The WHO Constitution (1946) envisages “…the highest attainable standard of health as a fundamental right of every human being.”

Understanding health as a human right creates a legal obligation on states to ensure access to timely, acceptable, and affordable health care of appropriate quality as well as to providing for the underlying determinants of health, such as safe and potable water, sanitation, food, housing, health-related information and education, and gender equality.

A rights-based approach to health requires that health policy and programmes must prioritize the needs of those furthest behind first towards greater equity, a principle that has been echoed in the recently adopted 2030 Agenda for Sustainable Development and Universal Health Coverage.

The right to health must be enjoyed without discrimination on the grounds of race, age, ethnicity or any other status. Non-discrimination and equality requires states to take steps to redress any discriminatory law, practice or policy.

Another feature of rights-based approaches is meaningful participation. Participation means ensuring that national stakeholders – including non-state actors such as non-governmental organizations – are meaningfully involved in all phases of programming: assessment, analysis, planning, implementation, monitoring and evaluation.

A human rights-based approach to health provides a set of clear principles for setting and evaluating health policy and service delivery, targeting discriminatory practices and unjust power relations that are at the heart of inequitable health outcomes.

In pursuing a rights-based approach, health policy, strategies and programmes should be designed explicitly to improve the enjoyment of all people to the right to health, with a focus on the furthest behind first.

WHO has made a commitment to mainstream human rights into healthcare programmes and policies on national and regional levels by looking at underlying determinants of health as part of a comprehensive approach to health and human rights.

Covid-19 pandemic has shown why access to health products needs renewed attention

More than 6 billion doses of COVID-19 vaccine have been administered globally, but more than 50 countries remain below 10% coverage.

Unequal access is a manifestation of underlying problems.

On affordable access, economic, moral and political consideration justify government actions on correcting market from excessive and unaffordable pricing of health products

Beyond the pandemic, unaffordable high prices for medicines and health products have become one of the most pressing concerns for patients and health-care systems in all countries.

On diversifying production capacity globally - current production capacity of health products is concentrated in a few countries or regions

Countries heavily dependent on importation are at great risk of shortages and supply insecurity. LMICs’ pharmaceutical import: <5% of global total, LMICs’ disease burden: 55% of world’s total

Diversifying production capacity around the world could contribute toward improving timely access of health products and strengthening health security.

A key step to increase manufacturing in LMICs is promoting technology transfer and licensing of intellectual property such as patents and know-how.

The is great importance in developing and using laws (e.g. competition laws) and policies to promote access of health technologies and to protect public welfare during and beyond the pandemic

Governments need to protect against anticompetitive environments and behaviours (e.g. market dominance, absence of generic competition, shortages of supply) through: promoting and protecting independence of competition authorities, increasing cooperation among competition authorities, and considering mechanisms for streamlining competition enforcement actions

Additionally, governments need to manage contractual arrangements in public interests, ensure transparency of negotiated access conditions (including pricing) , reflect pubic governments’ contribution towards R&D, implement effective manufacturing or advanced market commitment,

Improving access to health products needs a suite of regulatory and policy tools to achieve affordable access to safe and efficacious pharmaceutical products which is at the core of global efforts towards achieving universal health coverage.

Regulatory and policy tools include pharmaceutical pricing policies, application and management of IP in a manner to maximize public health benefits, patent pooling and voluntary licenses (e.g. WHO C-TAP initiative), Use to the full of the public health flexibilities contained in the TRIPS Agreement, competition policies and laws, Potential use of TRIPS Waiver of certain intellectual property provisions to promote access (Currently in negotiation among WTO Members)

C-TAP’s underlying premise is that the voluntary sharing or pooling of data such as clinical trial data, manufacturing processes and other kinds of know-how, can accelerate the development of additional products for fighting COVID-19 and rapid scale-up of their manufacture where this is most needed.

The initiative, which was launched on 29 May 2020, has now been endorsed by over 40 WHO Member States, as well as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), Unitaid, the UN Technology Bank and several nongovernmental organizations and individuals.

WHO/C-TAP is working with the diversity of stakeholders to ensure timely and equitable access to COVID-19 diagnostics, therapeutics, vaccines and other health technologies. WHO C-TAP uses ACT-A prioritization to engage with industry, inviting key holders of COVID-19 technologies to voluntary share through C-TAP.

WHO C-TAP and its implementing partner organizations, such as the Medicines Patent Pool, are working in collaboration with governments, manufacturers, funders, UN partners, patient/civil society organizations, and others, through a series of consultations to promote sharing of data, intellectual property, and knowledge to promote rapid development of and scaled-up manufacturing for COVID-19 health technology products to achieve sustainable equitable access and health security for everyone, everywhere.

The pandemic has given us the unique opportunity to rethink the interactions between health and other policy domains such as intellectual property and international trade and to work collaboratively across all sectors to reinforce and strengthen synergies that advance scientific progress, innovation and access to medical technologies.