**India**

**Statement for the informal TRIPS Council Meeting on 19 January 2021**

Thank you Chair for convening this meeting in informal mode. We would also like to welcome Zimbabwe and Egypt as the latest co-sponsors to join the Proposal. As you have mentioned, the purpose of today’s meeting is to take stock of the developments since our last meeting and to continue consideration of the Waiver Proposal with a view to find common ground.

Since our last meeting in 2020, situation regarding Covid19 pandemic has brought mixed feelings. We entered into 2021 as the year of vaccines, with the hopes of returning to post-Covid normalcy, yet we have landed up into the New Year with fresh surge in worldwide infections owing to new coronavirus strains. As per WHO statistics[[1]](#footnote-1), we have reached an alarming figure of about 94 million Covid cases and more than 2 million global deaths. In the present situation, timely intervention is the most crucial aspect, importance of which can be seen from the following data. While we are discussing this proposal in WTO for about three months, the number of total cases during this period has gone up from about 34 million (on 2nd October – the date of introduction of this proposal by India and South Africa) to 94 million. If this kind of increase in infected cases is not going to alarm us or nudge us for a quick decision, let us look at another data which is even more depressive in nature. Out of 2 million global deaths reported till now, half of these unfortunate deaths i.e. more than one million deaths took place during last 3 months while we were discussing this proposal. It is very unfortunate that members who are opposing this proposal, members who are asking questions to show evidences regarding necessity of this proposal, have also suffered and number of deaths in most of such countries have also more than doubled during the last 3 months.

Much of the planet is facing a second or third wave of infections, with populations chafing under painful and economically damaging restrictions. Millions of people have been locked down again to try to tame fresh outbreaks due to the new strains of virus, which appear to be much more contagious.

Also since the last meeting, proponents have circulated the documents W672 containing responses to questions raised from the floor during the TRIPS meetings from October to December 2020, document W673 containing responses to questions on IP challenges experienced by Members, contained in the document W671; and the document W674 compiling the questions raised by some co-sponsors of W669 during the December TRIPS Council meetings, on which we are still awaiting responses. As indicated in the document W673, existing TRIPS flexibilities in Article 31 and 31*bis* do not address the situation created by a pandemic where every country in the world is affected. Article 31 mainly addresses country specific measures such as in situations of a national emergency, extreme urgency or when the medicine is required for public non- commercial use. It does not address a situation where the world as such is impacted. We hope that these documents provide comprehensive evidences of how IPRs pose a barrier in terms of access to Covid19 products and can help move our discussions into the next phase i.e. on the text of the proposal.

Also, some delegations have pointed out in the previous meetings that we should work towards a solution within the multilateral framework. We would like to clarify that a waiver is a legal instrument provided for exceptional circumstances under Article IX (3) of the Marrakesh Agreement establishing the WTO. And there can be no denial to the fact that Covid19 is an extremely exceptional crisis and the proposed limited, temporary and proportionate waiver is perfectly within the framework of MTS. Thus, it does not, in any manner whatsoever, deviate from the commitments under rules-based multilateral framework. In fact, it is the responsibility of the WTO Members to utilize such instruments and respond swiftly and effectively to once-in-a-lifetime crisis as the Covid19 pandemic.

Chair, despite the emergency-use approval of several vaccines for treatment of Covid19, our worst fears of shortage in supplies have regrettably come true. On one side, vaccine rollout programmes of almost all the countries in the world are suffering delays due to insufficient manufacturing and non-availability of required number of vaccine doses, while on the other side, large number of manufacturing facilities in many countries, with the proven capacity to produce safe and effective vaccines are unable to utilise those capacities due to IP barriers. Since October 2020, we have been advocating in this Council that limited, restrictive and non-transparent voluntary licensing agreements will not be sufficient to address the massive global demand of vaccines and treatments. Alas, what we heard from few Members about sufficiency of licensing arrangements for ramping up manufacturing capacities, has proven to be wishful thinking. Chair, Voluntary Licenses, even where they exist, are shrouded in secrecy. Their terms and conditions are not transparent. Their scope is limited to specific amounts or for a limited subset of countries, thereby encouraging nationalism rather than true international collaboration.

Also, our fears regarding insufficiency of Covax and C-TAP mechanism have proven to be true. Chair, the pandemic has a huge social and economic cost and if unaddressed through swift and appropriate global action, will create negative externality for every country. As per World Bank’s latest Global Economic Prospects[[2]](#footnote-2), the global recovery has been dampened in the near term by a resurgence of new COVID-19 cases. It warns that a worsening of the virus, delays in vaccine procurement and distribution, and financial stress amid high debt levels—could derail the projected global recovery this year. Even if the recovery proceeds as envisioned in the baseline scenario, global output is expected to remain 4.4 percent below pre-pandemic projections by 2022. Even a 1% improvement in global GDP from the baseline scenario will add more than USD 800 billion in global output, offsetting by far the commercial loss, if any to one sector of economy on account of the Waiver. Even this loss can be compensated by giving incentives for R&D work, which is already being provided through public funding. Merely a signal to ensure timely and affordable access to vaccines and treatments will work as a big confidence booster for demand revival in the economy across sectors. Without such confidence, the global consumption and investments will remain subdued, affecting both developed and developing world alike. It would be naïve for any country to think that it can win over a virus and its resultant socio-economic impacts, by simply vaccinating their own population.

Chair, all the Members have agreed on one account that there is an urgent need to scale-up the manufacturing capacity for vaccines and therapeutics to meet the massive global needs. The TRIPS Waiver Proposal is an enabler and will be invoked to ensure that IP barriers do not come in the way of such scaling up of manufacturing capacity. We have answered all the questions pertaining to our Proposal at length at our previous meetings and also circulated written responses in the documents mentioned above. We would like to urge the Membership to engage in a constructive spirit towards text-based discussions on the Waiver with a view to reach common ground at the earliest. Our economies are down, our people are dying. Our response to the pandemic crisis today will shape our common future for years to come.  We cannot afford to delay our collective and swift action in saving lives, livelihoods and economies. We need to act now and re-establish WTO’s credibility and its relevance in times of crisis by arriving at a common landing zone on the text of Waiver Decision. Let the WTO now deliver on timely, equitable and affordable access by agreeing to the Waiver.

1. <https://covid19.who.int/> [↑](#footnote-ref-1)
2. <http://pubdocs.worldbank.org/en/930531599838746942/Global-Economic-Prospects-January-2021-Highlights-Chapter-1.pdf> [↑](#footnote-ref-2)