Abstract

Background/Objectives: In view of the trade-off, this paper sought to delve into the implications of TRIPs agreement on access to essential medicines in Nigeria.

Methods/Statistical analysis: Data from World Bank and World Health Organization were used in the paper. The study adopted some techniques of descriptive analysis like charts and tables in accomplishing its objectives.

Findings: The study came up with the following findings. First, a great number of people living with diseases lack access to essential medicines and the figures are rather increasing on daily basis, thereby resulting in the death of millions of people, due to TRIPs. Second, TRIPs agreement might be seen as a strategic tool used in maintaining and perpetuating developing countries' dependency on developed world. Third, other factors like distribution challenges, information gap (lack of awareness), and social factors (like stigmatization) are playing subservient roles in restricting people from accessing essential medicines even though some of the medicines are provided free of charge.

Applications: The study recommended that TRIPs agreement should be reviewed; there should be a public-private partnership in the provisioning of the essential medicines; and bridge information gap through awareness creation.

Keywords: Essential Medicines, TRIPs agreement, Human rights, Trade-off and WTO.

1. Introduction

The agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) is one of the agreements negotiated and signed during the Uruguay Round of GATT (1986-1994), which subsequently gave birth to World Trade Organization (WTO). The agreement on TRIPs seeks to protect innovation and invention by issuing patents and copyrights through setting minimum standards and conventions in the fields of pharmaceutical, arts and other creative areas, which are critical to societal progress and prosperity. The agreement has since generated a lot of debates and controversies from commentators all over the world in the light of intrigues and paradoxes associated with the agreement; as this would be properly discussed in the succeeding paragraphs. The “enjoyment of the highest attainable standard of health” by everyone irrespective of race, religion, gender, political affiliation, economic or social condition remains one of the fundamental human rights as contained in the UN’s Charter of 1946 and Universal Declaration of Human Rights [1]. The right to health was amended by the Committee on Economic, Social and Cultural Rights in May 2000 to include right to essential medicine [2]. As a result, [3] made access to affordable, essential drugs on a sustainable basis one of the targets of Millennium Development Goals (MDGs). However, millions of people, especially women and children, are dying annually from preventable and treatable diseases.

In other words, a very large number of people in the world have inadequate or no access to essential and life-saving drugs. This problem is particularly worst in developing countries where majority of the poor live. In a quest to protect and encourage innovation coupled with protecting the interests of the developed world; World Trade Organization (WTO) incorporated Trade-Related Intellectual Property Rights (TRIPs) Agreement in January, 1995. This was done having negotiated the TRIPs at the end of Uruguay Round of the defunct General Agreement on Tariffs and Trade (GATT) in 1994 [4-8]. In [5] corroborated further that although TRIPs contradicts the principle of free trade as advocated by Western powers, the motive behind TRIPs is to reward inventor.
This is so by offering him/her exclusive rights to use his/her invention and prevent others from using it without his/her permission. In [9] also observed that the antagonists of TRIPs made a case that TRIPs was brought into force majorly on two grounds: one is that the USA and some developed countries used it as a tool to halt the attempt by G77 developing countries to restructure the international Intellectual Property Right (IP) system so as to enhance North-South diffusion of technology via the World Intellectual Property Organisation (WIPO) during 1970 and the early 1980s. Two is that the USA blamed the reduction of its industrial competitiveness on the prevalent counterfeiting, piracy and contravention of IP right. In view of the above arguments it could be inferred that there may be hypothetical trade-off between the incorporation of TRIPs on one hand, and principle of free trade and realization of human right to health on the other hand. This is also in-line with the conclusion of [5]. This is so because an effort geared towards patenting inventions, especially on such products as essential drugs, has a monopolistic tendency leading to limited supply of such products and proliferation of their prices. As a consequence, the number of people with access to essential medicines is bound to fall down particularly among the poor. The recent emergence of some communicable and other life-threatening diseases (like Ebola, Cancer, Tuberculosis, Malaria and cholera) alongside HIV/AIDS crisis in Africa have also made the issue clearer and even drawn the attention of the world. Again, a cursory view of available statistics suggests that about half the global population have inadequate or no access to essential medicines, most of which are from low-income countries of Africa and Asia. Being a signatory to the TRIPs agreement, Nigeria is adversely affected by the development; perhaps, the country is developing and lacks innovative capabilities.

According to [10], there were about 36.9 million people living with HIV across the globe, 2.6 million out of the total number are children and almost 25.8 million people were from sub-Saharan Africa in 2014. Only 40 per cent (about 14.9 million people) of the people living with HIV were receiving antiretroviral therapy (ART) during the period. Also, about 1.2 million people died from HIV-related causes in 2014. Nigeria has been a democratically stable country for almost 17 years now (1999-2016), and as such, the country is expected to have been providing essential services, like health, water, electricity, roads and name it, to its citizenry sufficiently and affordably as enshrined in the constitution [11]. Economically, Nigeria is highly endowed with human and natural resources thereby making it to be the largest economy in Africa and 27th in the world. Yet, the provision of essential services, especially health services, has been disappointingly very poor in the country leading to high morbidity and mortality in the country. Available statistics below have shown that life-threatening diseases are on the increase in Nigeria. According to [12], Nigeria is the third country with the largest number of people living with HIV/AIDS (about 3.2 million) in the world after South Africa and India. In the [13] and [14] reports, TB cases remain high in Nigeria over the years as there were 343 and 339 per 100,000 persons living with TB in 2005 and 2014 respectively. The story is also the same in the cases of Malaria, Cancer and other notifiable diseases. The consequences of the high prevalence of the diseases may be linked to the high maternal and under-five mortality rates in Nigeria. The rest of the paper includes problem statement, objectives of the study, literature review, methodology, presentation and discussion of results, and conclusion with recommendation.

2. Problem statement

The essence of Trips’ conception and enactment remain to encourage and protect innovation as the only source of technological advancement. TRIPs serve as a good mechanism of rewarding an inventor and/or innovator. This is done by offering him/her (the inventor and/or innovator) exclusive rights to use his/her invention and/or innovation while preventing others from using it without his/her permission. This is the logic behind the issuance of copyright and patent right in any country. By so doing, other people or organizations are being motivated to come up with some initiatives in the process of production or introducing a new product entirely. Several organizations have research and development (R&D) unit charged with the responsibility of engaging in research just to break through in the areas of techniques of production or new product.

Indeed, this is the major driver of economic and development of many developed countries like US, Canada, Japan, France, UK and whole lot of others. Nonetheless, this is happening at some economic and political costs of retarding international trade and denial of some fundamental human rights respectively.
The case of full implementation and strict adherence to the terms and conditions of TRIPs agreement, as advocated by US and other developed countries via WTO, is contradictory. It is so because, on one hand there is a declaration of fundamental human right to health, to which access to essential medicines is part and parcel, and also the principle of free trade. On the other hand, the TRIPs agreement perhaps restricts access to essential medicines and serves as a stumbling block to the principle of free trade, by dint of patenting essential medicines. Moreover, there had been a series of studies on the implications of TRIPs agreement on access to essential medicines: [4], [15-19], and so on. Their findings remain inconclusive, perhaps because the studies are not country-specific and their problems are very extensive. Unlike these studies reviewed, this paper set out to x-ray the implications of TRIPs agreement on access to essential medicines in Nigeria. This is so because there is also a dearth of literatures on the problem in Nigeria. This study broady examined the implications of TRIPs agreement on access to essential medicines in Nigeria. The specific objectives were to examine: Whether or not TRIPs agreement affect access to essential medicines in Nigeria.

3. Literature review

3.1. Conceptual Issues

In [3] defined access to essential medicines, as having medicines continuously available and affordable at public or private health facilities or medicines outlets that are within one hour walk from the homes of populations. In line with the [20], essential medicines in this study refer to medicines that fulfill the most important health care needs of the population. To [10], essential medicines are “those drugs that satisfy the health care needs of the majority of the population; they should therefore be available at all times in adequate amounts and in appropriate dosage forms, at a price the community can afford”. The essential medicines are not only the medicines of life threatening illness (like Cancer, HIV/AIDS, Ebola, TB, etc.) but also medicines of other diseases (like Yellow Fever, Tetanus, and). Among others, essential medicines are: Anti-cancer drugs (like Adriamycine, Zoladex) Antiretroviral drugs (like Zidovudine, Efavirenz, Idanosine, Lamivudine, etc.); Anti-TB (like Isoniazide, Rifampicin, Pyrazinamide); Anti-malaria drugs (such as Artemisin-based combination therapy ACT) and so forth. It is note-worthy that essential medicines are meant to be available in functioning health systems at all times and adequately.

Thus, [3] also defined essential medicines so as to incorporate it in the MDGs framework. Following [3], access to essential medicines could be taken to mean having access to available and affordable essential medicines on a sustainable basis within an hour distance between the homes of the population and health facilities or medicines outlets. The availability of the medicines implies that the medicines should always be obtainable and accessible at all health facilities or legitimate medicines outlets coupled with the basic knowledge in how to use them’ Affordability suggests that the prices of the medicines have to be within the reach of the common man. The sustainability means that the medicines should be persistent or continuous all the time without any break. Another important concept in this study is patent, which has been severely defined by many professionals and scholars. For instance, to [21] “A patent is a document, issued, upon application, by a government office (or a regional office acting for several countries), which describes an invention and creates a legal situation in which the patented invention can normally only be exploited (manufactured, used, sold, imported) with the authorization of the owner of the patent. Invention” means a solution to a specific problem in the field of technology”. Again, [22] defined patents as providing “the patent owner with the legal means to prevent others from making, using, or selling the new invention for a limited period of time, subject to a number of exceptions”. Therefore, this study combined the above definition to come up with a workable one that patent is the right granted by the State to an inventor to exclude others from commercially exploiting the invention for a limited period, in return for the disclosure of the invention, so that others may gain the benefit of the invention. The disclosure of the invention is thus an important consideration in any patent granting procedure.

3.2. Brief overview of TRIPs agreement

TRIPs are an acronym standing for Trade-Related Aspects of Intellectual Property Rights. TRIPs are one of the major agreements of World Trade Organisation ("WTO"), which was brought into force on 1 January 1995, and applies to all WTO Members.
Basically, there are major parts of Intellectual property rights: copyright and rights related to copyright which are usually granted to authors of literary and artistic works; and industrial property covering unique brand names like trademarks and geographical indications, and inventions (protected by patents), industrial designs and trade secrets. In [23] and [8] observed that there are three main characteristics of TRIPs Agreement: Standards, Enforcement and Dispute Settlement. In case of Standards, each Member sets out the minimum standards of protection, regarding each of the main areas of intellectual property rights covered by TRIPs. In the area of Enforcement, internal procedures and solutions for the enforcement of intellectual property rights are put in place. Under this, [4] pointed out developing countries were given a ten-year period to implement such an agreement, that is, the effect of the agreement started on 1st January, 2005 in the developing world. Lastly, with respect to Dispute Settlement, All WTO Members are obliged to implement and comply with the minimum standards in their national legislation. The Agreement recognises the challenges of least developed countries thereby extending the implementation to June 2013 and January 2016 for pharmaceutical products.

In [22] posited that the brain behind Doha Declaration was the need, put forward by some developing countries (especially The African Group like Nigeria, Ghana, South Africa, Zimbabwe, Kenya, Botswana, etc.), for clarification and interpretation of the agreement. WTO member-states emphasised the need to implement and interpret the TRIPs Agreement in a way that supports public health so to promote both access to existing medicines and the creation of new medicines. TRIPs has eight important problems addressed: Copyright and related rights, trademarks, geographical indications, industrial designs of integrated circuits, layout-designs, patents, protection of undisclosed information and control of Anti-competitive Practices in contractual licences [24]. To this effect, TRIPs agreement has 73 articles and, this study reviewed the most relevant among them.

Article 7 observes that protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations. Article 8 states that: 1. Members may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this agreement; 2. Appropriate measures, provided that they are consistent with the provisions of this agreement, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology. Other articles included articles 27, 30, 31, 40 and 65.

3.3. Theoretical framework

Every democratic country has a constitutional obligation to cater for the needs of its citizenry especially the provision of basic amenities and essential services, to which essential medicines is inclusive. Most a times, several countries particularly developing ones lack adequate resources to meet the numerous needs of its citizens, and as a result they look up to developed countries for grant and aids to complement their little resources. This relationship leads to bilateral and multilateral agreements.

In the light of the agreements in the preceding paragraph, there is a multitude of theories of political economy that deliberate elaborately on the root of inequalities in international development and political order among countries in the world. Most relevant to this study among the theories is the political economic theory using dependency analysis. The theory of the political economic dependence is indirectly an upshot of Marxist ideas. The theory puts forward that underdevelopment occurs in developing countries due to persistent exploitative economic, political and cultural policies of former colonial rulers toward less developed nations [25,26]. Put differently, the coexistence of rich and poor nations in an international system is either self-serving or accidentally, carelessness of the developed countries, thereby resulting in such unequal power relationship between the centre (the developed world) and the periphery (the developing world). In [27] and [25] corroborate that this association makes any effort of developing countries to be independent and developed fruitless or rather impossible given the depth of the socioeconomic and political challenges of low standard of living coupled with absolute poverty, poor health services and so on; characterizing the poor countries.
Moreover, the theory identified comprador group local elites (landlords, entrepreneurs, military rulers, salaried public officials and trade union leaders) who act as the ambassadors of developed world in perpetuating international capitalist system of inequality. These elites, though too small but very powerful, act and express their view in such a way to hamper any indisputable reform and policies to be undertaken in the poor countries, which could benefit majority of the population. This is particularly justifiable because the elites are invariably rewarded by the interest power groups, to which such multinational corporations, national bilateral aid agencies, and purported development assistance agencies like International Monetary Fund (IMF) and World Bank; are part and parcel [28] and [25].

In nutshell, these theorists viewed underdevelopment as an “externally induced phenomenon”, even though there are other internal factors like inadequate resources, poor education and skills, poor governance and unequal distribution of resources. The theory thus recommends that for poor countries to be independent and self-reliant there must be revolutionary struggles or at least major restructuring of the international capitalist system just to free such poor countries from the exploitation and control of developed world and comprador group. In connection to this study, the developed world could be seen to have used WTO as a mechanism to sustain and maintain the unequal distribution of power by formulating and implementing such agreements like TRIPs and their likes. For example, in this case of TRIPs particularly articles related to patenting pharmaceutical products, it is obvious that majority of the pharmaceutical companies are located in the developed world whereas most of the diseases and illness are much more prevalent in the developing world. The interest power groups’ quest to perpetuate international capitalist system of inequality might bring about monopolistic tendency and skyrocketing of prices of essential medicines, which consequently could impact adversely the population with access to essential medicines.

3.4. Review of Empirical Issues

There are burgeoning studies on the implications of TRIPs agreement on the access to essential medicines in developing countries. The study of access to essential medicines in developing countries, however, concluded that it is the TRIPs agreement of WTO that is responsible for the higher prices of the patented medicines. The study also argued that the policy instruments governing the TRIPs if designed with care could surely eradicate such unfavorable effects on the affordable access to essential medicines [4]. In another study of the link between TRIPs and the human right to health, [5] uncovered that there exists a potential trade-off between incorporation of TRIPs and realization of human right to health. This is particularly so because any attempt to implement TRIPs agreement results in reduction of number of people with access to essential drugs especially in developing countries.

In the same connection, [16] investigated the global politics of TRIPs and pharmaceutical drug policies in developing countries. In [16] found out that the low income consumers of developing countries are being denied access to essential drugs and other health care inventions which are caused by higher prices labeled against them due to monopoly. He further argued that the developing countries are not financially buoyant and they have not yet developed appropriate competition rules to deal with the problematic nature of WTO agreement on TRIPs. In the same vein, [17] justified the need to amend TRIPs so as to improve access to essential drugs in developing countries. Inter alia, the justifications include: TRIPs restricts competition, proliferates prices and thus reduces access to essential medicines especially in developing countries. The study recommended that, in order to improve access to essential drugs in developing countries, there should be generic competition, tiered pricing mechanism and political support for public health safeguards. In [15] appraised trade policy and politics of access to drugs. The study is in line with the findings of [17] and [16].

Furthermore, [7] examined the implications of TRIPs agreement for developing countries. Among others, his findings include: TRIPs serves the interest of developed countries at the detriment of developing world and TRIPs does not guarantee transfer of technology from the developed countries of the west to the developing countries, also consumers of developing countries pay for technology which they are not enjoying and that the legal protection of intellectual property right is not a prerequisite for technology transfer and finally the TRIPs has been characterized as an exploitative machinery for economic control of the weaker countries by the stronger nations under WTO regime. Again, [29] studied globalization, the TRIPs agreement and their implications on access to essential medicines in developing countries.
His findings suggest that globalization results in proliferation of prices of essential medicines, which make them unaffordable to the ordinary Nigerians. In [18] appraised the effect of pharmaceutical patents, in terms of TRIPs on access to essential medicines in Sub-Saharan Africa. Their findings imply that both patent and non-patent factors contribute equally to the inadequate access to essential medicines in Sub-Saharan African. These non-patent factors include poverty, lack of supportive infrastructure, and poor governance.

In [30] evaluated the impact of patents, especially the one enforced by TRIPs on access to HIV/AIDS drugs in developing countries. They discovered that an average patent raise availability of new drugs (from 27% to 33%) but patents reduce sales by 59%. The net effect is that patents reduce sales by 34%. In other words, the net effect of patents is that they lead to higher prices and lower sales due to monopolistic tendency which also reduce access to essential medicines. Unlike other studies, [19] assessed the link between the TRIPs agreement and the human right to essential medicines. The study established that it is not the TRIPs that are responsible for inadequate access to essential medicines, because most people without access to essential medicines are not protected by patents in any country. The study rather blamed other factors like insufficient distribution systems, poor trading, and lack of capacity to import drugs and affordability of generic drugs for people in developing countries.

The chart above shows a vicious cycle of underdevelopment in developing countries in the world. It is well known that developing world is characterized with such challenges as poverty, unemployment and other socioeconomic challenges caused by inherent inequalities like health and income inequalities. The underdevelopment, in turn leads to the urgent needs for development assistance in form of aids and grants, especially from developed countries of the West. The donors tend to attach terms and conditions to the aids and grants, which culminate into agreements, charters, declarations and articles.

3.5. Conceptual Framework
Underdevelopment: low standard of living, other socioeconomic challenges.
Development assistance: Aids & grants, external debt and its conditionality.
Health Inequalities: Inadequate access to essential medicines, low life expectancy, high mortality rate, prevalence of communicable and non-communicable diseases
Agreements and treaties: WTO agreements, UN charters & declaration.
These contracts further compound the inequalities in the developing countries of the East. This chain reaction will continue forever unless and until total restructuring and reconstruction of international relations.

4. Materials and Methods
In view of the study's goal of producing objective and reliable findings, the study adopted historical and analytical methodologies. In other words, the study is a secondary or historical research. That is, secondary sources of data like WHO, World Bank, etc., will be mainly used. This study covered the period 2003-2014 because that is when TRIPs takes effect in developing countries.

The period is so chosen due to the fact that the available data is limited to 2003-2014. The time scope of the study is so chosen in view of the fact that TRIPS agreement had first taken effect on 1st January, 2005 and later extended to 2013. Thus, year 2003 is chosen so as to consider the effects of TRIPS before the implementation while 2014 is used to study the effect of TRIPS after the extension of the implementation in developing countries.

The sources of data for this study were the reports of World Health Organization (WHO), United Nations’ Children Emergency Fund (UNICEF), FMoH, UNDP reports and National Bureau of Statistics. Pieces of information on access to essential medicines (ART, Zidovudine, Efavirenz, Idanosine, Lamivudine, etc and anti-TB, like Isoniazide, Rifampicin, Pyrazinamide), and the cases of HIV/AIDS and TB etc, would be particularly used in the analysis. The techniques of data analysis are the descriptive statistics like tables, graphs and percentages and were used in analysing the data to find out whether or not TRIPs agreement has any implication on access to essential medicines in Nigeria.
5. Presentation and Discussion of Results

This section is designed to present, analyse and discuss some stylized facts about how TRIPs agreement affects Nigerian population infected with certain diseases (like HIV/AIDS and TB) and the access to essential medicines of their peculiar diseases over the years. Figure 1 is graphical representation of table revealing the wide gap between PLWHA and ART coverage in Nigeria for the period 2003-2015. It could be inferred from the above illustration that there are huge number of people living with HIV/AIDS in Nigeria lacking access to ARV drugs, which perhaps lead to their evitable deaths.

![Figure 1. Trend of PLWHA versus ART coverage in Nigeria 2003-2014](source: Author’s illustration)

Based on this statistical analysis and literatures (like [4], [29] and [7] though there are other non-patent factors (like poverty, distribution challenges and so on) but patent factors play very vital role in restricting people from accessing ARV drugs. This is particularly because about 80% of essential medicines are imported into Nigeria (as will be revealed subsequently) and vast majority of the companies producing the medicines are highly concentrated in developed countries, which are protected by patent rights as advocated by WTO’s agreement on TRIPs.
Figure 2 is a graphical representation of TB cases and its detection and success rates in Nigeria over the period 2003-2014. It is indicated that there has been a problem with the detection of TB leading to fewer number of people being treated successfully.

![Figure 3. Distribution of registered drugs in Nigeria 2001-2008](source: Author’s illustration)

Figure 3 is also a graphical representation of distribution of registered drugs in Nigeria. The chart shows the wide gap between imported and local drugs in Nigeria. The imported drugs remain greater than the local drugs in Nigeria for the period 2001-2008. This suggests that most of the drugs were imported from developed countries where most of the big pharmaceutical companies are situated. This situation may lead to proliferation of prices of essential medicines owing to monopoly and tariffs leading to limited access to essential medicines by the common man. EFPIA, (2014) reports that North America, Europe and Japan accounted for 41.0, 27.4 and 9.7% of world pharmaceutical sales as matched with Africa and Asia altogether, and Latin America that contributed just 16.1 and 5.8% to the sales respectively. Also, it could be observed in Figure 3 that close to the effect of the agreement in developing countries that is around 2003 and 2004, as well as 2005 to 2008 the importation of drugs skyrocketed in Nigeria.

Figure 4 is a representation of distribution of medical services in Nigeria over the period 2001-2008. The chart reveals that more than 90 per cent of medical services were largely imported into the country. These services may include pharmacology, diagnostic and referral services. As such, both pharmaceutical companies and patients are perhaps adversely affected in terms of production of the drugs and access to the essential medicines in the country. Again, around 2004 to 2006 that is when the TRIPs agreement first took effect in developing countries, there was alarming gyration of drug importation into Nigeria. According to a survey by [31], 95% of HIV/AIDS patients purchased their ARVs perhaps due to stigmatization. Also, the survey reported that medicines were unaffordable to majority of Nigerians as the prices of the medicines are between 2 to 64 times higher than international reference price in Nigeria. This may not be unconnected with the facts that the drugs are largely imported it could be deduced from the above analysis that there are many people living with various diseases (which are life-threatening) but lacking essential medicines.

This is so because the prices of the medicines might be exorbitant due to the fact that they are imported into the country. Thus, given the time frame within which the problem is happening and at the same time the concentration of the pharmaceutical companies in the developed world, TRIPs agreement may be said to be responsible for the predicament though other factors could contribute to the problem but insignificantly. Therefore, the study could be said to have answered all the research questions in affirmative way that TRIPs agreement limit access to essential medicines and it is being used to sustain Nigeria’s dependency on other countries given the proportion of imported drugs and medical services in Nigeria.
6. Conclusion

This study examined the implications of TRIPs agreement of WTO on access to essential medicines using Nigeria as a case study. The study employed some techniques of descriptive analysis in realizing its objectives. Among other things, the study came up with some stylized facts about access to essential medicines. First, a great number of people living with diseases lack access to essential medicines and the figures are rather increasing on daily basis thereby resulting in the death of millions of people. This is so because of TRIPs agreement, companies producing the medicines are mostly located in the developed world, whereas most of the diseases and illness are much more prevalent in the developing world. Second, TRIPs agreement might be seen as a strategic tool used in maintaining and perpetuating developing countries’ dependency on developed world. Third, other factors like distribution challenges, information gap (lack of awareness), and social factors (like stigmatization) are playing subservient roles in restricting people from accessing essential medicines even though some of the medicines are provided free of charge. The findings of this study are in conformity with those of that TRIPs agreement is highly contradictory as its promulgation benefits the developed world where there is too much concentration of invention and innovations. However, the agreement grossly violates the internationally acknowledged human right to health and by extension, right to access to essential medicines.

7. Recommendation

In view of the afore-said findings, the following measures were recommended.

First, TRIPs agreement should be reviewed and be made flexible enough, if impossible, to exempt developing countries like Nigeria from its terms and conditions for a reasonable period of time, say 30 years. By so doing, some pharmaceutical companies can come up to start producing the medicines at affordable rates. Because the grace period will enable Nigeria to freely import pharmaceutical technology to produce its own medicines so as to reduce the prevalence of life-threatening diseases in the country.

Second, developing countries should look inward and identify things that they can do to break the cycle of dependency thereby reducing the level of imports of certain strategic products like drugs into their countries. Nigeria can invest huge amount of money in Research and Development (R&D) units in Nigerian universities and research institutes with a view to develop its drugs using the available herbs in the country though it might take long time. This is so because Nigeria is blessed with varieties of herbs and plants that could be used in manufacturing drugs that cure some of the diseases. When this effort becomes successful, then Nigeria will be free from political manipulation by developed countries where the drugs are mostly imported from.
This is so because there have cases of Nigerian professors claiming to have developed these generic drugs but government was disapproving that, may be due to this TRIPS agreement. However, Nigeria will never be independent unless government starts reinforcing these think-tanks with political, moral and economic supports.

Third, there should be a public-private partnership in the provisioning of the essential medicines just to improve distribution of the medicines, bridge information gap that will lead to paradigm-shift in term of social factors. This partnership is essential as it will help in creating awareness as regards where the essential drugs could be gotten and at what price(s). Also, the partnership is important especially if it involves civil societies, religious bodies and other NGOs in the procurement and distribution of the medicines. This is because most of these NGOs, religious bodies and civil societies have international footing and backing which could help in getting and supplying the medicines affordably.

Fourth, like this study suggests that parallel importation can be explored by developing countries like Nigeria to avoid the problem of price proliferation in the country. The parallel importation of a patented medicine from one country where it is cheaper will enable the importing country have access to the drugs but at a lower cost than if the same drug had been imported directly. The major advantage of the system is that the mere threat of accessing drugs through parallel importation may be sufficient to provide importers enough negotiating leverage with the manufacturers for the latter to accept lower prices. It is also possible to have different countries producing different medicines at different prices given their relative advantages in the production of the medicines. For instance, US may produce and sell antiretroviral drugs at rate cheaper than any other country while Japan and Germany could have better technologies and cost effectiveness in the manufacturing of Anti-cancer drugs and Anti-malaria drugs respectively. In this case, Nigeria may import antiretroviral drugs from the US, Anti-cancer drugs from Japan and Anti-malaria drugs from Germany.

Lastly, Nigerian pharmaceutical suppliers should be involved in bulk/pooled procurement, which is a cost saving strategy whereby consumers (distributors or hospitals), instead of order for products individually, pool their orders and purchase larger quantities from a manufacturer. The essence of this is that the volume of the procurement, the manufacturer is able to give a considerable discount resulting in downward slide of the price, as against when the drugs are purchased on an individual basis. Pharmaceutical companies supplying the same drugs can be coordinated by pharmaceutical associations and NAFDAC to collectively procure the medicines in larger quantities and at a highly discounted rate since they collectively have strong bargaining power and marketing strategy that could assist them in getting the medicines at a much discounted rate.

8. Reference


