

12 November 2021

Ambassador Astrid Helle
Royal Norwegian Embassy to the Republic of South Africa
Ozmik House, 165 Lynnwood Rd, Brooklyn, Pretoria
Email: emb.pretoria@mfa.no

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

Your Excellency,

We write to you as civil society organisations and affected community members working on access to medicines and social justice in South Africa to request that the government of the Norway immediately stop blocking the temporary waiver under the World Trade Organization's (WTO) Agreement on Trade-Related Intellectual Property Rights (TRIPS) to enable its rapid adoption at the 12th Ministerial Conference of the WTO.¹

We continue to experience the 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 jeopardised global solidarity and deepened inequity. Limited voluntary actions of pharmaceutical companies continue to exclude millions of people from securing reliable access to lifesaving medical tools. The temporary global mechanism for access to COVID-19 medical tools, namely 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.² A major diagnostics company, Cepheid, chooses to charge high prices for their GeneXpert diagnostics system in LMICs and refuses to share or license their proprietary technologies to enable local manufacturers to produce these systems.³ South Africa has 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.⁴ Unfortunately, none of the major mRNA vaccine developers have joined this initiative, and patents on mRNA vaccines secured by these developers are hindering prospective local production. Moderna has not applied for registration to supply its vaccine in South Africa but has already obtained South African patents related to the vaccine.

People in LMICs have contributed to breakthroughs in biomedical science during this 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. Instead we are 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 change, not charity. We call on the Norwegian government to join waiver-supporting countries to make the TRIPS waiver a reality, enabling greater self-reliance for South Africa and other LMICs.

We are deeply concerned by Norwegian government's approach to the TRIPS waiver negotiation to date. Instead of standing in true solidarity and recognizing the evident and pressing needs to support countries to acquire additional policy options to address access challenges, Norway has chosen to oppose the waiver proposal which could have leveraged broader possibility for diversifying production and supply by and for LMICs. With the new coalition government taking office with strong commitment to social justice and global solidarity, it is a critical time now for Norwegian government to put the words into actions, and to change its approach at the WTO negotiation process.

The waiver negotiation has been delayed for over a year while the pandemic continues to affect millions of people, with more concerning variants of the virus 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 only vaccines, and with a duration that is sufficient to enable more production and supply to improve the pandemic response. Norway has an undeniable responsibility to act in true solidarity and stop blocking other countries' proposal which could save more lives.

Ahead of the next formal TRIPS Council meeting and the WTO General Council meeting before the Ministerial Conference, we sincerely request that the Norwegian government stop blocking the TRIPS waiver. We would like to request a meeting with you at your earliest convenience to discuss this topic in the coming days.

Sincerely,



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Signatories:

- Section 27
- People Health's Movement – SA
- Cancer Alliance
- Africa Alliance
- Treatment Action Campaign

- Health Justice Initiative
- TB Proof

Individual signatories:

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- Prof Mohamed Jeebhay, Occupational Medicine, University of Cape Town
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- Ms Nikki Schaay, School of Public Health, University of the Western Cape, South Africa
- Professor Ashraf Kagee, Department of Psychology
- Dr Arne von Delft, School of Public Health and Family Medicine, University of Cape Town & TB Proof, South Africa.
- Prof Andy Gray BPharm MSc(Pharm) FPS FFIP, Senior Lecturer, Division of Pharmacology, School of Health Sciences, University of KwaZulu-Natal
- Collet Dandara, University of Cape Town
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- Dr. Tobias Schonwetter, LL.M. Director: Intellectual Property Unit | Director: iNtaka Centre for Law & Technology
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