

Civil society letter calls for European Parliament to support global access to medical tools

Nearly 80 civil society organisations, medical and legal experts have signed an [open letter](#) ahead of next week's European Parliament plenary vote on the proposal for a Union Compulsory License. The letter calls on Members of the European Parliament to support proposed amendments to allow simultaneous supply to EU countries and non-EU countries as well proposed updates to Regulation 816/2006 dealing exclusively with exports. Such measures would promote global access to medical tools but would also be invaluable for an effective response to international health emergencies.

Dear Members of the European Parliament,

Ahead of the March 2024 plenary meeting of the European Parliament, we, the undersigned civil society organisations, call on you to support crucial amendments allowing the export of medical tools to third countries in the proposed Union Compulsory License.

As Civil Society Organisations, we support the creation of a Union Compulsory License in addition to national Compulsory License provisions, as it can significantly enhance the operationality of compulsory licenses within the European Union (EU). By benefiting from economies of scale and overcoming legal barriers related to cross-border production and supply, a Union Compulsory License has the potential to foster a more effective response to public health challenges.

However, the current draft proposal put forward for a plenary vote of the European Parliament contains restrictive provisions (article 11 & 12) explicitly prohibiting the exportation of products produced under the Union Compulsory License outside the EU. Such prohibition goes against flexibilities enshrined in Article 31(f) of the World Trade Organization (WTO) TRIPS Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) and against the EU's position on export restrictions at the WTO. This limitation is problematic, especially considering the use of a Union Compulsory License would likely be triggered by situations that would affect not only EU countries but also countries outside of the EU, either in the region or globally.

The COVID-19 pandemic has made clear that major health emergencies need to be addressed at local, national, regional and global level and showcased that the EU's advanced industrial capacity can be used to help protect EU citizens while also aiding and supplying non-EU countries, aligning with the principle that *"No one is safe until everyone is safe"*. It is therefore disheartening to note that, when preparing for the next crisis, the EU

risks turning its back on the rest of the world, including non-EU countries in Europe, with this compulsory license proposal.

The European Commission maintains that the Union Compulsory License for export remains theoretically possible under Regulation 816/2006, Yet, this procedure, intended exclusively for export, is widely deemed cumbersome and has never been used. **More importantly, it currently cannot be used to simultaneously supply both EU countries and countries outside the EU.** Amending the Union Compulsory License proposal to allow simultaneous supply to EU countries and non-EU countries would not only promote global access to medical tools but also be invaluable during international health emergencies.

Article 31(f) of the TRIPS agreement allows the export of a non-predominant part of the supply produced under a compulsory license. Having this *option* included and available under a Union Compulsory License, to be used in case needed, is not just a matter of international solidarity but is also in the EU's interest. This can effectively help in controlling potential outbreaks and emergencies that could spill over into the EU, allowing EU-based manufacturers to respond promptly to the needs of non-EU countries.

Recognising the importance of this issue, the [European Parliament Trade Committee](#) has put forward amendments allowing export of a non-predominant part of the supply under a Union Compulsory License as well proposed updates to Regulation 816/2006 dealing exclusively with exports. We urgently call for your support to these amendments to promote a more inclusive and effective response to global health challenges.

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