

Civil Society Open Letter to the Chair of TRIPS Council
8th December 2021

Ambassador Dagfinn Sørli
Permanent Mission of Norway
Geneva

TRIPS Council Must Act With Urgency on TRIPS Waiver Proposal

We are writing this letter to express our absolute outrage at the lack of any meaningful decision on the TRIPS Waiver proposal submitted more than one year ago to the TRIPS Council.

This waiver proposal co-sponsored by 64 WTO Members and supported by many more Members is extremely important for the crucial role it can play in diversifying and scaling-up production and achieving equitable access to the medical products that are much-needed to deal with the COVID-19 pandemic. Its significance has been reaffirmed by the ever-increasing global support of the international community, especially endorsements by international organizations including WHO, UNITAID, UNAIDS, UNCTAD, civil society, trade unions, health workers, world leaders, faith leaders, academics, intellectual property and human rights experts.

Even the European Parliament has called on the EU to “actively participate in text-based negotiations on a temporary TRIPS waiver” and “to support the granting of a temporary waiver from certain provisions of the TRIPS agreement for COVID-19, in order to enhance timely global access to affordable COVID-19 vaccines, therapeutics and diagnostics by addressing global production constraints and supply shortages.”¹ The Independent Panel for Pandemic Preparedness and Response established by the WHO has also supported the TRIPS Waiver proposal as “the promise of...collaboration has not yet delivered adequate access to COVID-19-related products or technologies everywhere they are needed”.²

Following submission of the revised waiver proposal (IP/C/W/669/Rev.1) in May 2021, at the TRIPS Council meeting in June you concluded you had “*not heard any objections to engaging in a text-based process on the waiver proposal*”.³ It is thus astonishing that 6 months on, reportedly you are now of the view that there is no agreement on the draft text to start text-based negotiations.⁴ Frustratingly, this view not only takes us backwards rather than forward but also legitimises the obstructionist attitude adopted by a few WTO Members opposing the TRIPS Waiver proposal. It is also startling for the very purpose of text-based negotiations is to reach agreement on a text. The draft decision text for the Waiver proposal co-sponsored by 64 WTO Members has been placed before the TRIPS Council for more than a year, and as mentioned has received extensive global support including from other WTO Members.

The real issue is not the absence of text on which discussions can be held, but rather the absence of good faith among some WTO Members that have stubbornly refused to meaningfully engage with the proposed text. Publicly, both the United States and the European Union claim to support the idea of a

¹ See https://www.europarl.europa.eu/doceo/document/TA-9-2021-0474_EN.pdf

² https://theindependentpanel.org/wp-content/uploads/2021/11/COVID-19-Losing-Time_Final.pdf

³ WTO Doc. IP/C/M/100

⁴ Geneva Health Files Newsletter Edition #112

possible waiver, albeit there continues to be disagreement on the parameters of the waiver.⁵ **Thus we believe it is important for you to urgently require the US and the EU as well as other WTO Members to either engage with IP/C/W/669/Rev.1 text by making concrete textual proposals or not to block adoption of the Waiver proposal.**

Inaction is no longer an option for the TRIPS Council. The Economist predicts that the actual death toll for COVID-19 is significantly higher than the official count and is likely to be approximately 17.6 million people⁶ with the pandemic increasingly affecting developing and least developed countries. UNCTAD has also concluded that the damage from the COVID-19 crisis has exceeded that of the Global Financial Crisis in most parts of the global economy, but has been particularly draining on the developing world, adding that the total cost of delayed vaccinations – in terms of lost income – will amount to US\$2.3 trillion, with the developing world shouldering the majority of that bill.

The TRIPS Council needs to stop making excuses and dragging its feet. As the Chair of the TRIPS Council, you must not allow a minority of blocking Members to paralyse the TRIPS Council by tacitly supporting their delaying and disinformation tactics.

We strongly call on you to start the text-based negotiations on the draft decision text (IP/C/W/669/Rev.1) currently before the TRIPS Council. Every day of delay means more deaths, more lives lost, and more setbacks to the recovery of the global economy. As the Director-General of the WTO Director-General has stated, 7 billion people are waiting for a meaningful WTO decision on the TRIPS Waiver.

cc.

Dr. Ngozi Okonjo-Iweala Director-General (DG) World Trade Organization
Ambassador Dacio Castillo (Honduras), Chair of the General Council

Global

1. ActionAid International
2. Amnesty International
3. Candid Concepts Development
4. Development Alternatives with Women for a New Era (DAWN)
5. Education International
6. Global Alliance for Tax justice
7. Global Call to Action Against Poverty (GCAP)
8. Health Global Access Project
9. LDC WATCH
10. Matahari Global Solutions
11. Médecins Sans Frontières (MSF) Access Campaign
12. Oxfam
13. People's Vaccine Alliance
14. Public Services International
15. Social Watch
16. Society for International Development (SID)

⁵ https://ec.europa.eu/commission/commissioners/2019-2024/dombrovskis/announcements/european-parliament-plenary-session-statement-executive-vice-president-valdis-dombrovskis_en; <https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/26/statement-by-president-joe-biden-on-the-omicron-covid-19-variant/>

⁶ <https://www.economist.com/graphic-detail/coronavirus-excess-deaths-estimates>

17. Third World Network
18. Women in Migration Network (WIMN)

Regional

19. African Alliance
20. Asia Pacific Forum on Women, Law and Development
21. Focus on the Global South
22. Fundacion Estudio e Investigación de la Mujer, America Latina y Caribe
23. NGO Forum on ADB, Asia
24. South Asia Alliance for Poverty Eradication (SAAPE)
25. South Asia Tax and Fiscal Justice Alliance
26. Yolse, Santé Publique et Innovation

National

27. Active Citizens Movement, South Africa
28. Africa Japan Forum, Japan
29. AIDS Access Foundation, Thailand
30. American Friends Service Committee, United States
31. Anders Handeln, Austria
32. Association de Lutte Contre les Violences Sexuelles et Appui à la Promotion du Développement Durable (ALUCOVIS-APDD), Burundi
33. Association For Promotion Sustainable Development, India
34. Association for Proper Internet Governance, Switzerland
35. Association of Volunteers for Sustainable Development, Burkina Faso
36. Attac Norway, Norway
37. Australian Fair Trade and Investment Network
38. Australian Nursing & Midwifery Federation
39. Bangladesh Nari Progati Sangha
40. Biofuelwatch, United Kingdom /United States
41. Bisan Center for Research and Development, Palestine
42. Blossom Trust, India
43. Bureau Pour la Croissance Intégrale et la Dignité de l'Enfant, Democratic Republic of Congo
44. CADIRE Cameroon Association, Cameroon
45. Catholic Agency for Overseas Development, United Kingdom
46. Center for Development of Civil Society, Armenia
47. Centre for Family Health Initiative, Nigeria
48. Confederazione Generale Italiana del Lavoro, Italy
49. Club Ohada Thies, Senegal
50. COALITION OF WOMEN LIVINH WITH HIV AND AIDS, Malawi
51. Community representative ACT-A Facilitation Council, Kenya
52. CUPPEC- Nepal
53. Community Working Group on Health (CWGH), Zimbabwe
54. Drug Action Forum – Karnataka, India
55. Drug System Monitoring and Development Center, Thailand
56. Equidad de Género: Ciudadanía, Trabajo y Familia, Mexico
57. Equity and Justice Working Group, Bangladesh [EquityBD], Bangladesh
58. Fairwatch, Italy
59. Farmers' Voice (Krisoker Sor), Bangladesh

60. Financial Justice Ireland
61. Foundation for Integrative AIDS Research (FIAR), United States
62. Friends of the Earth Malaysia,
63. FTA Watch, Thailand
64. Fundacion Estudio e Investigación de la Mujer, Argentina
65. Gandhi Development Trust, South Africa
66. Gender Studies and Human Rights Documentation Centre, Ghana
67. Genderccsa, South Africa
68. Gestos (soropositividade, comunicação, gênero), Brazil
69. Global Justice Now, United Kingdom
70. Good Health Community Programmes, Kenya
71. Gouvernement Jeunesse Burkina (GJB), Burkina Faso
72. Gramya Resource Center for Women, India
73. Handelskampanjen, Norway
74. Health and Development Foundation, Thailand
75. Human rights of women and girls with disabilities in Malawi
76. Independiente, Costa Rica
77. Indonesia AIDS Coalition, Indonesia
78. INEVAWG, Uganda
79. Initiative for Social and Economic Rights, Uganda
80. Innovative alliance for public health, India
81. Jubilee Debt Campaign, United Kingdom
82. K.U.L.U.-Women and Development, Denmark
83. Karnataka Janaarogya Chaluvai, India
84. Kikandwa Environmental Association, Uganda
85. Korean Pharmacists for Democratic Society, South Korea
86. Kuboresha-Africa, Uganda
87. Labor Education and Research Network, Philippines
88. Low Cost Standard Therapeutics, India
89. Malaysian Women's Action for Tobacco Control and Health (MyWATCH), Malaysia
90. Medical Action Group, Philippines
91. Mouvement de Réflexion sur les Opportunités de Développement du Burkina Faso
92. MY World Mexico, Mexico
93. National Campaign for Sustainable Development Nepal
94. National Fisheries Solidarity, Sri Lanka
95. New Sunshine Charity Foundation
96. NGO Federation of Nepal
97. Non-communicable Diseases Alliance Kenya
98. Observatorio Cidadão para Saúde – OCS, Mozambique
99. Pacific Asia Resource Center (PARC), Japan
100. Patient and Community Welfare Foundation of Malawi
101. Pay No Bribe Animators Sierra Leone
102. People's Health Movement - Japan Circle, Japan
103. People's Health Institute, South Korea
104. People's Health Movement Korea, South Korea
105. Peoples Vaccine Campaign of the Active Citizens Movement, South Africa
106. Pertubuhan Persaudaraan Pesawah Malaysia
107. Phoenix Settlement Trust, South Africa

108. Positive Malaysian Treatment Access & Advocacy Group (MTAAG+), Malaysia
109. Prayas Rajasthan, India
110. Public Eye, Switzerland
111. Réseau de développement et de promotion de l'expertise pharmaceutique, Burkina Faso
112. Roots for Equity, Pakistan
113. Rural Reconstruction Nepal
114. Sankalp Rehabilitation Trust
115. Santé Environnement et Développement Durable pour le Bien -Etre, Côte d'Ivoire
116. SECTION27, South Africa
117. SHARE, Japan
118. Slums and Rural Health Initiative Rwanda (SRHIN-Rwanda)
119. South Sudan Women's Empowerment Network, Sudan
120. Southern and East African Trade and Negotiations Institute, South Africa
121. TB Proof, South Africa
122. Trade Justice Pilipinas, Philippines
123. Treatment Action Campaign, South Africa
124. Treatment Action Group, United States
125. Tripla Difesa Onlus Guardie e Sicurezza Sociale e Eco Zoofile odv, Italy
126. Veille Citoyenne Togo
127. Worldview-The Gambia
128. Young Feminists Movement (Y-Fem) Namibia Trust, Namibia
129. Zero Covid Scotland