

Intervention at the Informal Open-ended Meeting of the TRIPS Council held on 31 May, 2021

Thank you Chair for convening this informal open-ended meeting. Chair, the support for our proposal has been gaining momentum, we welcome our new co-sponsor Jordan that has now taken the number of cosponsors to 63. Let me begin by expressing gratitude to our cosponsors, members who support and are positively considering the proposal and members who have recently expressed intent to join the text-based negotiations these members include the U.S, New Zealand and other delegations.

2. Chair it is agonising to say that since the submission of the proposal our indecisiveness to act swiftly on removing IP barriers to ramp up production of COVID19 vaccines, therapeutics and diagnostics has cost us 2 million more lives.

3. The IMF in a recent paper has calculated that an immediate investment of \$50 billion by developed countries for global vaccination efforts would yield a whopping 9 trillion dollars in economic growth by 2025. Stating that this could be the highest return on public investment in modern history. We have been presenting similar arguments in our previous statements emphasising upon the need for urgent steps for containing the pandemic by augmenting vaccine production to salvage the loss of 9.2 trillion in economic output and additional burden of 26 trillion in crisis support to the global economy. With IMF echoing similar sentiment we hope that the members will pay more heed.

4. Chair, our concern is not just limited to the huge gap between the demand and production of vaccines, as of today we are short of 12 billion vaccine doses, we are equally concerned about the disparity between the demand and availability of vaccines here the picture is quite bleak with the developed countries placing pre-orders and acquiring vaccines many times over their population and domestic needs, it is only true that the rest of the world will have to wait for their jabs until 2023 or even 2024.

5. Some sceptics argue that it is not the patents which are holding back the scaling up of production, but the scarcity of necessary raw material. However, once the IP barriers are eliminated and manufacturing of vaccines, therapeutics and diagnostics for COVID is scaled up, increased demand for their raw materials itself will create favourable market conditions for and adequate supply of their raw materials. Recent report points out accelerated production of lipids by Millipore sigma one of the few companies manufacturing lipids, a component of mRNA-based vaccines and therapeutics, to fill in the increased demand goes on to corroborate this argument.

6. The opposition to the waiver is on the grounds that it would not help augment production is also not supported by past experiences, such as scaling up of production of penicillin after World War II that could be achieved by sharing of scientific information as well as mold cultures by Oxford scientists with U.S officials, scientists that sparked a unique collaborative effort with no risk of patent infringement and elimination of traditional barriers to sharing resources, more recently production of generic and affordable ARV (Antiretroviral) medication during the peak of HIV/AIDS.

Whenever there is a need to increase the production required for an emergency response government have put various curbs on the enjoyment of IP rights including the suspension of patents as seen in World War II.

7. Let us revisit the trajectory of our discussions on this proposal so far and analyse the arguments of the naysayers; initially when the proposal was tabled the opponents did not see a problem, later they acknowledged that the problem did exist, further the same set of members questioned the existence of latent capacities to increase production and thanks to the events that were organised recently, these members subsequently acknowledged the existing manufacturing capacities, these members previously believed that the TRIPs flexibilities were adequate in solving the problem and now we welcome their changed stance, that is the need for simplifying the existing TRIPs flexibilities, which explains that the flexibilities provided for in the TRIPS Agreement although important were never sufficient to handle a pandemic of such magnitude.

8. There are also arguments about export restrictions and trade barriers affecting supplies of important raw materials and vaccine production and the need to eliminate these barriers. Export Restrictions will continue till demand will outpace supply to a large extent as we are not in an ideal market situation. This proposal is not in conflict with other endeavours undertaken across the globe or in the WTO. We are not obstructing any of the ways whether the 1st way, the 3rd way, 4th or 5th way which we may see in coming weeks or months, these ways are not competing with the different waves of the pandemic that are hitting us.

9. We as cosponsors of the waiver proposal recognise that IPs are not the only barrier to augmenting manufacturing and addressing supply side constraints. However, we do believe that IPs are the biggest barrier in addressing supply side constraints, and thus need to be addressed on priority. The waiver is not sufficient but rather necessary element of a multipronged strategy.

10. The TRIPS waiver is a necessary, proportionate and temporary legal measure for removing IP barriers and paving the way for more companies to produce COVID-19 vaccines, therapeutics or diagnostics by providing them freedom to operate without the fear of infringement of IP rights or the threat of litigation.

11. Many rounds of discussions on this proposal have taken place over the past months, the cosponsors have provided comprehensive responses including written responses to many of the concerns and questions raised by the members. There is no dearth of arguments, rationale and data provided to exhibit both the waiver's significance and its urgency.

12. Chair, we often hear that the WTO is losing its relevance and credibility, well, if WTO does not deliver during the pandemic on the issues and agreements for which it bears responsibility, and to think that by concluding the fisheries negotiation alone amidst these difficult times will the WTO reinstate its credibility and relevance, would be a grave mistake. Not allowing text-based negotiations will do more harm to WTO's credibility and this collective failure will be remembered by posterity.

13. The virus has not given us a timeout to go on endlessly discussing the need for or benefit of a waiver. We must rather infuse some certainty in these uncertain times by agreeing to start text-based negotiations on the waiver proposal.

14. I conclude with a request to you Chair, to find ways and means to commence text-based negotiations, even if few members continue with their repeated attempts to delay the process.
