



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR TRADE

Directorate B - Asia (I), Services and Digital Trade, Investment and Intellectual Property
Investment and Intellectual property

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Dear Ms Bernal and Mr Vidal,

On behalf of President von der Leyen, I would like to thank you and the co-signatories for your letter of 29 June concerning patents on the COVID-19 vaccines.

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 and has been a leader on deliveries of effective vaccines to the rest of the world. The EU has exported around half of the vaccines it produced – more than 380 million doses to 130 countries. The EU is also a major contributor to COVAX, the global initiative to ensure equitable and fair access to vaccines. Finally, the EU is setting up a vaccine sharing mechanism, mostly via COVAX. Team Europe already committed to at least 100 million doses to be shared by the end of 2021.

We believe that no single solution can achieve the goal of ensuring universal and fair access to COVID-19 vaccines. Moreover, a multilateral response is urgently needed, as ramping up production and sharing vaccines more widely, faster and at affordable cost is the single most effective way to fight the pandemic in all regions of the world at this critical moment.

The key objective at this stage in efforts towards universal equitable access to COVID-19 vaccines is to increase the global manufacturing capacity. Public-private partnerships are the key to address this problem. While the global production of vaccines is already rapidly increasing with more than 11 billion doses of COVID vaccines to be produced in 2021, the objective is to ensure that any available and adequate manufacturing capacity anywhere in the world is used for the COVID-19 vaccines production.

While the main solution to this crisis will be based on voluntary collaboration, should the voluntary solutions fail, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) already provides the necessary framework to overcome any potential intellectual property barriers. Notably, it provides for a possibility of granting compulsory licences, including fast track and for export to countries with insufficient manufacturing capacity. It also provides for two broad waivers applicable to all the least

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developed countries that are members of the World Trade Organization (WTO). These are all legitimate and operative tools for countries in need, in the midst of the pandemic.

Given the above, we are not convinced that waiving substantial parts of the TRIPS Agreement, as proposed by India and South Africa helps reach the objective of the widest and timely distribution of COVID-19 vaccines. The Commission is engaging constructively in the discussions under the auspices of the WTO on how the global trading system can contribute towards the goal of universal access of COVID-19 vaccines in the shortest time possible. As you recall in your letter, on 4 June the Commission submitted a communication 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, any relevant intellectual property issues. As regards intellectual property, 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 clearly that constant innovation and investment are key for dealing with this crisis. To address intellectual property issues, the Commission has submitted two additional communications to the WTO, including a proposal recommending that WTO Members adopt a declaration to clarify and facilitate the use of existing flexibilities relating to compulsory licences under the TRIPS Agreement.

Since it will take time to increase the production in developing countries with available capacity, the EU has called on countries which are already capable of producing vaccines and have vaccinated a large part of their population to follow the EU example and immediately start to share their production with other countries in need.

Beyond the current crisis, it is necessary to build resilience of the health systems in those countries, which do not have their own manufacturing capacity and are overly reliant on imports. To this end, the EU and its Member States (Team Europe) are launching an initiative to develop vaccine production in the African continent entailing investment in infrastructure and production capacities as well as skills development, supply chains management, and the necessary regulatory framework. The objective is to develop a number of regional hubs distributed across the continent. We have already identified promising projects in South Africa, Senegal and Rwanda. The amount of one billion EUR has already been allocated from EU budget and EU finance institutions to deliver on this goal.

The EU remains committed to an open 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 sincerely,

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Head of Unit