

# Covid-19: Why new Omicron variant highlights the urgent need to lift vaccine patents

Friday 10 December 2021, by [LE SAINT Rozenn](#) (Date first published: 1 December 2021).

**The emergence of the new variant of Covid-19 called Omicron should serve as a wakeup call to rich countries that unless the whole world is given access to vaccines the pandemic is doomed to continue. Instead, the new variant was given as the reason why a key meeting at the World Trade Organisation to debate the temporary lifting of intellectual property rights on vaccines was postponed indefinitely. Rozenn Le Saint reports on the anger of French activists at the lack of progress on what they see as a key issue in tackling the pandemic in poorer countries.**

Save lives rather than preserve profits. That was the message of a demonstration staged by the collective group '*Brevets sur les vaccins anti-Covid, stop. Réquisition!*' ('Stop Covid vaccine patents. Requisition!') in Paris on Tuesday November 30<sup>th</sup>. The gathering took place in the Place de la Bourse around candles representing the lives that could have been spared if Covid vaccine patents had been lifted. The protest had been timed to coincide with a ministerial meeting of the World Trade Organisation (WTO) in Geneva.

On that meeting's agenda was the demand from India and South Africa, with the support of around 100 other countries, to lift intellectual property rights and allow the transfer of Covid vaccine, treatment and test technologies. These countries have been waiting for this discussion since October 2<sup>nd</sup> 2020, even though the WTO's [founding agreement](#) makes specific provision for this possibility, as long as any such decision is unanimous.

On November 26<sup>th</sup> the United States president Joe Biden [reiterated](#) his wish to "waive intellectual property protections for COVID vaccines, so these vaccines can be manufactured globally" and underlined the "importance" of "moving on this quickly".

However, representatives of states and activists backing fair access to global health products were prevented from having their voice heard at Geneva because of the fresh border closures and quarantines imposed after the emergence of the Omicron variant. Those unable to attend included representatives from South Africa where according to [Our World in Data](#) only 29% of the population is vaccinated; and this includes many jabbed with the Johnson & Johnson vaccination which is regarded as less effective than the mRNA type produced by Pfizer and Moderna. It was therefore fertile territory for the emergence of a new variant such as Omicron.

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### ***It's an absolute scandal of organised shortages, a hold-up over doses!***

Franck Prouhet, a doctor and member of the collective 'Brevets sur les vaccins anti-Covid, stop. Réquisition!'

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In the end the [entire WTO meeting was postponed](#) and the discussion over the key issue of suspending intellectual property rights has been put off indefinitely. "We're in an absurd situation. The emergence of a variant which has developed because of unequal access to vaccines is stopping the holding of an event planned to discuss the solution, the waiving of patents," complained Jérôme Martin, co-founder of the [Observatoire de la transparence dans les politiques du médicament](#), which calls for wider access to medicines.

The meeting was scrapped even though the World Health Organisation (WHO) has [criticised](#) countries for blanket travel bans, a policy it says can "adversely impact global health efforts during a pandemic by disincentivising countries to report and share epidemiological and sequencing data".

Jérôme Martin also noted that while the Geneva meeting was postponed "other international events are still going ahead". For example the WHO itself held its World Health Assembly in the Swiss city from November 29<sup>th</sup> to December 1<sup>st</sup>. In its [communiqué](#) the assembly agreed to "kickstart a global process to draft and negotiate a convention ... to strengthen pandemic prevention, preparedness and response".

The WHO's Director-General Dr Tedros Adhanom Ghebreyesus used the gathering to [remind](#) the world that "more than 80% of the world's vaccines have gone to G20 countries; low-income countries, most of them in Africa, have received just 0.6% of all vaccines"; earlier this year he [criticised](#) what he called the "me-first approach".

Figures also show that just one nurse in four in Africa is vaccinated. "It's an absolute scandal of organised shortages, a hold-up over doses!" said Franck Prouhet, a doctor and member of the collective 'Brevets sur les vaccins anti-Covid, stop. Réquisition!'

With the first details on the effectiveness of vaccines against the Omicron variant likely to be known within the next couple of weeks, the makers of the mRNA vaccines are already preparing to adapt their products. Stéphane Bancel, the CEO of Moderna, told the [Financial Times](#) he feared a "material drop" in the effectiveness of current vaccines against Omicron.

France's Ministry of Health pointed out that "in the contracts that have been signed, clauses relating to the emergence of variants allow us, in association with the European Commission, to trigger them if necessary". That would enable the country to get vaccines specifically designed to fight against the new variant; Moderna's vice-president Dan Staner told [France Info](#) radio these could be ready "within six to seven months".

Once more the richest countries would be served first while the poor countries, where the variants emerge, will again be the last to get the vaccines adapted to deal with them. In the absence of a waiver on patents, history seems doomed to repeat itself. "The request is being knocked back by

representatives of the European Union, Switzerland and other countries which have a strong pharmaceutical sector,” said Franck Prouhet.

After initial [hesitancy](#), French president Emmanuel Macron finally [announced](#) his backing for the waiving of patents on June 10<sup>th</sup> 2021, more than a month after his American counterpart. Germany, meanwhile, is opposed to it, as is the European Commission. “With the change at the head of the German state, the balance of power could shift. For the time being Emmanuel Macron is hiding behind the European Commission. Yet this refusal is unjustifiable,” said Jérôme Martin.

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Commission representatives point out that there are already existing national tools to deal with this situation, for example under French law there is the '[licence d'office](#)' which allows the country to waive intellectual property rights so that a product can be produced domestically. This solution has rarely been used by EU states and has not been deployed in relation to the Covid vaccines at all. The use of a '[licence d'office](#)' would also require a country-by-country approach, whereas a global waiver of intellectual property rights would be a much simpler process.

Opponents of lifting the patents insist that it is not the right solution given the urgency of the situation and the time needed to transfer technologies to allow poorer countries to produce vaccines. However, the production chain set up by Moderna's subcontractor in Switzerland, Lonza, was able to supply the market within just eight months.

And it was a full 14 months ago that India and South Africa first officially called for the suspension of patents. These legal protections are intended to compensate for the research carried out by pharmaceutical companies. Yet for the Covid vaccines it is the public authorities who have mostly underwritten this research.

Pfizer-BioNTech meanwhile announced in July 2021 that it had signed a licensing agreement with the South African laboratory Biovac for it to make mRNA vaccines which should be available on the African continent [next year](#). What drives the refusal to waive patents is the desire to keep the profits that these patents produce as, in the absence of competition, they allow companies to charge higher prices.

It is no coincidence that the demand for the waiver comes from India and South Africa, two countries who have invested heavily in building up their pharmaceutical production capacity. South Africa had already come under legal fire from 39 pharmaceutical firms after it [adopted a law in 1997](#) that encouraged the production of generic drugs to combat HIV/AIDS. As a result the African country developed cutting-edge ability to fight against that virus. This has led to its practice of widespread virus genome sequencing, unlike many other countries where the Covid virus circulates widely without the authorities looking for particular variants.

In a bid to justify their stance, wealthy nations such as members of the European Union point to their charitable actions via the [COVAX](#) scheme, created by the WHO and [GAVI the Vaccine Alliance](#).

This seeks to distribute vaccine doses to the 92 least well-off countries. However, according to COVAX and the African Union in a [joint statement](#) issued on November 29<sup>th</sup>, the “majority of the donations to-date have been ad hoc, provided with little notice and short shelf lives”. Just 14% of the vaccine doses promised to COVAX by wealthy countries have in fact been delivered, according to the latest figures from the [International Monetary Fund](#).

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Moreover, richer countries have a tendency to keep the more effective doses, the mRNA vaccines, for their own people. For a long time France only passed on the unpopular AstraZeneca, which was snubbed by the French public and reserved just for those over 55. The health authorities think that because of the rare risk of bad side effects the benefit-risk ratio for this vaccine does not favour younger people.

Yet most of the COVAX doses are going to Africa, the “youngest continent in the world where 70% of the population is under 25”, as Emmanuel Macron himself reminded us on June 10<sup>th</sup>. “The fact that it's the vaccines that the rich people don't want that are being given is increasing vaccine mistrust in Africa,” said activist Jérôme Martin, who noted that “health is a right that should not just be permitted through acts of generosity” and that “the waiving of the patents is not incompatible with donations”.

On November 30<sup>th</sup> the Ministry of Health in Paris said that “of the vaccine doses expected during the first six months of 2022, a section of them will be earmarked for donations. But in January and February, in the middle of the booster vaccination campaign, there's no question of sending either the Pfizer-BioNTech or the Moderna vaccines. Donations of AstraZeneca and Johnson & Johnson, on the other hand, will continue.”

In all, France has promised to donate 120 doses of vaccine between now and mid-2022. By mid-November 25.9 million doses of AstraZeneca had been given by France, 12.2 million of the Johnson & Johnson variety and only 8.2 million Pfizer-BioNTech doses, while even fewer Moderna vaccines had been sent.

**Rozenn Le Saint**

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**P.S.**

• Mediapart. December 3, 2021:  
<https://www.mediapart.fr/en/journal/international/031221/why-new-omicron-variant-highlights-urgent-need-lift-vaccine-patents>

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