

Charles Michel

President of the European Council
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European Council Meeting 20-21 October and TRIPS waiver

Dear President Michel,

For the last year and a half our societies have been brought to a halt and our lives and livelihoods severely altered by the Covid-19 pandemic. Many are no longer with us, and many more are still in danger or recovery.

European Union member states are, however, among the more fortunate ones: massive Covid-19 vaccination campaigns have allowed European Union (EU) Member States to scale back restrictions and those living within the EU are gradually going back to offices, classrooms and dining venues. We acknowledge the decisive actions taken under difficult circumstances that helped make this happen.

For many outside the EU there is no semblance of a return to normal as access to vaccines and other life-saving technologies are still not guaranteed, and their human right to health not fulfilled. The need for scaling up vaccine production and therapeutics was never more acute.

Over a year ago South Africa and India submitted a proposal to waive certain rights and obligations of the World Trade Organization (WTO) treaty on Trade Related aspects of Intellectual Property (TRIPS) on all health goods necessary to fight the pandemic: be it vaccines, therapeutics or diagnostics. Despite growing support from governments, civil society and academics, and the calls from European Parliament and elected officials, a handful of governments, led by the European Commission, oppose the proposal and refuse to engage in meaningful negotiations.

Governments have human rights obligations concerning international cooperation. They should refrain from actions that interfere, directly or indirectly, with the enjoyment of human rights in other countries. This obligation extends to their actions in intergovernmental organisations like the WTO.

The European Council (EUCO) only considered, briefly, the issue of the waiver in November 2020. Since then, despite several attempts by national governments to address the topic, there has been no deliberation nor debate. This is unacceptable. The institutional separation of powers must not impede the accountability of actions taken on behalf of the EU, especially when there is no unanimity among members and when such actions have consequences for global health and the EU's reputation as a human rights and moral leader.

In the coming weeks there will be three important instances where you, as president of EUCO, can make a difference. The first of these is the European Summit on 21st and 22nd October, a critical opportunity to listen to those governments wishing to raise the issue of the waiver and to incorporate its discussion of the waiver into the council agenda.

The second moment is the next G20 meeting that will take place on 30th and 31st October, at which the Council can again convey to partners and allies the need to address the waiver as an opportunity to, in combination with the pandemic preparedness treaty, ensure a better preparation for the next crisis.

Finally, the 12th Ministerial Conference (MC12) of the World Trade Organization from 30th November to 3rd December, during which it is expected that this matter will be debated in depth together with other trade issues critical to the EU. A failure of MC12 to support the waiver proposal due to the intransigence of a few countries would be hard to understand and defend in light of public opinion and the human rights imperatives. People's rights to life, health, and adequate standard of living are at stake and increasingly under threat all over the world. We join our colleagues from Spain, Belgium, France, Netherlands, Finland and Ireland asking you to consider the inclusion of the TRIPS waiver as an addition to the agenda of the upcoming EUCO meeting in order to listen to the different positions governments may have.

Sincerely,

Health Action International, Human Rights Watch, One Campaign,
Oxfam, The People's Vaccine Alliance