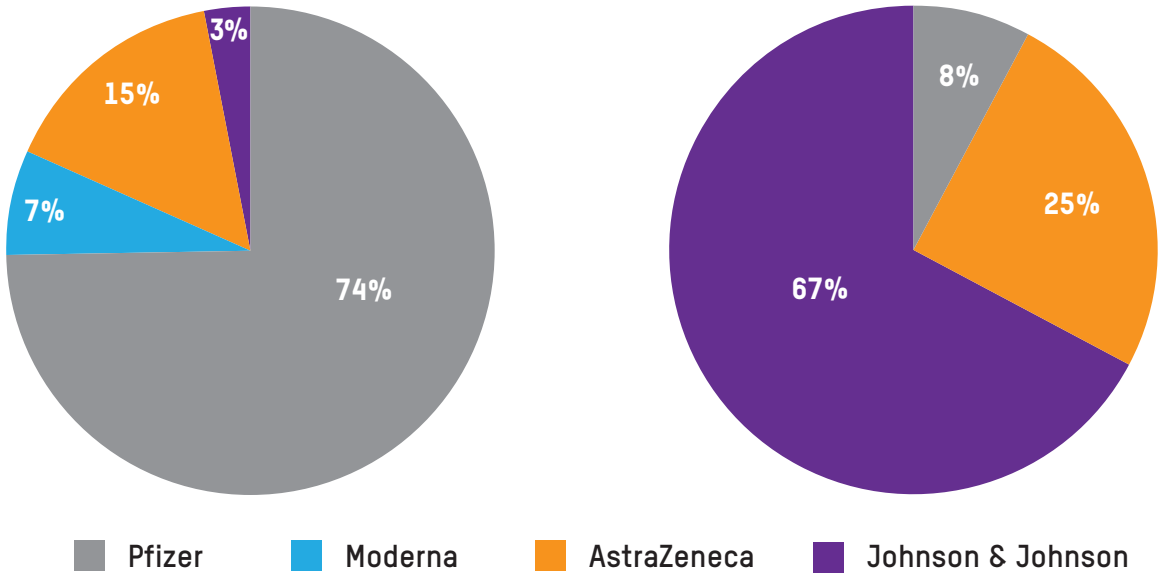
RECIPIENT COUNTRY	MODALITY	STATUS	VACCINE MANUFACTURER	DOSES	DELIVERY DATE	EXPIRY	DAYS TO EXPIRY
Uganda	Bilateral	Delivered	AstraZeneca	336,300	29/09/21	31/10/21	32
Nigeria	Covax	Delivered	Johnson & Johnson	496,800	29/11/21	31/10/23	701
Indonesia	Covax	Delivered	AstraZeneca	112,800	11/12/21	31/03/22	110
Indonesia	Covax	Delivered	AstraZeneca	122,400	20/12/21	28/02/22	70
Ghana	Covax	Delivered	AstraZeneca	132,000	14/12/21	28/02/22	76
Ghana	Covax	Delivered	AstraZeneca	144,000	14/12/21	31/01/22	48
Burkina Faso	Covax	Delivered	Johnson & Johnson	376,800	31/01/22	31/10/23	638
Indonesia	Covax	Delivered	AstraZeneca	168,000	11/01/22	31/03/22	79
Sudan	Covax	Delivered	Johnson & Johnson	165,600	20/06/22	N.A.	>70[F]
Mexico	Covax	Delivered	Pfizer Paediatric	312,000	23/09/22	N.A.	>70[F]
Djibouti	Covax	Delivered	Johnson & Johnson	93,600	01/09/22	N.A.	>70[F]
Sudan	Covax	Delivered	Johnson & Johnson	1,591,200	17/10/22	N.A.	>70[F]
TOTAL				**4,051,500**			

The practice of delivering vaccines near expiry, has led to some countries (e.g. Indonesia)[99] extending the expiration date of some vaccines, and others considering this (e.g. Malawi).[16] In November 2021, Nigeria announced that they had started rejecting donations because some donations received from rich countries were near expiry.[100] Malawi have destroyed expired vaccine doses to prevent vaccine hesitancy. Dr. Charles Mwansambo, Malawi's secretary for health said: "If we leave or store these expired vaccines that will be big blow to our vaccination drive, people will not come. Now even though we are not using them people have been hesitant to come because they feel that we might be given the expired vaccines".[16] A similar sentiment was expressed by Dr. Ayoade Alakija, co-chair of the Africa Union's Vaccine Delivery Alliance.[17] The delivery of donations near expiry is likely to have further exacerbated the issues with national planning and implementation on vaccine rollouts caused by arrival of doses with short notice.[44]

[F] According to Irish Aid, for donations to COVAX to be accepted as a donation, they must have a minimum of 10 weeks shelf life post arrival in the recipient country.

Prior to Ireland making their vaccine donations, in April 2021 the Irish National Immunisation Advisory Committee (NIAC) recommended that the AstraZeneca vaccine not be given to those aged under 60 years.[101] And the guidance issued in July 2021, stated that mRNA vaccines were preferred for those aged under 50 years, citing increased risk of a rare side effect for adenoviral vector vaccines, e.g., AstraZeneca and Johnson & Johnson.[14] With regard to the type of vaccine administered in Ireland versus donated abroad, Figure 1 shows that a preference has been shown in Ireland for administering mRNA vaccines; 81% of doses administered were mRNA, whereas 3% of doses were Johnson & Johnson and 15% were AstraZeneca. A survey of European countries found that people were less likely to accept the AstraZeneca vaccine.[102] There is also anecdotal evidence of this in Ireland.[103,104] Despite this, only 8% of doses donated by Ireland were mRNA, compared to 25% AstraZeneca and 63% Johnson & Johnson. A German study 'revealed that allowing participants to choose between vaccine types decreased the refusal rate from 42% to 6%'.[105] This approach whereby people in the global south only received leftover and suboptimum vaccines from the global north was criticised by Dr Tedros Adhanom Ghebreyesus, WHO Director General, who said : "I will not stay silent when the companies and countries that control the global supply of vaccines think the world's poor should be satisfied with leftovers."[106]

Figure 1. Breakdown of vaccines type administered in Ireland [107] (left) versus donated (right)



Potentially further exacerbating vaccine hesitancy, donations were being received by LMICs long after initial shipments were received in HICs, at a time when they were less effective against newer variants.[97] Among doses donated by Ireland and delivered, 66.8% (N=2,707,200) occurred in 2022. The Delta variant became dominant in England in May 2021.[108] The Omicron variant became dominant in most countries in 2022.[109] COVID-19 vaccines were found to be less effective against these variants, though they do remain protective.[110,111]

The EU donated a significant proportion of vaccines bilaterally which seemed to prioritise 'visibility on the world stage' over the flawed but multilateral COVAX approach.[18,112] Ireland also donated vaccines bilaterally. Of Ireland's donated doses, 8.3% were bilateral, with the rest through COVAX (Table 1). Furthermore, the EU did not

reach its vaccination donation targets on time. At the end of 2021, only 66% of the 250 million doses pledged by the EU had reached their destination.[98] It should be noted however that the EU is one of the largest donors of vaccines in the world.[113] This has led the Irish government to applaud the EU's approach, with the Tánaiste saying that: 'The EU has led the way in global solidarity' (Appendix D). However, as discussed above, low-income countries have clearly expressed the wish to be less dependent on donations and instead have indicated that they want autonomy to manufacture vaccines and ensure a dependable supply.[114]

COVAX's initial goal was to procure vaccines on behalf of all countries and distribute them equitably.[21] The European Commission, and by proxy Ireland, ignored this by making bilateral deals with vaccine manufacturers.[22] The WHO called for no bilateral deals.[115] As a result of the lack of engagement from rich countries, COVAX pivoted to a model focussed on dose sharing.[18] Procurement for vaccines for Ireland was primarily under the purview of the EU. The EU adopted a vaccine strategy in June 2020.[116] This strategy did not adopt the WHO's fair allocation framework which involved proportional vaccine allocation until every country had enough vaccine doses for coverage of 20% of their population.[117] The European Commission's initial agreement with member states (including Ireland) on vaccine procurement included a commitment to ensure access to vaccine doses for LMICs by addressing the sharing of IP.[26] However, the contracts with vaccine manufacturers did not include any IP sharing commitments.[25] Furthermore, European Commission advance purchase agreements for COVID-19 vaccines included an agreement not to donate doses without consent from the vaccine contractors.[24]

In September 2021, COVAX announced that it was going to fall short of its 2021 vaccine donation goals, citing 'prioritisation of bilateral deals by manufacturers and countries' as one of the causes.[19] Specifically, they had pledged to have 2 billion doses 'released for delivery' by the end of 2021,[19] but delivered only 900 million doses by that time.[20]

Despite the EU now being one of the largest donors of COVID-19 vaccines, they hoarded vaccines at earlier stages of the pandemic. The EU blocked some exports and tightened export controls in order to ensure it had access to more vaccines.[118] Also, according to reports,[118] the EU was 'leaning on' vaccine manufacturers to prioritise vaccine orders from the EU. Seth Berkeley, CEO of Gavi, The Vaccine Alliance stated that 'we're going to have more political pressure from HICs, and therefore we're going to allow [COVAX] to slip down the pipeline.'[21]

An October 2021 report from The People's Vaccine Alliance found that countries in the EU, despite having a population three times smaller than the African Union, had purchased 15 times more COVID-19 vaccine doses (1.5 billion compared to 100 million) than the African Union.[23] The EU was taking a disproportionate amount of the limited pool of COVID-19 vaccine doses. As of 1st October 2021, 77% of Ireland's eligible population had received at least one COVID-19 vaccine dose, compared to 2% in LICs.[4] In total, Ireland has procured 35.2 million COVID-19 vaccine doses, more than seven doses for every eligible individual in the country.[119] The Irish government did not provide per dose costs, describing that information as 'commercially sensitive and subject to confidentiality.'[119]

As an example of some of the vaccine hoarding on the part of the EU, in mid-2021, millions of Johnson & Johnson doses made in South Africa were scheduled to be sent to Europe from South Africa. This decision was then reversed after it was highlighted by several media outlets, and questioned by political leaders.[120] As a result of the hoarding and missed donation targets, many vaccine doses have been allowed to expire. As of August 2022, Ireland had allowed 238,832 vaccine doses to expire (Appendix I).

In sum, Ireland has fallen short in many ways in their donation approach. Firstly, they have delivered only 81% of the doses they pledged to donate, most of which were not delivered until 2022. Some of the vaccines that have been delivered have been set to expire inside the minimum seven-week period recommended by the WHO. Also, the vaccines delivered were primarily AstraZeneca and Johnson & Johnson vaccines, which Irish authorities state are not preferred for those aged under 50 years.[14] As well, some of the delivered vaccines were on a bilateral basis, undermining the global vaccine procurement and delivery programme of COVAX. Equitable access was fatally undermined when Ireland and the EU did not adopt the WHO fair allocation framework and also did not sign up to COVAX's original approach of procurement on behalf of all countries. On top of that, Ireland and the EU have hoarded vaccines, leading to 238,832 doses to expire in Ireland alone.

3.4 OFFICIAL DEVELOPMENT ASSISTANCE & VACCINES

The Taoiseach has stated that there is a need to focus less on intellectual property waivers and manufacturing capability and instead on vaccination campaigns: 'What is really at stake now is getting the vaccines into people's arms'.[74] It should be noted that this focus on vaccine hesitancy and health system strengthening as the main issue causing global COVID-19 vaccine inequity, is regarded by some to be an attempt to cover for high-income countries' and pharmaceutical companies' failure to ensure global access to COVID-19 vaccines.[121] John Nkengasong, Director of the Africa Centres for Disease Control, stated that, "Vaccine famine not hesitancy is our major challenge in Africa"[122] and highlighted a study showing that vaccine hesitancy in LMICs is relatively low.[123] Nonetheless, despite being overstated, these issues were important in addressing global COVID-19 vaccine inequity. For example, in February 2022 the Africa Centres for Disease Control called on countries to pause vaccine donations, stating that resources were needed for last mile delivery and vaccine hesitancy campaigns.[124] To address these issues, the Joint Oireachtas Committee on Foreign Affairs, in March 2021, called on the Irish government to increase financial support for the World Health Organisation's Access to COVID-19 Tools Accelerator (ACT-Accelerator).[7]

The 'fair share'[6] of funding from Ireland in 2022 for the ACT-Accelerator would have been approximately €190 million. However, Ireland only contributed €10.7 million of this, which represented less than 6% of Ireland's 'fair share'. In the previous budget cycle Ireland only contributed 2% of its 'fair share'.[125] The Irish government did increase its funding for the WHO during the pandemic but only by €20 million and this was for a three-year period, 2020-2022.

[6] Fair share' is calculated by the WHO using Ireland's wealth level and the potential for economic recovery post COVID-19. For details of how fair shares are calculated see: https://www.who.int/docs/default-source/coronaviruse/act-accelerator-financing-framework_8-feb-2022_web-%281%29.pdf

Prior to the pandemic, Official Development Assistance offered a means of strengthening health systems, which would improve the overall resilience of health systems as well as their ability to absorb and distribute vaccines. In 2005, 15 European Union countries (including Ireland) agreed to reach the United Nations recommended target of spending 0.7% of Gross National Income (GNI) on Official Development Assistance by 2015.[52] In 2018,[28] 2019,[29] 2020,[30] and 2021[126] Ireland spent 0.3% of GNI on Official Development Assistance. More specifically, global health funding offered a means of strengthening health systems, which play a major role in pandemic preparedness and response. The Commission of the World Health Organization recommends that 0.1% of GDP should be devoted to funding for global health.[31] In 2018 Ireland spent 0.02% of GNI on global health[28] and in 2020 Ireland spent 0.04% of GNI on global health,[30] less than half of the recommended amount.

4. DISCUSSION

In summary, the Irish government acted against the will of the Irish public, over 100 nations, the advice of the two Oireachtas committees, the Seanad, the WHO, as well as over 350 leading Irish scientists and medical professionals[10] and 189 leading IP legal experts from around the globe,[11] by opposing the waiver of intellectual property rights on COVID-19 vaccines and other health technologies, as proposed by India and South Africa in 2020. Opposition, that this research shows, was lobbied for extensively by the pharmaceutical industry. The Irish government, instead of adopting an approach of empowerment favoured by LMICs, adopted the donor approach favoured by the pharmaceutical industry. This approach was also adopted by other high-income countries, and the EU.[127] This adoption was one of many examples we found of how the government consistently prioritised approaches favoured by the pharmaceutical industry. Other examples included pre-purchase vaccine agreements favourable to the pharmaceutical industry and greater lobbying access afforded to the pharmaceutical industry.

The European Commission, on behalf of Ireland, procured millions more vaccines than Ireland needed, at a time of very high global vaccine scarcity. Not only did the European Commission procure too many vaccines, their bilateral procurement process also undermined COVAX's initial attempts to equitably procure and distribute vaccines. Furthermore, the European Commission and Ireland went on to undermine the donation model of COVAX, by making some of their donations bilaterally, independent of COVAX, in order to achieve diplomatic influence and recognition. And the donations that Ireland did make were primarily AstraZeneca and Johnson & Johnson vaccines, which were not the preferred vaccine for to a large proportion of the population in Ireland due to safety concerns. Furthermore, some of the vaccines donated by Ireland were near expiry upon arrival, which undermined vaccination campaigns in low-income countries. COVAX, the model championed by the Irish government, had several flaws, including missing donation targets and delivering doses near expiry. Finally, in terms of helping ensure the infrastructure to administer vaccines in low-income countries was present, Ireland fell very far short of what was required of them by the WHO in terms of financial donations. The Government repeatedly cited the implementation of these measures, through Ireland's Official Development Assistance Programme, as a justification for its position on vaccine inequity and TRIPS.[93,128,129] This instrumentalisation of Ireland's ODA programme to defend a political decision that protected the private interests of large multinational pharmaceutical companies is a very worrying development and potentially undermines Ireland's well-deserved reputation in this sphere.

Recent projections have estimated that the WHO target of 70% of every country's population being fully vaccinated, will not be reached by several countries in Africa until late in 2024.[130] Since then, rate of progress has slowed suggesting that even this prediction is optimistic.

UN Secretary General António Guterres has described global vaccine distribution as 'scandalously unequal'.[131] The United Nations Committee on the Elimination of Racial Discrimination has said that the unequal distribution of vaccines is replicating slavery and colonial-era racial hierarchies [...] which further deepens structural inequalities affecting vulnerable groups protected under the Convention [on the Elimination of All Forms of Racial Discrimination]'.[33] The committee called on countries to support "the proposal of a comprehensive

temporary waiver on the provisions of the (TRIPS) Agreement".[33] From the findings of this report it is clear that Ireland has contributed to this replication of slavery and colonial-era racial hierarchies and overall has failed in its human rights obligations by not supporting the TRIPS waiver. Specifically, this runs completely contrary to the claims of the Irish government that they are 'a very strong supporter of vaccine equality in the world'.[32] A Lancet Commission on lessons for the future from the COVID-19 pandemic concluded that 'the shortfalls in global funding' for LMICs and 'the failure to ensure adequate global supplies and equitable distribution of' COVID-19 health technologies in LMICs were two of the key failures in terms of international cooperation.[132] The Irish government must accept partial responsibility for these failures. The consequences of these failures go far beyond COVID-19. Michelle Bachelet, United Nations High Commissioner for Human Rights said that vaccination delays may mean 'a lost decade for development', and that due to vaccine inequity many countries would not be resilient to other crises, such as the food crisis in East Africa.[34] Also, notably, the consequences of global vaccine inequity for women and girls in LMICs has been stark, as restrictions brought about by low vaccine coverage have greater educational, health and economic consequences for women and girls.[133]

The fact that the Irish government prioritised approaches that favoured the profits of the pharmaceutical industry is even more egregious when we consider how profitable the industry is. Pharmaceutical companies were the most profitable companies in the world prior to the pandemic.[59,60] The pandemic has improved this advantageous position, as some pharmaceutical companies involved with COVID technologies recorded record profits,[92] partially thanks to unprecedented public investment in their products.[22,134] Pfizer more than doubled its 2020 net income in 2021 to almost $22 billion.[135] It is somewhat unsurprising that the Irish government prioritised approaches that favoured pharmaceutical industry profits given the privileged access given to the industry and the biased messaging they provided to government.

As Ireland moves on from COVID-19, the countries they have left behind are still dealing with large levels of morbidity and mortality. Also, the divide between high- and low-income countries is growing, as variant-specific booster doses start to become available.[136] To address these issues and to prepare for future pandemics, this report has a range of recommendations for the Irish government.

4.1 RECOMMENDATIONS FOR THE IRISH GOVERNMENT

- Immediately support the expansion of June's WTO TRIPS decision to include diagnostics and therapeutics.
- Support development of mRNA and other vaccine technology R&D and production capacity in LMICs. This should include support for the mRNA hub in South Africa and its spokes
- Support use of TRIPS flexibilities, including compulsory licensing of COVID-19 health technologies, particularly in LMICs.
- Ensure that LMIC governments, affected communities, civil society and healthcare workers are represented in the development and oversight of the WHO Pandemic Treaty and the World Bank Financial Intermediary Fund.
- Irish & EU funding for R&D on life saving medicines and vaccines must come with conditionalities that ensure that for the resulting technologies there is technology transfer, equitable sharing of IP rights, fair allocation, and affordable pricing.
- Support the adoption of alternatives to the intellectual property system for health technologies such as publicly owned pharmaceutical organisations that conduct research and development.
- A full evaluation into the Irish state's response to the COVID-19 pandemic should be held. Ireland's response to vaccine inequity and its attendant risks to Irish and global health should be included as part of the terms of reference of this evaluation.
- Publish a clear plan for increasing annual Official Development Assistance for global health to at least 0.1% of GNI, as recommended by the WHO. This should be used to strengthen and improve LMIC's publicly financed and delivered health systems to achieve universal and equitable health care free at the point of use, with a commitment to realise human rights and gender equity.
- Make greater space for government consultation and interaction with civil society, and ensure all government decisions in relation to public health supports to developing countries, are based on independent legal expertise and scientific advice and take into account Ireland's human rights obligations.

ACRONYMS

ACT-A - Access to COVID-19 Tools Accelerator

BPCI – BioPharmaChem Ireland

COVAX - COVID-19 Vaccines Global Access

COVID-19 - Coronavirus Disease 2019

C-TAP – COVID-19 Technology Access Pool

EMA – European Medicines Agency

EU – European Union

FDA – Food and Drug Administration

FOI – Freedom of Information

GNI – Gross National Income

HICs – High Income Countries

IP – Intellectual property

IPHA – Irish Pharmaceutical Healthcare Association

LMICs – Low- and Middle-Income Countries

LICs – Low Income Countries

mRNA - Messenger Ribonucleic Acid

MSF – Medicins Sans Frontieres

ODA – Official Development Assistance

OECD - Organisation for Economic Co-operation and Development

R&D – Research and Development

TRIPS - Trade-Related Aspects of Intellectual Property Rights

UN – United Nations

US – United States

WHO – World Health Organization

WTO – World Trade Organization

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