BETTER TRADE FOR BETTER HEALTH: STRENGTHENING COOPERATION TO FIGHT ILLICIT TRADE IN MEDICAL PRODUCTS

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SPEAKERS

- Dr Ngozi OKONJO-IWEALA Director-General, World Trade Organization (WTO);
- Dr Gerd MÜLLER, Director-General, United Nations Industrial Development Organization (UNIDO);
- Dr Kunio MIKURIYA, Secretary-General, World Customs Organization (WCO);
- Ms Rebeca GRYNSPAN, Secretary-General, UNCTAD.
- Dr Mariângela SIMÃO, Assistant Director-General, World Health Organization (WHO);
- Mr Edward KWAKWA, Assistant Director-General, World Intellectual Property Organization (WIPO).

MODERATOR: Ms. Anabel GONZÁLEZ, Deputy Director-General, World Trade Organization

1. In her opening remarks, the moderator, Ms Anabel González, stressed that the scourge of illicit trade reached well beyond the trade sphere. In addition to being a challenge in achieving key sustainable development goals such as ensuring healthy lives and ending poverty, illicit trade in medical products also threatened human health and safety, endangered jobs and economic activity, stifled innovation and undermined trust in governments. This problem was further exacerbated during the COVID-19 pandemic. She stressed that the complex and multifaceted battle against illicit trade required deeper and enhanced cooperation within countries, across national boundaries and between international organizations. The session, therefore, served as an opportunity for organizations to collaborate and leverage organizational strengths and expertise in bringing practical solutions for combatting illicit trade to the table. For the first part of the session, the moderator posed specific questions to the speakers on the role their organizations played in combatting illicit trade. For the second part, the moderator solicited perspectives on priority areas for international co-operation in the fight against illicit trade.

2. Dr Ngozi Okonjo-Iweala highlighted her longstanding concerns with the harms inflicted on societies and economies by illicit trade in medical products. Illicit trade has threatened public health, undermined legitimate business activity and abetted corruption, especially during the COVID-19 pandemic. Dr Ngozi was excited by today's release of the WTO publication on illicit trade in medical products and hoped that it would help in identifying key pathways offered by the global trading system. She highlighted two messages from the publication. First, the WTO rulebook served as an important ally in the fight against illicit trade in medical goods. Full implementation of the Trade Facilitation Agreement, for example, could improve risk management systems, clearance processes, and enhance border controls needed to tackle illicit trade and at the same time reduce non-transparent procedures of which illicit traders take advantage. WTO rules could also assist members strengthen medical product regulations to improve quality compliance, health and safety standards, and promote balanced IPR enforcement to keep counterfeit medical products away from markets. Second, Dr Ngozi noted that access to these tools notwithstanding, it was also imperative that national, regional and international cooperation, including between the organizations present at the session, was deepened. This was particularly important since for the poorest and most vulnerable countries fighting illicit trade could deliver a "double dividend"- strengthening capacity while expanding trading opportunities, and at the same time building resilience against future shocks to the multilateral trading system.

3. Dr Mariângela Simão observed that WHO had two main areas of activity and interest concerning illicit trade - substandard and falsified medical products, and organ trafficking and transplantation. She noted that WHO had instituted a 'Member State Mechanism' to combat substandard and falsified medical products, where members came together and addressed concerns in this area. The commerce of substandard and falsified medicines and medical products was a lucrative business that flourished where there were no policies to ensure access to these products. With the rise in e-commerce, the problem of substandard and falsified medical products had become a global problem. She stressed that accurate use of terminology when dealing with substandard, falsified, and counterfeit medical products was crucial to avoid conflation among the different terms.

People in many countries did not have adequate medical access and it was imperative that the capacity of member states capacity in this regard was strengthened. She further emphasized that enhanced collaboration between different international agencies was critical. On organ trafficking, Dr Simão observed that low availability of transplant services and shortage of organ donors made this aspect of illicit trade highly lucrative and profitable. Therefore, collaboration between WHO, WCO and WTO in this area, especially around border control, was critical. On priority areas for international cooperation to fight illicit trade in medical products, Dr Simão underscored the centrality of timely and affordable access to safe and efficacious medical products. Moreover, given the concerns regarding e-commerce, she highlighted the importance of raising awareness about falsified medical products amongst individuals and consumers. She further noted that it was imperative to strengthen the support for countries capacity for procurement and have a more harmonized approach amongst international organizations working in the area to increase access to safe and efficacious medicines.

4. Dr Gerd Müller noted that illegal medical products represented a multi-billion dollar global market and had grown significantly. The circulation of low quality and unsafe medical products affected the poorest most severely and for addressing this issue hard sanctions and punishments were required. He noted that producers needed to be held liable and called on the pharmaceutical industry to take responsibility in this regard. He stressed the need to have access for all to legal medical products, including contraception, and establishing local capacity in developing countries for medical products. Noting the recent TRIPS waiver, Dr Müller pointed to divisions between developed and developing countries, especially pertaining to access to vaccines during the COVID-19 pandemic. He highlighted seven consequences for the future: (i) developing countries as equal partners in international pharmaceutical markets; (ii) viewing medications as global public goods; (iii) patent protection in a manner not hindering production; (iv) transparent research; (v) production and distribution of vaccines and medications as a world-wide system; (vi) strengthening work of WHO as a global health organization; and (viii) other organizations such as COVAX, GAVI as key partners in this process. He reiterated UNIDO's experience in providing technical cooperation and advisory services in advancing local pharmaceutical production in developing countries and readiness for collaboration. Dr Müller further stressed the need to have a new global ethic for health, which was a human right. Millions of people had no or limited access to medicines and many died of treatable illnesses. However, for the world to have affordable and safe medicines, it was crucial that expansion of quality medical production was undertaken to fight trade in illegal medical products. Further, political will from countries and the cooperation of pharmaceutical industries was imperative.

5. Dr Kunio Mikuriya noted that in addition to facilitating legitimate trade, customs was also the first line of defense against illicit trade in medical products. The WCO provided instruments, standards, guidelines, and tools for data-based risk management to customs administrations. Further, the WCO facilitated information sharing, carried out capacity building and assistance programmes, not only on technical and organizational issues, but also on other issues such as corruption. He noted that the WCO played a vital role during COVID-19 pandemic. It worked with the WHO in the identification and promotion of legitimate and urgently needed medical trade, with the transport sector to develop guidance for safe transport of goods, and with the private sector to address bottlenecks and ground-level coordination issues. To tackle illicit trade in medical products, the WCO also trained customs officials in the identification of substandard and falsified medical products and vaccines, and provided a channel for the exchange of information and seizure data to raise awareness across societies and gather support for customs functions at borders. On priority areas for international cooperation to fight illicit trade in medical products, Dr Mikuriya observed that it was important that the respective mandates and expertise of each international organization working in this area was respected and leveraged to collectively achieve the common goal of combatting illicit trade. He observed that from a customs perspective, national regulations implemented without a legal framework or without clarity in supporting regulations created implementation difficulties. He stressed the need for more collaboration between different government agencies and businesses and support that international organizations could provide in encouraging national efforts in the area. Further, Dr Mikuriya noted that awareness raising that affects national prioritization and resource allocation was also crucial.

6. Mr Edward Kwakwa highlighted that WIPO, pursuant to the WIPO Development Agenda adopted by its members, strived for balanced intellectual property (IP) enforcement and through its Advisory Committee on Enforcement, provided technical assistance and coordination in the field of IP enforcement. WIPO also carried out capacity building programmes throughout the world and provided legislative assistance to its members on a confidential basis such as assessing their

compliance with enforcement-related obligations under the TRIPS Agreement. On illicit trade, he noted that WIPO also produced materials and training guides addressing infringement of IP rights, piracy, counterfeiting, remedies and enforcement. WIPO had also established a Blockchain Task Force to examine potential applications of blockchain technologies within IP ecosystems. If challenges including interoperability, governance and regulation were addressed, then these technologies could have a positive impact on combatting illicit trade from an enforcement perspective, including ensuring the genuineness of the products distributed. On priority areas for international cooperation to fight illicit trade in medical products, Mr Kwakwa stressed the importance of enhanced cooperation to create stronger and a more united response and to avoid reinventing the wheel, and noted prior roundtable sessions WIPO had organized on substandard, falsified and counterfeit medicines. He further suggested the creation of a more permanent forum to discuss illicit medical products, and in line with the next steps proposed by the WTO publication on illicit trade, such a forum could serve for information exchange, coordination of awareness-raising, training and technical assistance activities and policy coordination among the relevant IGOs to ensure a coordinated and multilateral response. Another suggestion was to create an inter-organizational working group to suggest development of a common strategy for countering the trade in illicit medical products. Finally, he reiterated the need for heightened cooperation in trainings and sharing of materials and awareness-raising activities to increase the visibility of the cause.

7. Ms Rebeca Grynspan (through a pre-recorded video message) lent her voice to the discussion, recalling that the 2030 Development Agenda noted that good health was crucial in addressing every development issue and that illicit trade in medical products endangers health, and therefore development itself. Even before the pandemic, the value of illicit trade in pharmaceutical products was very significant, and according to Interpol reporting, falsified medical products held substantial market shares in some Asian, African and Latin American countries. She stressed that it was most often the poor and vulnerable who were affected by substandard medical products while criminals exploited poor polices and bad governance to conduct illicit trade. Ms Grynspan highlighted that illicit trade and counterfeit medicines reduced government revenues, and the use of substandard medical products represented undesirable medical outcomes affecting drug resistance and health. Finally, she noted that tackling illicit trade was imperative, and UNCTAD as an ally, stood ready to collaborate with other organizations.

8. Additional perspectives were provided through interventions from representatives from the OECD and UNODC. Ms Marion Jansen, Director of the Trade and Agriculture Directorate, OECD, highlighted aspects of their work, including by collecting data and conducting analyses on illicit trade, by following members' call to explore transparency in free trade zones and the right of relevant authorities to access and request information, and by developing trade facilitation indicators, which included an indicator on regulatory collaboration. She noted that the OECD stood ready to collaborate with other organizations to tackle illicit trade in medical products. Dr John Brandolino, Director of the Division for Treaty Affairs, UNODC, observed that the COVID-19 pandemic revealed that states were not fully equipped to tackle problems raised by the manufacture and trafficking of falsified medical products, but that this could be addressed by strengthening national legal regulatory frameworks to combat traffic and improving information collection and sharing and the seizure and collection of proceeds. Enhanced collaboration between regulatory, legislative and the private sector, and improved data collection, research and analysis was also needed. Dr Brandolino highlighted that UNODC had established an internal coordination mechanism for regular information sharing (together with WHO, WCO and Interpol), and provided risk assessment training to customs officials (together with WCO).

9. In her closing remarks, Dr Ngozi Okonjo-Iweala noted that all organizations represented in the session were actors carrying out great work tackling the issue of illicit medical products and made four key observations. First, she proposed a collective effort from relevant organizations to achieve concrete results on the issue of illicit trade in medical products, and suggested this could be coordinated by the WHO given their extensive work in this area. Second, observing that poor people bore the most severe brunt of illicit trade in medical products – a point that had been raised repeatedly in interventions – she stressed the need for stronger and coordinated efforts towards raising awareness among national authorities and public leaders, who could then, in turn, further raise awareness locally. Third, Dr Ngozi echoed the concerns raised regarding the manner in which e-commerce and digital trade aggravated the problem of illicit trade and highlighted that these concerns could be tackled with smarter and improved technologies. Fourth, she reiterated that coordination with the private sector and their involvement, especially on the IP aspects of substandard and falsified medical products, was of crucial importance.