



Mr. Valdis Dombrovskis

Executive Vice-President for an Economy that
Works for the People
European Commission
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1049 Brussels
Belgium

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Dear Executive Vice-President,

As you well know, stakes are high for the upcoming 12th WTO Ministerial Conference (MC12) taking now place on 13 June 2022. This is critical time for the WTO as we all expect to see a stronger and more effective organisation after MC12, one that is able to develop and implement modern trade rules that respond to the needs of our societies.

In this context, we have learned that the European Union, the United States, India and South Africa have reportedly reached a compromise agreement on a so-called “TRIPS waiver” related to the production and supply of COVID-19 vaccines. While progress on the WTO’s role in addressing the pandemic is positive, weakening intellectual property would have unintended detrimental consequences for global health. Thus, we would like to share with you the following main remarks and concerns:

- We would like to reiterate that the challenges associated with vaccinating the global population are multifaceted and require a holistic approach, rather than one narrowly focusing on intellectual property. Vaccinating the world against COVID-19 requires production, as well as addressing a host of other issues including country readiness and infrastructure; widespread distribution and administration of vaccines; re-distribution of excess vaccine supplies to countries that face shortages; the regulatory and trade barriers to vaccine production and distribution; efficient supply chain operations; procurement challenges; the potential risks associated with counterfeit and illicit trade in medical goods; and vaccine hesitancy.
- The agreement reached tries to solve a vaccine production issue that currently does not exist. With 12 billion vaccines produced in a year, and COVAX fulfilling its commitments, there is broad consensus that the current issue is not COVID-19 vaccine production, but rather vaccine deployment and uptake. By the end of

January 2022, COVAX delivered its first billion vaccine doses, and over four billion doses have been delivered to Low- and Middle-Income Countries (LMIC). Currently, LMIC have one billion doses of stock waiting to be distributed. This clearly demonstrates that vaccines supplies are sufficient. The solution to vaccines equity is ramping up vaccination levels.

- Waiving intellectual property rights of COVID-19 vaccines is likely to lead to disruption in supply and collaborations (as of now, there are over 370 collaborations on vaccines and more than 150 for therapeutics manufacturing and multiple announcements of partnerships to improve geographical diversity of vaccine production), sending the wrong signal and dampening R&D, as well as investments. Weakening IP would undermine the essential trust and collaboration that is needed to spur innovation and preserve the world's ability to respond to the current and future pandemics. The vaccines and treatments approved so far are only a very small portion of the hundreds of ongoing R&D projects which remain essential to augment the therapeutic options available and address new and future variants.
- The compromise reached, we understand, still needs to be formally confirmed by the EU, India, South Africa and the US, and afterwards gain the support of all the 164 members of the WTO. As it stands, the compromise goes both well beyond the TRIPS agreement and EU proposal on clarifications on compulsory licencing of June 2021. This effectively puts in question not only the patent rights for COVID-19 vaccines, but also patents for a host of related technologies for production and distribution, as well as for treatments and therapeutics. The final outcome must not weaken the TRIPS Agreement. Without the right balance between access to life-saving medicines and protection of intellectual property rights, the ability to develop vaccines and other innovative solutions in the future will be undermined. The European business community is concerned that any compromise text will already set a precedent to waive patent provisions on other products and serve as a chilling signal for innovative products in other sectors, e.g., those related to and needed for the Green Deal or Digital Transformation.
- Finally, the success of the WTO in effectively tackling the COVID-19 pandemic cannot be narrowly measured through an "IP waiver" only. The WTO has a much larger role to play including through the Trade and Health Initiative that would, for example, limit export restrictions and remove tariffs for critical goods, effectively contributing to the objective of a holistic response to the pandemic.



We hope that your services will take the concerns expressed in this letter into consideration in the coming weeks leading to MC12. BusinessEurope remains a strong supporter of the WTO and multilateralism. We truly hope that a successful outcome will be achieved at MC12 to also help set the rules-based multilateral trading system back in motion. This includes providing the right response to the COVID-19 pandemic, including better access to vaccines without jeopardising intellectual property rights that are essential to respond to this and future pandemics.

Yours sincerely,

Markus J. Beyrer