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**Fulfilling the commitment: COVID-19 IP waiver for all medical tools**

Your Excellency,

We write to you as civil society organizations and affected community members working on access to medicines and social justice in South Africa to request the government of the United States take urgent action to facilitate the adoption of the temporary waiver under the World Trade Organization’s (WTO) Agreement on Trade-Related Intellectual Property Rights (TRIPS) at the 12<sup>th</sup> Ministerial Conference of the WTO.<sup>1</sup> We ask the United States to ensure that the waiver covers all essential lifesaving medical tools needed to combat the COVID-19 pandemic, with sufficient duration to enable diversified production and sustainable supply.

We continue to experience unacceptable inequity of access to COVID-19 vaccines, treatments, diagnostics and other lifesaving medical tools in South Africa and note similar challenges reported by many other low- and middle-income countries (LMICs). Vaccine nationalism and hoarding by high-income countries (HICs) have jeopardized global solidarity and deepened inequity. Limited voluntary actions of pharmaceutical companies continue to exclude millions from receiving reliable access to lifesaving medical tools. The temporary global mechanism for access to COVID-19 medical tools, the Access to COVID-19 Tools Accelerator (ACT-A), has failed to ensure equitable access and falls short of good governance, transparency and accountability in its operation.

Patents and other intellectual property held by companies such as Roche, Regeneron, Sanofi and Merck have created access blockages and restrictions to effective treatments recommended by the World Health Organization (WHO) or showing positive clinical trial results.<sup>2</sup> A major diagnostics company, Cepheid, chooses to charge high prices for their GeneXpert diagnostic systems in LMICs and refuses to share or

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<sup>1</sup> WTO, [IP/C/W/669 Rev.](#)

license proprietary technologies to enable production of these systems by local manufacturers.<sup>2</sup> South Africa recently established the first mRNA vaccine technology transfer hub in collaboration with WHO to facilitate wider production and supply of COVID-19 mRNA vaccines by and for LMICs.<sup>3</sup> However not a single mRNA vaccine developer has joined this initiative yet, and patents on mRNA vaccines by these developers have hindered prospective local production. Moderna, which has already obtained patents in South Africa related to its vaccine, has not applied for registration to supply the vaccine in the country.

People in LMICs have contributed to breakthroughs in biomedical science over the course of the pandemic. In addition to South Africa's supportive public policies and funding, thousands of South Africans have supported and participated in critical clinical trials leading to eventual medical innovations that can save lives around the world. However, these contributions have not ensured equitable and reliable access to the resulting COVID-19 medical tools. We are instead forced to rely on HIC donations and major companies' minimal and delayed deliveries. Our right to produce and supply these urgently needed medical tools is denied. This is injustice. We demand real, transformative change, not charity. We are calling on the US government and the international community to empower us to determine what choices we make to ensure our own health and to achieve greater self-reliance. One critical step the United States can take to further support this is to push to make the TRIPS waiver a reality.

While we appreciate the US Administration's support for the TRIPS waiver, we are deeply disappointed that the statement only covers vaccines, and no further concrete actions have been taken to ensure the immediate adoption of the waiver. Although the US has increased vaccine donations to LMICs, it is far from enough to cover needs and does not ensure sustainable supply and access to treatments, diagnostics and vaccines. Meanwhile, production and supply capacities by LMICs have not been fully utilized due to control exerted by multinational pharmaceutical companies.

The waiver negotiation has been delayed for over a year while the pandemic continues affect millions of people with more and more concerning variants putting even greater strain on already overburdened public health systems. The world is watching now as the WTO Ministerial Conference is fast approaching. The waiver should be adopted with coverage for all lifesaving medical tools, not just vaccines, and with a duration that is sufficient to enable more production and supply to improve the pandemic response.

Ahead of tomorrow's TRIPS Council meeting, we sincerely request your prompt action to facilitate a quick adoption of the TRIPS waiver.

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<sup>2</sup> MSF. Local diagnostics to meet local health needs. 2021. Available from: <https://msfaccess.org/improve-local-production-diagnostics>

<sup>3</sup> MSF. Sharing mRNA vaccine technologies to save lives. 2021. Available from: <https://msfaccess.org/sharing-mrna-vaccine-technologies-save-lives>

Sincerely,



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**Sign-ons:**

Cancer Alliance

Section 27

Africa Alliance

Peoples Health Movement - South Africa

Treatment Action Campaign

Health Justice Initiative