

Prime Minister Narendra Modi

*Via email*

6April 2022

Dear Prime Minister Modi,

We support and commend India and South Africa's tireless leadership on the Trade-Related Aspects of Intellectual Property (TRIPS) Waiver proposal with respect to COVID-19 products and technologies including diagnostics, therapeutics, and vaccines at the World Trade Organization (WTO). Despite your clear articulation of the need for a comprehensive waiver of all blocking intellectual property barriers, not just patents, and the need for access to treatments and other medical countermeasures, not just vaccines, the recently leaked draft text does not waive the IP barriers necessary to deliver any meaningful access to vaccines, treatments, or tests. We support you fully in rejecting this misleading and ineffectual proposal, which represents the European Union's belligerent blockade of any actual waiver of IP barriers and the United States' insistence that the IP waiver it supports be limited to vaccines.

Developing countries have experienced the worst effects of COVID-19. The crisis is far from over as infections and deaths continue all over the world. New variants are also expected to emerge, with the potential to further devastate countries socially and economically. A meaningful outcome on the TRIPS Waiver proposal holds the key to promoting equitable access to the COVID-19 medical tools that can facilitate and sustain socio-economic recovery and protect the lives and livelihoods in India and many other developing countries. It is for this reason that your waiver proposal is co-sponsored by 65 WTO Members and has received widespread support from the international community.

In contrast to India and South Africa's inspiring leadership for a meaningful waiver of IP barriers, the leaked text reflects the interests of multinational pharmaceutical companies in preserving the deadly status quo.

The leaked text:

- Only covers vaccines, not lifesaving treatments or the diagnostics for testing COVID-19, which are a crucial part of an arsenal to prevent, treat and contain COVID-19.
- Largely restates the existing limited flexibilities to overcome only patent barriers that already exists in Article 31 of the TRIPS text. This has proved unfit for boosting production of COVID-19 vaccines. And this text adds new burdensome conditions not now required by WTO rules that would impose additional limits on countries using non-voluntary licensing.
- Continues to require product-by-product authorization, meaning there is no simplified pathway for follow-on manufacturers to produce and enter the market.
- Does not waive other forms of IP barriers that thwart COVID vaccine production, including protection of undisclosed information (Article 39). This is essential for the production of COVID-19 vaccines.

We suspect that you may have been told by interests advocating for this text that our concerns are exaggerated or have been addressed. The text has now been carefully examined by many lawyers from academia and civil society groups around the world. A consensus has emerged that the text will not provide the freedom to operate Global South manufacturers require. It also adds burdensome new limits relative to the WTO status quo. There must be no ambiguity going forward: The WTO must not tie the hands of countries like South Africa and India that are striving to ensure that all are protected against the ravages of COVID-19. Any ambiguity will stifle production and dissemination of the drugs and products needed to protect the public.

COVID-19 vaccine development has benefited from unprecedented public support. From massive investments in infectious disease research prior to the pandemic, to direct subsidies to accelerate development of vaccines and therapeutics, and advance purchase commitments to further de-risk the industry. However, this public contribution has yet to result in the sharing of the knowledge and the economic profits derived from it among the global public, as highlighted by the WHO Council on the Economics of Health for All.

We strongly support India not agreeing to the leaked proposal. We are keen to work with you as you lead the world to obtain a useful and meaningful outcome that facilitates diversification and expanded production and supply. Like civil society groups around the world, we believe a bad deal is worse than no deal. We want to work with you to support an outcome at WTO that will make a difference in battling COVID. The leaked text fails that test.

Yours sincerely,

His Grace Archbishop Thabo Makgoba  
Anglican Church of Southern Africa

Professor Mariana Mazzucato  
Founding Director of the UCL Institute for Innovation & Public Purpose

Dr Rohinton P. Medhora  
President, Centre for International Governance Innovation

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