



EUROPEAN COMMISSION
Office of the President Ms Ursula von der Leyen

Trade Adviser

Brussels, 15/07/2021
Ares (2021) 3687657

Dear Co-chairs,

President von der Leyen has asked me to thank you for your letter concerning a proposed waiver of certain provisions of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights ('TRIPS Agreement') in relation to COVID-19.

The Commission is committed to the objective of universal equitable access to vaccines and treatments against COVID-19. The EU has been leading the global response to this crisis from the beginning. The EU has invested close to EUR 3 billion to pre-finance the production of safe and effective vaccines, which will benefit not only the EU but also citizens across the world. The EU has exported around half of the vaccines produced in the EU – more than 350 million doses. Finally, the EU is setting up a vaccine sharing mechanism, mostly via the COVAX facility, the global initiative to ensure equitable and fair access to safe and effective vaccines. Team Europe's pledge, one of the leading contributors to the COVAX Facility, to COVAX is currently over EUR 3 billion, and its commitment is to share at least 100 million doses by the end of 2021.

The key objective at this stage is to increase global manufacturing capacity. The Commission is undertaking action to facilitate and increase the production of COVID-19 vaccines in the shortest possible time. Public-private partnerships are key to address this problem. Our objective is to ensure that any available and adequate manufacturing capacity anywhere in the world is used for the production of COVID-19 vaccines.

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Intellectual property provides a clear legal framework that enables the required collaboration and the transfer of technology and know-how. Vaccine production is a highly complex process, which requires adequate facilities, trained personnel, raw materials and other inputs, therefore we should focus our efforts on the necessary cooperation with pharmaceutical companies with the relevant know-how. The objective should be to ensure they enter into voluntary agreements with other companies around the world that have adequate production capacities and could export the vaccines to any low and middle-income country without production capacity. Already ongoing collaboration needs to be scaled up where possible, including by utilising the available capacity in developing countries. While the main solution to this crisis is based on voluntary collaboration, should voluntary solutions fail, the 'TRIPS Agreement' already provides the necessary framework to overcome any potential intellectual property barriers. Notably, it provides for a possibility of granting compulsory licences, i.e. licences granted by governments without the patent owner's consent, including fast track and for export to countries with insufficient manufacturing capacity.

The Commission engaged constructively on the discussion of a temporary waiver of intellectual property rights for COVID-19 health products, and strongly supported the initiative by the WTO's Director-General to consider practical ways to enhance production capacity and licensing of technologies through cooperation with the private sector. However, the Commission is not convinced that waiving substantial parts of the TRIPS Agreement, as proposed by India and South Africa, would help to reach the objective of the widest and most timely distribution of COVID-19 vaccines. As a contribution to this debate, on 4 June 2021, the Commission presented a proposal to the WTO focusing on three main components: first, trade facilitation and disciplines on export restrictions; second, expansion of production, including through pledges by vaccine producers and developers; and third, clarification and facilitation of TRIPS Agreement flexibilities relating to compulsory licences. To support text-based discussions in the TRIPS Council constructively, the EU submitted a Communication on the role of intellectual property in enhancing access to affordable COVID-19 vaccines and therapeutics. We need to use measures that respond to our current needs and preserve the incentives to innovate and invest in health-related research. The challenges posed by COVID-19 variants show very clearly that constant innovation and investment are key for dealing with the current crisis. The EU remains committed to an open and comprehensive dialogue with all WTO Members and its Director-General, Dr Okonjo-Iweala, to explore how the multilateral rules-based trading system can best support universal and equitable access to COVID-19 vaccines and treatments.

Yours faithfully,

[e-signed]
Per Haugaard