Intellectual Property Waiver for Vaccines

Why in news?

Recently, U.S. government has said that it will support for the waiving Intellectual Property (IP) protection for Covid-19 vaccines.

What are Patents?

- A patent represents a powerful IP right and is an exclusive monopoly granted by a government to an inventor for a limited, pre-specified time.
- It provides an enforceable legal right to prevent others from copying the invention.
- Patents can be either process patents or product patents.
- A product patent ensures that the rights to the final product is protected and anyone other than the patent holder is restrained from manufacturing it during a specified period.
- This is applicable even in the cases if they were to use a different process.
- A process patent enables any person other than the patent holder to manufacture the patented product by modifying certain processes in the manufacturing exercise.

What does India follow?

- India moved from product patenting to process patenting in the 1970s, which enabled India to become a significant producer of generic drugs at global scale.
- Between 1972 and 2005, India had adopted process patenting rather than product patenting, and built up a huge generic industry.
- This allowed companies like Cipla to provide Africa with anti-HIV drugs in the 1990s.
- But due to obligations arising out of the TRIPS Agreement, India had to amend the Patents Act in 2005 and switch to a product patents regime across the pharma, chemicals, and biotech sectors.

What was the earlier proposal from India and South Africa?

- In October 2020, India and South Africa had asked the WTO to waive certain conditions of the TRIPS Agreement.

- This was related to the provisions in TRIPS that could impede timely access to affordable medical products to combat Covid-19 which includes – testing, diagnostics and novel therapeutics.
- They also asked for enforcement of four sections -1, 4, 5, and 7 -in the second part of the agreement which pertain to copyright and related rights, industrial designs, patents etc.
- The proposal said that developing countries are facing institutional and legal difficulties when using flexibilities available in the TRIPS Agreement.

What does IP waiver for Covid-19 vaccines mean?

- It will result in the production of Covid vaccines with emergency use authorisations (EUA) on a larger scale in middle-income countries.
- Currently most of the production is concentrated in high-income countries and production in the middle-income countries happens through licensing or technology transfer agreements.
- But the pharmaceutical companies say that ramping up the production capacities and it will take at least a few months.

What are the deterrents for the waiver?

- Earlier pharma companies opposed the proposed waiver saying that eliminating IP protections would undermine global response to the pandemic, including the ongoing efforts to tackle new variants.
- It could create confusion that could potentially undermine public confidence in vaccine safety and create a barrier to information sharing.
- They say that it would not be feasible for a company to move vaccines to a developing nation as these countries do not have the capacity to speedily produce vaccines.

What are the other roadblocks to scaling up production?

- The real challenges include trade barriers, bottlenecks in supply chains, scarcity of raw materials and ingredients in the supply chain & unwillingness of rich countries to share doses with poorer nations.
- The scarcity of raw materials has been a growing issue for ramping up production, several manufacturers have been relying on specific suppliers and alternatives are limited.
- Also, countries like the US had blocked exports of critical raw materials used in the production of some Covid-19 vaccines using regulations like the American Defence Production Act (DPA).

- This led to a delay in the production of Covid vaccines by some companies in India.
- In India, vaccine manufacturers said that the use of the DPA had blocked exports of plastic bags, filters and certain media used in the production of the version of Novavax vaccine.

Source: The Indian Express

