

## **Public Letter to the European Commission to support during WTO negotiations: waiver in regard to TRIPS for the prevention, containment & treatment of COVID-19**

To: Valdis Dombrovskis,  
Executive Vice-President for the European Commission on the role of 'an Economy that works for People', including trade policy  
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Cc to: Head of Cabinet, Michael Hager  
[michael.hager@ec.europa.eu](mailto:michael.hager@ec.europa.eu)

Brussels, Belgium, 18 November 2020

Dear Mr. Dombrovskis,

As feminist groups in partnership with many other civil society networks, we urgently request support for the unconditional adoption of the proposed "[Waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19](#)," (Waiver Proposal) **which is critical for governments to ramp up production and make prevention and treatment options available and accessible to all. This will mitigate women and gender non-conforming people being forced to give up access to this health care and bear a disproportionate burden of this pandemic.**

**We, the undersigned, are writing to request your support for the adoption of the Waiver Proposal**, which has been submitted by Eswatini, India, Kenya, and South Africa at the WTO, and is currently under discussion at the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council. The next meeting to discuss this urgent proposal is scheduled for 20 November.

It is evident that open access to a range of medical products is critical to meeting the challenges of the COVID-19 pandemic. Many countries, particularly in the global South, are facing a severe shortage of products such as diagnostic kits, masks, and personal protective equipment. Ventilators are in short supply and most medicine options have so far been very expensive. Given the relative lack of power of women and gender non-conforming people economically, socially, and politically, including on the basis of race, caste, class, sexuality, ethnicity, religion, migratory status, whenever there is limited supply of essential products, including critical medical products, they face the greatest barriers to access. If medical diagnostics, treatment, and care are expensive, women and gender non-conforming people often give up use, voluntarily or involuntarily, in order to save household resources and ensure supply for the male members.

Considering the economic cost of the COVID-19 pandemic, any constraints on access to medical products, will translate into a severe and prohibitive constraint for women and gender non-conforming people. And in today's globalized world, if the pandemic is not controlled everywhere at the same time, including in low and middle income countries, humanity will revolve in circles and outbreaks of contagion will flare up again and again, which could escalate into a pandemic again.

The only way to enhance the availability and affordability of these medical products is to promote competition through multiple producers. Considering access and affordability is critical to halting the COVID-19 pandemic, many global leaders have termed these medical products, especially vaccines, a global public good. The current global intellectual property (IP) regime poses a key challenge to translating the concept of a public good into action.

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Under the current global IP regime, medical products required for prevention, containment, and treatment of COVID-19, especially newly developed ones, are governed by intellectual property rules that ensure successful vaccines or monoclonal antibodies (Mab) are likely to be very expensive and in short supply, as their patents will guarantee monopoly profits to pharmaceutical companies. The TRIPS Agreement considerably limits the policy space of WTO Member States to take measures to overcome these legal barriers and enable the local production of essential COVID-19 medical products.

Though flexibilities, like the issuing of compulsory licenses (CL), are provided under the TRIPS Agreement, such mechanism becomes ineffective when it comes to negotiating other forms of IP such as copyrights, trade secrets, and industrial designs. For instance, access to know-how, which is protected through trade secrets, is critical for the non-originator production of vaccines and Mab, two important products in the fight against COVID-19. We also need urgent action to address the IP barriers while CLs need time to be used.

Therefore, the adoption of the Waiver Proposal is critical to ensuring the access and affordability of COVID-19 medical products in the vast majority of WTO member countries, especially developing and least developed countries. This temporary waiver provides the critical policy space for WTO Member States to take measures to enable competition through multiple producers and ensure adequate supply at affordable rates. This would empower these countries to fulfil their human rights obligations on the right to health under the International Covenant on Economic Social and Cultural Rights (ICESCR) and the Convention on the Elimination of all Forms of Discrimination Against Women. Failing to do so will acutely harm women and gender non-conforming people.

It is also important to note that the right to health includes an obligation for States to facilitate access to essential health facilities, goods and services in other countries, and to take steps to ensure that international agreements do not adversely impact upon the right to health. Hence, we request that countries who do not want to use the waiver do not block the Waiver Proposal, which would compromise the fulfilment of the right to health in other, particularly developing and least-developed, countries.

We therefore demand that WTO member states support the unconditional adoption of the Waiver Proposal, which is critical to expanding the access of medical products vital to the prevention, containment, and treatment of COVID-19 in the global South, otherwise constituting a disproportionate burden on women and gender non-conforming people. This is a key opportunity for WTO member states to deliver on their promise to battle COVID-19 in the true spirit of multilateralism.

For a response, kindly write to: [info@wide-network.org](mailto:info@wide-network.org)

Undersigned by:

**act:onaid**



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**FOR ALL WOMEN'S RIGHTS**  
IN EVERY CORNER OF THE WORLD



Gender Alliance for Development Center  
Qendra Aleanca Gjinore për Zhvillim



Center for Sustainable  
Communities Development

**women**



**Action Aid International**  
**Seattle to Brussels network, Europe**  
**Kvinna till Kvinna, Sweden**  
**Bretton Woods Project, United Kingdom**

**Women In Development Europe+ (WIDE+), Europe, including WIDE+ members:**  
**Gender Alliance for Development Centre (GADC), Albania**  
**Center for Sustainable Communities Development, Bulgaria**  
**WIDE Switzerland,**  
**GADIP, Sweden**  
**WO=MEN, the Dutch Gender Platform**  
**K.U.L.U Women and Development, Denmark**

*This letter is also sent to other governments by the Gender and Trade Coalition and Women's Working Group on Financing for Development in collaboration with Third World Network, undersigned by more than 50 feminist associations and networks worldwide.*