COVID-19 – CSO open letter to UNITAID, the World Health Organization (WHO) and its Member States

15 May, 2020

To,

Dr. Tedros Adhanom Ghebreyesus
Director-General, World Health Organization
Geneva, Switzerland

WHO Member States

Marisol Touraine
Chair, Unitaid Executive Board

Dr Philippe Duneton
Executive Director a.i
Unitaid

Re: Civil society concerns regarding lack of governance mechanisms and binding commitments for equitable access and sharing of technology, knowledge and data, management and licensing of intellectual property for medical tools needed for COVID-19 detection, prevention and treatment.

Dear Excellencies, Dr. Tedros, Ms. Touraine, Dr. Duneton,

As initiatives, commitments, principles and resolutions for the research and development of new COVID-19 medical tools and health technologies takes shape between member states, WHO and philanthropic institutions, we the undersigned, are writing to share our concerns and recommendations.

While there is great hope as new diagnostics, therapeutics and vaccines for COVID-19 make their way through the development process, there are growing concerns regarding how these will be made available and affordable for the people and vulnerable communities who need them most.

Funding and voluntary approaches for intellectual property licensing alone are not sufficient to guarantee that life-saving health technologies and medical tools will be delivered into the hands of health ministries, treatment providers and patients around the world.

This is apparent with Gilead’s approach to remdesivir, which creates a disturbing precedent for the pharmaceutical industry on COVID-19 technologies and medicines. Even as publication of data is awaited on the safety and efficacy of the drug, Gilead has opted to pursue secret voluntary licenses of its IP and technology to specific manufacturers while excluding others despite the potential need to ramp up global production. There is no transparency or accountability with respect to its actions or the terms of the license agreements, in particular how and whether they are aligned with global public health needs. The US Corporation also recently announced that it was donating a significant portion of its entire supply of 1.5million doses to the US government for distribution, with no further explanation on supply guarantee
to the other countries. This means that if remdesivir is proven effective, most countries will have limited, delayed or no access to the medicine.

In these extraordinary times, this “business as usual” approach simply cannot be accepted. There needs to be oversight to ensure transparent allocation of existing limited resources based on public health needs and special protection for vulnerable countries, with increased production of COVID-19 medical tools including medicines and vaccines to achieve equitable access.

The Access to Covid-19 Tools Accelerator (ACT) was launched as an opportunity to address some of the challenges that have emerged with the management of supply and access to COVID-19 medical tools including new drugs like remdesivir. This will only be possible if the ACT is more than just a collection of global health agencies that seek to distribute funds and set out production timelines. Ensuring timely development and access to these medical technologies is fundamentally a political challenge that requires the agreement and backing of governments to work cooperatively to overcome long-standing barriers to equitable access.

Therefore, we would highlight the following commitments that must be made:

1. **Leadership of Member States and the World Health Organisation:** While we understand that some Member States are engaged in the governance of the ACT, and that WHO has a role to play in the operation and management of ACT, the decision to hand over control of the ACT to several global health funding agencies that are funded by only a few governments and primarily serve the needs of low-income countries, means that the ACT will not truly be a global mechanism. Only the proper oversight and management of the ACT, through agreement of Member States, and under the overall guidance of the WHO, can ensure that it can act on behalf of all countries - low, middle and high income.

2. **Concrete binding mechanisms with respect to equitable allocation:** There must be more than just a commitment to equitable access. We note the first commitment of the ACT is “the shared aim of equitable global access to innovative tools for COVID-19 for all”. However, there is no concrete mechanism that defines “equitable global access” and holds manufacturers and other stakeholders accountable to this commitment. Nor is there any clear plan on how equitable global access will be achieved.

3. **Mandatory commitments for unhindered global sharing of intellectual property, technology and know-how and establishing platforms for open innovation and technology transfer:** We also recognize the Accelerator’s commitment to collaboration and solidarity but it is truly lacking in the ability for concrete action given the absence of clear mechanisms that guarantee the sharing of technology, know-how, data and intellectual property, needed to counter Covid-19 and ramp up global manufacture of needed medical products. We express concern with WHO’s continued reliance on voluntary approaches at the detriment of commonly agreed on TRIPS flexibilities. Voluntary mechanisms are insufficient in these extraordinary times of dire global need. We also note that several of the global health agencies and foundations within the ACT are reluctant, unwilling or hostile to appropriately support the right of countries to use such flexibilities to address intellectual property barriers that undermine equitable and affordable access to health technologies.
4. **Ensure transparency governance and oversight of the ACT:** The original ACT was conceptualised through a closed-door process on the basis of a White Paper developed in part by the Gates Foundation. This paper has still not been published, thereby limiting any understanding of the basis for choices that have already been made, and what other approaches may have been considered as the ACT was developed. At present, while pharmaceutical companies have been integrated into the governance of the ACT, there has been no role or engagement of civil society in the development, oversight and operation of the ACT. These choices seem to have reversed the role of civil society and industry over the last two decades in ensuring innovation and access to medicines. We request full transparency of international policy making process and meaningful participation of civil society organizations in shaping global initiatives concerning access to COVID-19 medical tools.

As the multilateral response takes shape, these are concrete steps that governments and WHO need to take to ensure their good intentions turn into tangible medical tools in the hands of treatment providers and patients.

We look forward to hearing from you on how WHO and member states will address our concerns regarding the lack of governance mechanisms, binding commitments and transparency to ensure equitable and timely affordable access to critical health technologies and products for COVID-19 for people across the world.

Signatories (alphabetical order)

**Organisations:**

1. 100 Percent Life
2. Afar Pastoralist Development Association
3. African Center for Biodiversity
4. AIDS Access Foundation
5. All India Drug Action Network
6. Anveshi Research Centre for Women's Studies
7. ARK Foundation
8. Asia Pacific Network of People Living with HIV (APN+)
9. Associação Brasileira Interdisciplinar de AIDS (ABIA)
10. Association AIDS Algerie
11. Association des Gestionnaires pour le Developpement
12. Association Marocain des Droits Humains
13. Association Reve de Vivre Positive
14. Association Sud Contre le Sida
15. Association Tunisienne pour la Prevention Positive (ATP+)
16. Bangladesh Nari Progati Sangha (BNPS)
17. Bangladesh NGOs Network for Radio & Communication

Ukraine
Ethiopia
South Africa
Thailand
India
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India
Thailand
Brazil
Algeria
Mauritania
Morocco
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Tunis
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<td>Banka BioLoo</td>
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56 Medical Action Group                              Philippines
57 Mumbo                                             Kenya
58 National Student's Caucus                         Kenya
59 Nelson Mandela TB HIV Community Information and Resource Center Kenya
60 Network of TB Champions in Kenya                  Kenya
61 Noakhali Rural Development Society (NRDS)        Bangladesh
62 NTFP EP Philippines Inc.                          Philippines
63 Nyarwek Network                                   Kenya
64 Pamoja TB Group                                   Kenya
65 Pan African Positive Women's Coalition            Zimbabwe
66 Policy Analysis and Research Institute of Lesotho Lesotho
67 Positive Malaysian Treatment Access & Advocacy Group (MTAAG+)
68 President, Association for Promotion Sustainable Development India
69 Public Health Association of South Africa        South Africa
70 Sankalp Rehabilitation Trust                      India
71 SECTION27                                         South Africa
72 Sentro ng mga Nagkakaisa at Progresibong Manggagawa (SENTRO) Philippines
73 Setu Centre For Social Knowledge and Action        India
74 Shareteah Humanitarian Organization (SHO)         Iraq
75 SIDC                                              Lebanon
76 Social Watch                                      Benin
77 Social Watch                                      Uruguay
78 Solidarity of Oppressed Filipino People, Inc. (SOFP) Philippines
79 Swasthya Adhikar Manch                            India
80 Third World Network                               Malaysia
81 UNIDOS                                            Mozambique
82 Universities Allied for Essential Medicines (UAEM) Latin America, North America and Europe
83 Voices for Interactive Choices and Empowerment (VOICE) Bangladesh
84 Woman Health Philippines                           Philippines
85 Women's Probono Initiative                        Uganda
86 Zambia Alliance for Agroecology and Biodiversity   Zambia

Individuals:

1 Dr. Mohan Rao, former professor, Centre of Social Medicine and Community Health, JNU India
2 Amar Jesani, Editor, Indian Journal of Medical Ethics India