

PLATFORM FOR ACT-A
CIVIL SOCIETY AND COMMUNITY
REPRESENTATIVES

21st June 2022

STATEMENT FROM THE PLATFORM FOR ACT-A CIVIL SOCIETY AND COMMUNITY
REPRESENTATIVES ON THE MINISTERIAL DECISION ADOPTED AT THE WTO'S 12TH
MINISTERIAL CONFERENCE (MC12) HELD FROM 12-17 JUNE 2022

As the Platform for Civil Society and Communities on ACT-A, we express our deep disappointment at the outcomes from the WTO's 12th Ministerial Conference.

Civil society organizations that have been active in the original and revised South Africa/India TRIPS waiver proposals to temporarily waive intellectual property protections on COVID-19 health products have been universally critical of the process and outcome reached in the WTO Ministerial Decision on the TRIPS Agreement on June 17. The European Commission rejected the South Africa/India proposals supported formally by 65 countries and informally by dozens of other countries and advanced a compulsory-license solution that deals only with patent and TRIPS-plus data exclusivity barriers. The United States led the opposition to an immediate waiver of IP barriers to diagnostics and therapeutics, and thus the Decision now only applies to COVID-19 vaccines. However, since expanding vaccine production to new suppliers requires deep technology transfer and knowledge sharing, including confidential information/trade-secret, protected manufacturing know-how, quality control systems, active pharmaceutical ingredients, and even biological resources, the WTO Decision is an incomplete solution even with respect to vaccines as it does not address the full extent of intellectual property barriers.

Even more irrational and disappointing is the decision to delay the inclusion of **treatment and diagnostics for up to six months**, despite outpatient antiviral test-and-treat strategies being deployed by rich countries months ago. There are as well counterproductive anti-diversion measures and notification requirements that will make use of the new authorization procedures needlessly complicated. Finally, in terms of major issues, the Decision excludes all developed country Members and developing countries that opt out (at this point China, as a major vaccine manufacturer). This eligibility limitation arguably provides a little more economic space for new vaccine manufacturing capacity in developing countries, but at the cost of a smaller overall market and the elimination of many capable or adaptable manufacturers that could more quickly expand supply.

Even though there is some relaxation of the right to export vaccine supplies to eligible countries and clarifications of how the new authorization may be granted, ACT-Accelerator Civil Society representatives collectively condemn this inadequate Decision. We will support countries that

strive to overcome all relevant intellectual property barriers to COVID-19 medical technologies and join the call that rich countries refrain from bringing trade pressures or complaints against countries that take such steps. In addition, we strongly recommend that the WTO immediately take steps to expand the coverage of the existing Decision to therapeutics and diagnostics where such extension is likely to have a more immediate and important impact, especially for countries excluded from voluntary licenses to COVID-19 antivirals and other therapeutics.

NOTE on Background

The WTO's Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement sets out minimum standards for many forms of intellectual property (IP), such as copyrights, trademarks, patents, undisclosed information, and anti-competitive practices. As IP rights can create barriers to timely access to lifesaving health products the TRIPS Agreement includes safeguards known as "flexibilities" so states can amend their laws and take certain measures to address public health emergencies, such as issuing compulsory licenses that would allow a company to produce a lifesaving drug without following IP rules. The Covid-19 pandemic has raised questions about whether the "flexibilities" are effective to address the world's urgent needs, given that they usually apply on a country-by-country, case-by-case, and drug-by-drug basis and have onerous reporting requirements.

Signed by

The Platform for ACT-A Civil Society and Community Representatives.

<https://covid19advocacy.org/>