

Attn: Mark Rutte, Hugo de Jonge, Tom de Bruijn

Amsterdam, 14 October 2021

Subject: Exemption from the TRIPS rules

The COVID-19 pandemic has affected us all. In the Netherlands and beyond, people have suffered and endured pain and (economic) loss. While we, thanks to the actions of your government and the effective performance of healthcare workers, can gradually go back to normal, others, especially in impoverished countries, cannot.

Access to safe and effective vaccines made the difference in Europe. Unfortunately, far too many countries, particularly in Africa, still do not have access. Our privilege should not trump our moral responsibility towards fellow human beings. Fairness, justice, and solidarity are fundamental European values. Furthermore, it is essential that we fight the pandemic worldwide, because no one is safe until everyone is safe, with variants posing a serious risk to the Netherlands too.

A year ago, South Africa and India submitted a proposal to the World Trade Organisation (WTO): a temporary waiver of the Trade-Related Aspects of Intellectual Property (TRIPS) on all health goods related to the fight against COVID-19: vaccines, but also therapeutics and diagnostics, among other items¹. While the proposal has gained support from governments, elected officials, civil society organisations² and academics³, it has been fiercely opposed by the pharmaceutical industry and a handful of governments, led by the European Commission.

It is time for European Union (EU) Member States to properly discuss and openly consider the implications of the European Commission blocking the waiver at WTO and doing so despite the calls from European Parliament to engage in text-based negotiations of the South Africa and India proposal⁴. The European Union Council of Ministers briefly discussed the issue in November of 2020, since then more than 60 governments have become co-sponsors of the proposal, with many others expressing support.

A rules-based international system, a multilateral approach to global issues and most importantly a principled-foreign policy have been staples of Dutch external actions for decades.

¹ WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19 COMMUNICATION FROM INDIA AND SOUTH AFRICA IP/C/W/669 2 October 2020 WTO <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True> and WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19. REVISED DECISION TEXT IP/C/W/669/Rev.1 21 May 2021 WTO <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669R1.pdf&Open=True>

² Joint Appeal by Members of the European Parliament and of European National Parliaments Urging the EU and its Member States to Support a TRIPS Waiver 27 April 2021 <https://haiweb.org/wp-content/uploads/2021/05/joint-MP-MEP-statement-TRIPS-waiver-EN-FR-DE-ES-IT-NL-PR.pdf> Nearly 400 MEPs and MPs Join Chorus of Voices Calling for a TRIPS Waiver on COVID-19 Vaccines Joint press release endorsed by 39 European Civil Society Organisations <https://haiweb.org/media-resource/nearly-400-meps-and-mps-join-chorus-of-voices-calling-for-a-trips-waiver-on-covid-19-vaccines/>

³ Academic Open Letter in Support of the TRIPS Intellectual Property Waiver Proposal July 2021 <https://research.kent.ac.uk/socri/wp-content/uploads/sites/2122/2021/07/Trips-waiver-open-letter-final-.pdf>

⁴ European Parliament resolution of 10 June 2021 on meeting the global COVID-19 challenge: effects of the waiver of the WTO TRIPS Agreement on COVID-19 vaccines, treatment, equipment and increasing production and manufacturing capacity in developing countries (2021/2692(RSP)) https://www.europarl.europa.eu/doceo/document/TA-9-2021-0283_EN.html

What's more, in light of the cross party motion adopted by the Dutch Parliament which supports the temporary waiving of patents on vaccines⁵, the Dutch government must undertake action to comply.

Precious time has been wasted, but there is still time to do the right thing. After months of insufficient vaccine production and COVAX's inability to make sufficient doses available to low and lower middle-income countries in a timely manner, now is the time to admit that intellectual property rights are a major stumbling block to global access to vaccines. As pharmaceutical companies have not yet demonstrated their intention to voluntarily share their intellectual property rights, know-how and technology (through, for example, C-TAP and the mRNA hub), non-voluntary measures are called for.

In the coming weeks there will be three important events at which your government can make a difference. The first of these is the European Summit on 21st and 22nd October, a privileged space where, with the support of other EU Member States, the Netherlands can raise its voice and incorporate the discussion of the waiver into the council agenda.

The second moment is the next G20 meeting that will take place on October 30 and 31 where the Netherlands can again convey to partners and allies the need to address the waiver as an opportunity, not a hurdle nor a threat.

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 Netherlands. A failure of MC12 due to the intransigence of a few countries would be hard to understand and defend in light of public opinion.

The Netherlands can play an important part in ending one of the largest cross border health crises of modern times. Possibilities to do so are clear: we urge you to show political will and use your power in the upcoming crucial period to curb pharma. After months of insufficient vaccine production and COVAX's inability to make sufficient vaccines available to low and lower middle income countries in a timely manner, now is the time to admit that intellectual property rights are a major stumbling block to global access to vaccines. It is time to curb monopolies on vaccines, therapeutics and diagnostics for the benefit of everyone, everywhere.

Sincerely,

Health Action International, Oxfam Novib, Wemos, Cordaid

⁵ Motie van het lid Piri c.s. over het vrijgeven van patenten op coronavaccins 17 June 2021

<https://www.tweedekamer.nl/downloads/document?id=58d24ac6-0b7a-40d4-b3bb-3689e15695be&title=Motie%20van%20het%20lid%20Piri%20c.s.%20over%20het%20vrijgeven%20van%20patenten%20op%20coronavaccins%20.pdf>