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Introduction

In fighting the Covid-19 pandemic, the world is split into very different realities. While eighty percent of the population in high-income countries is vaccinated, only fifteen percent of people have received a dose in low-income countries (see figure 1). The situation is similar for testing capacities and medical treatment (Hannah Ritchie et al., 2020). To ease access to vaccines and therapeutics for developing countries and to help scale up production, more than one hundred states have supported a request to the WTO by South Africa and India, asking to waive intellectual property (IP) rights on Covid-19 related products (IP/C/W/669, 2020). However, a decision has so far been blocked by the EU, the UK and Switzerland (Beattie, 2021). Germany is the most prominent and powerful actor in Europe opposing the waiver and a reversal of its position would likely be a crucial tipping point for the WTO negotiations (Green, 2021; Stangler, 2022; Stiglitz, 2021). This influencing strategy will therefore aim to shift Germany's position.

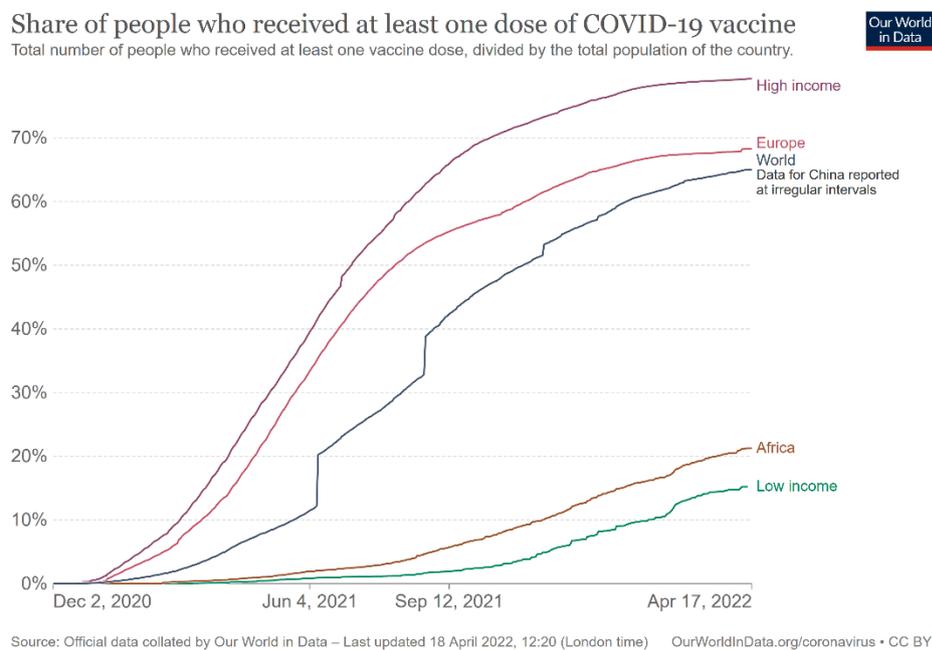


Figure 1. Source: Hannah Ritchie et al. (2020)

Context analysis

Shortly after the United States (US) had announced they would back the patent waiver in May 2021, the German government, led by Angela Merkel, voiced that it opposes these plans (Borger & Wintour, 2021). Germany's opposition meant a deadlock of the WTO talks, in which unanimous decision by all 164 members is required (Ibid). Negotiations have not progressed until a tentative compromise between the US, EU, South Africa and India was leaked in March 2022 (Shalal & Farge, 2022). However, Olaf Scholz, Germany's new chancellor, has explicitly spoken out against the patent waiver again after the compromise was published and the US highlighted that no agreement was yet found (Reuters, 2022).

Table 1: Timeline

	International level	National level
2020		
Mar	<ul style="list-style-type: none"> • WHO announces pandemic 	
Oct	<ul style="list-style-type: none"> • South Africa & India request waiver of patents for Covid-19 vaccines and therapeutics at WTO 	
Nov	<ul style="list-style-type: none"> • BioNTech/Pfizer vaccine proofs effective in test 	
Dec	<ul style="list-style-type: none"> • Start of vaccine roll-out 	
2021		
May	<ul style="list-style-type: none"> • US + French government announce support for patent waiver 	<ul style="list-style-type: none"> • German government announces opposition to patent waiver • Green frontrunner Habeck calls for suspension of patents • SPD group in parliament and supports patent waiver • SPD health spokesperson Lauterbach + SPD foreign minister Maas open for suspending patents
Jun	<ul style="list-style-type: none"> • Following pressure from Germany, EU submits own proposal on to WTO, which does not include suspension of patents 	
Sep		<ul style="list-style-type: none"> • General election
Nov	<ul style="list-style-type: none"> • EU parliament votes in favour of suspending patents 	<ul style="list-style-type: none"> • Coalition negotiations
Dec		<ul style="list-style-type: none"> • New coalition government by SPD, Greens and FDP is elected • Patent waiver turns out not to be included in the coalition agreement
2022		
Jan		<ul style="list-style-type: none"> • New minister of economics, Habeck, is first to state that the new government is opposing waiving patents
Feb	<ul style="list-style-type: none"> • EU-AU summit • Report finds that BioNTech undermines WHO efforts to establish vaccine production in Africa 	<ul style="list-style-type: none"> • Network of NGOs criticises Habeck for changing his position on waiving patents • New chancellor Scholz states his opposition to suspending patents
Mar	<ul style="list-style-type: none"> • Tentative compromise between US, EU, South Africa, and India in WTO talks on patent waiver is leaked • US states there is still no agreement in WTO talks 	<ul style="list-style-type: none"> • Scholz speaks out against suspending patents again after possible compromise was published

The EU speaks for all its member states at the WTO. The EU's decisions-making on WTO issues takes place in the Trade Policy Committee, where the member states' governments are represented (*Trade Policy Committee, 2022*). For Germany, the Ministry of Economics is responsible in WTO matters (BMWK, 2022). Positioning requires no formal vote but is subject to the decision of the responsible minister. However, he is bound to informal agreements within the governing coalition and the formal power of the chancellor.

There were expectations that the new coalition government of social democrats (SPD), greens and liberal democrats (FDP) might reverse Germany's position (Green, 2021). While the smallest partner FDP is opposed to waiving patents, Greens and SPD have shown support for their suspension prior to entering the new coalition (see table 1). However, the coalition agreement, which sets out informal agreements between the parties for their time in government, does not mention the waiver (SPD, Bündnis90/Die Grünen, FDP, 2022). The new green Minister of Economics, Robert Habeck, who had supported the waiver prior to the election, was first to publicly state that the new government opposes it (Twitter, 2022a). Chancellor Scholz repeated the opposition to a waiver of patents for Covid-19-vaccines multiple times.

Table 2: Constraining and enabling factors

Issue	Opportunities for Change	Obstacles or barriers to address
Political	<p>2 of 3 governing parties have shown support for patent waiver in the past.</p> <p>Government narrative of "progress coalition"</p> <p>Wide global coalition in favour makes change of position easier & pressures government</p> <p>Director of WTO pushes for the patent suspension</p>	<p>Strong opposition by governing FDP to waiver</p> <p>Strong lobbying power of pharma companies</p> <p>Political concern that patent waiver would threaten future innovation and investment</p> <p>Pandemic is not top priority on political agenda anymore</p>
Economic	<p>Economic costs of the pandemic create need to use all possible strategies to end it</p> <p>Trend towards stronger role of state in the pandemic</p>	<p>German company BioNTech, who developed vaccine for Pfizer, is seen as countries first foothold in biotech field</p> <p>Pharma industry's business model is built on patents</p> <p>Pharma industry's economic importance</p>
Social	<p>Moral imperative for equal vaccine distribution</p> <p>Interest in ending pandemic worldwide ("no one is safe until everyone is safe")</p> <p>Collective memory of the difficulties posed by the pandemic</p>	<p>National pride in vaccine development in Germany</p> <p>Intellectual property is dominant and widely supported system</p>

Power analysis

Using Lukes' (2005) three dimensions of power as a framework for analysis, entry points for the influencing strategy can be identified.

Visible power

- Most visible power is held by the chancellor and the minister of economics, who are directly responsible for taking decisions on Germany's position at the WTO.
- The three coalition parties determine the government's position in a political bargain, whose foundation is the coalition agreement.
- Foreign governments decision to support the patent waiver puts pressure on the German government by setting a precedent. The EU-parliament's power is limited, as the EU Commission is not bound to follow its vote.
- A network of humanitarian NGOs and charities has publicly criticised the government, especially Mr Habeck's change of position (Kreutzfeldt, 2022). Leaders of the influential 'Fridays for Future' (FFF) movement have spoken out for the waiver (Twitter, 2022b).

Hidden power

- Influence by the pharma industry is likely to explain the persistence of Germany's position. The country is home to the company BioNTech, which developed the mRNA vaccine alongside Pfizer. BioNTech is seen as Germany's entry into the biotech field (Lopez Gonzalez, 2022). Concerns that a waiver of patents will damage future innovation and investment dominates policy making (Ibid).
- 75% of meetings held by the chancellor and ministers on the issue of patents for Covid-19 vaccines were with industry representatives or investors (Bundesregierung, 2021). On the day after the US voiced its support, chancellor Merkel spoke with the CEO of BioNTech, and with Bill and Melinda Gates (Ibid). Two talks with the Pfizer CEO followed.
- Humanitarian NGOs and charities also have lobbying power and are regularly invited in parliamentary committees (Deutscher Bundestag, NaN). The churches are important actors in German development policy (Bundesregierung, 2021, p. 4).
- Think tanks and academics hold hidden power in providing expertise and advice to parliament and the government. Most prominent are Germany's three largest economic think tanks ifo, IfW and DIW.
- Personal advisors and high-level civil servants play an important role in influencing the chancellor's and ministers' decisions. Most important to Scholz are: Wolfgang Schmid – his political companion for 20 years and head of chancellery (Emundts, 2021), Jörg Kukies – his "super advisor" for finance, economics and European policy (Grieve et al., 2021), as well as his wife – a politician herself. There are no public statements about their opinions on the patent waiver. To Habeck, it are his four most senior advisors Anja Hajduk, Udo Philipp, Franziska Brantner and Sven Giegold (Cleven & Geyer, 2021), two of which have expressed support for waiving patents.
- Within the governing parties, the regional branches, prime ministers of the states and informal political groupings have strong influence, next to the top representatives.

Invisible

- Among the public and politicians, there is a sense of national pride into the vaccine development and German inventions (Stangler, 2022). The two founders of BioNTech have been revered as national heroes (Bundesregierung, 2022).
- Further, the IP rights system is backed by public opinion that sees it as important to protect inventions and the German economy (Lopez Gonzalez, 2022).
- The collective experience of the hardships felt during the pandemic produced what some call a “mass trauma”, which produces a yearning for decisive political responses (Prideaux, 2021).
- The churches play an important role in raising awareness for issues of global injustice and shaping people’s moral beliefs.

Germany’s position towards the WTO is taken by the chancellor and the minister of economics, who are bound to a political bargain within the coalition. Multiple powers affect decision-making, most notably the pharma industry’s political influence, but also civil society influencing and public opinion. These play out in closed, invited, and created spaces and across different levels, as international and regional actors affect the national level (Gaventa, 2021). An influencing strategy must therefore work across different forms and spaces of power.

Key stakeholders

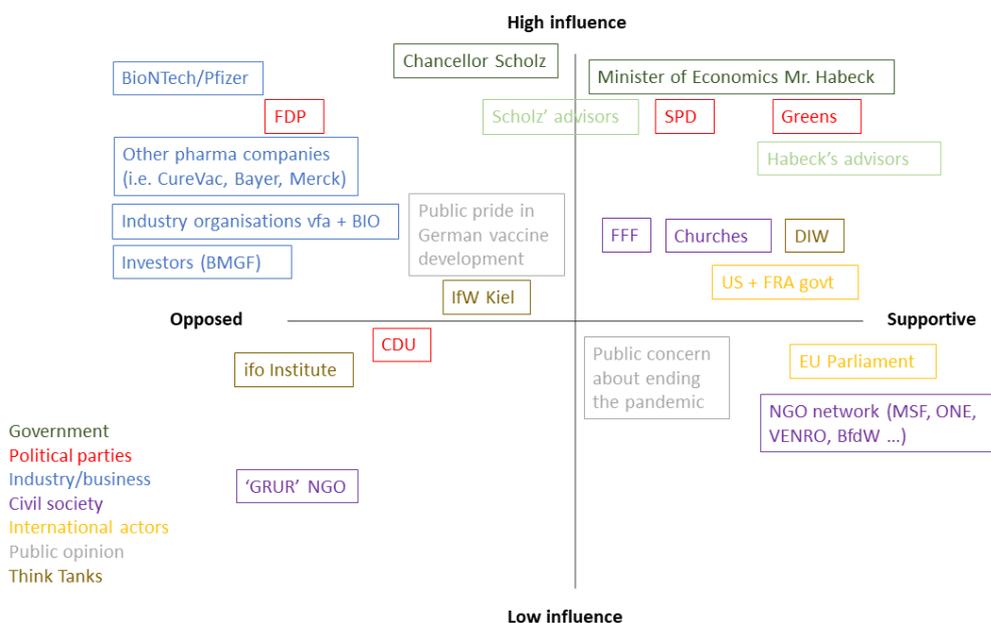


Figure 2: Stakeholder map

Strategy

Based on the stakeholder analysis, an influencing strategy can be developed. Tactics are chosen according to actors’ influence and level of support (English, 2020). This strategy is designed for activists who are members of the SPD or Greens, or have ties to relevant NGOs, enabling them to harness resources from these organisations. The tactics outlined in the following can be grouped into the five 5 types of advocacy defined by Miller and Covey (1997).

Table 3: Tactics

Cooperation	Education	Persuasion	Litigation	Contestation
Facilitating cooperation between the most important supportive figures from SPD, Greens, Churches, and NGOs, by hosting events and strengthening networks	Highlighting the positive economic effects, by using killer facts Demonstrating Germany's isolated position Campaign with emotional appeal	Addressing personal circle of Scholz & Habeck to get the right messengers to deliver the campaign's arguments Use research by DIW for economic arguments in favour of the campaign + build a coalition with its president	The threat of litigation on human rights grounds can be used build up additional pressure	Discrediting the positive public image of the BioNTech company

The previous analysis has identified that influential actors within two of the three governing parties are in favour of a patent waiver. This strategy will therefore aim at convening cooperation among them. Additionally, there are several supportive actors who are less influential, including a network of NGOs, European MPs, Churches, and FFF activists. By hosting an event on the issue of the patent waiver, they will be connected to the more powerful actors above. Coordinated action will be facilitated by harnessing existing networks and building new connections and trust. The political foundations affiliated with SPD and Greens will be used as brokers, as they are well connected in their parties and among NGOs. Links to the People's Vaccine Alliance will be established, which is fighting vaccine inequality internationally, but has little presence in Germany.

An important pillar of the campaign is the effort to persuade the key decision makers Scholz and Habeck. An insider approach, relying on the right messengers, will be most effective. Habeck personally supports the waiver but has compromised his beliefs to the demands of the FDP and the industries influence. He is constrained by the concern that the Greens are perceived as being anti-industry. Thus, Habeck must be convinced that the costs of the waiver for the industry and for his own reputation would be manageable. Economic arguments are thus most important. While Scholz does not have a strong personal belief in favour of suspending patents, his opposition is likely to be equally driven by political concerns about the industry's opposition and its partner FDP.

The economic think tank DIW will be a helpful partner to the campaign, as its president has publicly argued that a patent waiver for vaccines would be economically beneficial and that counter-arguments are disproved (Fratzcher, 2021). DIW thus represents an unusual suspect in support of the campaign, which can provide sound economic arguments in its favour. To effectively place these arguments among Scholz closest advisors Schmid and Kukies, the campaign will work with well-connected actors within the SPD. Jakob von Weizsäcker, former chief economist for Scholz as finance minister, and later head of the G20 working group on health and finance (FAZ, 2022), has the perfect profile for this, as he is junior enough to be easily reachable for activists but is trusted by Scholz and

his advisors. As Habeck’s personal circle is already in favour, they will be targeted with stylised versions of the economic arguments presented by the DIW.

To shift public opinion, the campaign will focus on creating killer facts regarding the consequences of current vaccine inequality and the economic benefits of a patent waiver (see figure 3). Further, Germany’s internationally isolated position will be demonstrated (figure 4). This could be particularly effective now, as the government faces severe criticism over its hesitant response to Russia’s invasion of Ukraine. Both tactics can be combined with appeals to the public’s emotions about the need to end the pandemic for good.

BioNTech

PROFIT PER MINUTE:

23.400 €



PERCENT OF DOSES DELIVERED TO LOW INCOME COUNTRIES:

1%



Figure 3: Killer fact, Source: estimated based on Oxfam International (2021)

WHO SUPPORTS TO WAIVE PATENTS ON COVID-19 VACCINES FOR A LIMITED TIME:

USA
France
The Pope
EU Parliament
150 Nobel Laureates
More than 100 countries



WHO OPPOSES TO WAIVE PATENTS ON COVID-19 VACCINES FOR A LIMITED TIME:

Germany
Switzerland
UK

Figure 4

Further, the campaign will focus on changing the positive image of the BioNTech company in Germany. In the popular framing, the patent waiver poses a threat to German know-how. Only little attention is paid to the fact that BioNTech developed the vaccine in joint venture with Pfizer, which controls commercialising the vaccine in all countries around the world except Germany, Turkey and China (Kuchler et al., 2021). Further, the company is very eager not only to prevent a suspension of patents but also the development of vaccine production on terms other than its own. Recently, it was shown that BioNTech actively undermined the WHO's initiative to bring Covid-19 vaccine manufacturing to Africa (Davies, 2022). By attacking BioNTech's image on these grounds, the opposition to a patent waiver amongst the German public should decrease, as well as the company's ability to lobby.



Figure 5

The campaign will start by facilitating cooperation among supportive actors, before commencing its education and contestation elements. The effects of the public campaigning should be evaluated throughout, to adjust tactics if necessary. Activists must be prepared to manage the risk of public backlash against attacks on BioNTech. Only once a high level of public attention is achieved, persuasion tactics will start. This is required to push up the issue on the agenda of the decision makers Scholz and Habeck, which is especially important given that the newsworthiness of the pandemic has decreased, so that they will be open to listen to the arguments used in persuasion tactics. The combination of outsider and insider tactics constitutes a promising strategy to end Germany's blockage.

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