



URGENT TRADE POLICY RESPONSES TO THE COVID-19 CRISIS

COMMUNICATION FROM THE EUROPEAN UNION TO THE WTO GENERAL COUNCIL

The following communication, dated 4 June 2021, is being circulated at the request of the delegation of the European Union.

1.1. The European Union strongly supports a multilateral response to the COVID-19 pandemic. The most urgent challenge is currently to ensure a rapid and equitable roll out of vaccines and therapeutics globally, as this is the only way to control the virus effectively.

1.2. The European Union is doing its utmost to achieve this objective. The European Union has fully demonstrated its commitment to international solidarity by producing vaccines at large scale and exporting on average 50% of the production. With over 250 million doses exported, the EU continues to remain the largest COVID-19 vaccines exporter in the world. With a contribution of EUR 4.9 billion, the EU is one of the biggest donors to the Access to COVID-19 tools Accelerator, a global partnership aiming to accelerate development, production, and equitable access to COVID-19 tests, treatments, and vaccines. Every third euro spent on distributing vaccines globally is spent by the EU. The EU and its Member States also remain the biggest donor to COVAX facility, a global effort to distribute vaccines equitably, with EUR 2.8 billion worth of funding. In addition, the EU has committed to donate 100 million doses of vaccines to those in need by the end of 2021.

1.3. On a global scale though, it is not enough. The main issues such as providing adequate and quality manufacturing capacities globally, ensuring sufficient raw materials, equipment and trained staff must be addressed. The very serious epidemiological situation in India, a huge challenge for international solidarity on its own, risks interfering with COVAX plans to ensure vaccination of the most vulnerable population in low- and middle-income countries during 2021, which is a necessary first step towards achieving global herd immunity and to avoid the risks arising from COVID-19 variants.

1.4. The rules-based global trading system can contribute to ensure a rapid expansion of production and equitable access to COVID-19 vaccines and therapeutics. Since last year, together with a growing number of WTO Members, the European Union has been calling for a multilateral Trade and Health initiative. We have also been engaged in discussions on the proposal to introduce a temporary waiver of intellectual property rights for COVID-19 health products, and we have strongly supported the initiative by the WTO's Director-General to consider practical ways to enhance production capacity and licensing of technologies through cooperation with the private sector.

1.5. The European Union considers that the time has come to take urgent multilateral action on a contribution by the trading system towards an expansion of production and equitable access to COVID-19 vaccines and therapeutics. In particular, we would propose that WTO Members agree on a **global trade initiative for equitable access to COVID-19 vaccines and therapeutics** encompassing the following:

Trade facilitation and commitments on export restrictive measures

1.6. All WTO Members should be ready to subscribe to the G20 commitment to ensure that any export restrictive measures relating to health products are targeted, transparent, proportionate, and

temporary, and consistent with WTO obligations. Such principles have been incorporated into a draft Declaration on the Trade and Health Initiative ('Covid-19 and Beyond: Trade and Health (JOB/GC/251/Rev.2') that the EU along with 12 other WTO Members put forward back in December 2020. It is encouraging that 50 WTO Members (including 27 EU Member States) have signed up to this initiative but the involvement of the whole WTO membership is required for it to have a significant effect. This initiative constitutes a basis that WTO membership should build on not only in a response to the current crisis but also in anticipation of any future emergency.

1.7. The draft Declaration develops further the concept of temporariness, and strengthens Members commitments regarding transparency and proportionality.

1.8. The EU considers that the draft Declaration could be further developed to take account of the on-going issues with respect to production and distribution of COVID vaccines. Vaccine and therapeutics producing countries should take a commitment to avoid disruptions in global supply chains, including in a situation where export restrictive measures have been imposed, and ensure that a fair share of their vaccine and therapeutics production is destined for exports. Notifications should cover all domestic measures which may have a restrictive effect on exports, even if exports are not explicitly targeted.

1.9. In any event, no restrictions of any kind should be applied on supplies to the COVAX facility and no measures should be taken that limit trade in inputs necessary for COVID-19 vaccine and therapeutics production.

1.10. The WTO Director-General should produce regular reports on the progress achieved in phasing out export restrictions and fulfilling the commitment to avoid disruption of the vaccine and therapeutics supply chain.

1.11. Apart from the commitments on export restrictions, WTO Members should seek to establish best practices as regards trade facilitation and regulatory cooperation which could be regularly reviewed in the Trade Facilitation and TBT Committees.

Support for the expansion of production

1.12. WTO Members should be ready to take measures that support the expansion of production of COVID-19 vaccines, therapeutics and their inputs. If such measures of support were to include subsidies, Members should make sure that the subsidized investment responds accurately to the public health emergency in the corresponding limited time-frame. Such subsidies should be considered as making a positive contribution to the objective of expanding production capacities.

1.13. Governments should strongly encourage vaccine and therapeutics manufacturers and developers to contribute towards the objective of expanding production and ensuring affordable supply of vaccines and therapeutics to low- and middle-income countries during the pandemic. Such actions could include licensing agreements, providing for the sharing of knowhow, tiered pricing which involves a non-profit sale to the low-income countries, contract manufacturing and new investments in manufacturing facilities in developing countries. As announced by Commission President Von der Leyen at the Global Health Summit, our industrial partners – BioNTech-Pfizer, Johnson & Johnson and Moderna – have already committed to deliver 1.3 billion doses this year for non-profit to low-income countries and at lower costs for middle-income countries. Such efforts are very much welcome as they contribute to the initiative advanced by the WTO Director-General. We strongly encourage all the producers of vaccines and COVID therapeutics to follow suit. Further action should also be considered to facilitate increased production in developing countries.

1.14. The EU acknowledges the fact that significant investment efforts should be made to build resilience of the health systems in those countries, which do not have their own manufacturing capacity and are overly reliant on imports. To this end, the EU and its Member States (Team Europe) are launching an initiative to develop vaccine production in the African continent. The initiative entails investment in infrastructure and production capacities as well as skills development, supply chains management, and the necessary regulatory framework. The objective is to develop a number of regional hubs distributed across the continent. We have already identified promising projects in South Africa, Senegal and Rwanda, and we are working also with other partners. EUR 1 billion has already been allocated from EU budget and EU finance institutions to deliver on this goal.

1.15. In cooperation with WHO, WIPO and other international organizations, the WTO should compile information on the production of vaccines and therapeutics and on the pledges made by producers and organize regular meetings bringing all relevant stakeholders to work on concrete solutions, whenever necessary.

Intellectual property

1.16. Intellectual property is not and should not be an obstacle to equitable access to COVID-19 vaccines and therapeutics during the pandemic. Limited manufacturing capacity, access to raw materials and other inputs are the main bottlenecks as regards the production of COVID-19 vaccines. In addition, know-how is key due to the complexity of the production process. Voluntary licences are the most effective instrument to facilitate expansion of production and the sharing of know-how. Intellectual property framework provides a platform that incentivises collaboration and transfer of know-how.

1.17. Compulsory licences are a perfectly legitimate tool that governments may wish to use in the context of a pandemic if voluntary solutions are not available. In the course of the discussions in the WTO TRIPS Council, certain procedural aspects related to the use of compulsory licensing were identified as factors that limit the use of this tool. In order to address these aspects, provide more legal certainty and enhance the effectiveness of the system, the EU considers that all WTO Members should be ready to agree on the following:

- a. The pandemic is a circumstance of national emergency and therefore the requirement to negotiate with the right holder may be waived;
- b. To support manufacturers ready to produce vaccines or therapeutics at affordable prices, especially for low- and middle-income countries, on the basis of a compulsory licence, the remuneration for patent holder should reflect such affordable prices;
- c. The compulsory licence could cover any exports destined to countries that lack manufacturing capacity, including via the COVAX facility.

1.18. The EU is also ready to engage on other points regarding the facilitation of use of compulsory licensing as provided for in the TRIPS Agreement.

Declaration on trade response to equitable access to COVID-19 vaccines and therapeutics

1.19. The set of commitments related to export restrictions/trade facilitation, expansion of production and intellectual property could be reflected in a Declaration to be adopted as a matter of urgency by WTO Members.

1.20. As stated by the WTO Director-General, the WTO must play a central part in the response to the COVID-19 crisis. The European Union believes that the proposals detailed in this communication represent concrete steps towards a WTO framework on trade and health that the WTO Director-General has been calling for. The EU intends to work with other cosponsors to further develop the draft Declaration on Trade and Health in advance of the July General Council for discussion with broader WTO membership. The EU will also further elaborate its proposal regarding the approach to compulsory licensing in the WTO TRIPS Council.

1.21. The European Union remains ready to fully support the WTO Director-General efforts to address the challenges of equitable access to COVID-19 vaccines and therapeutics.

1.22. While the EU considers that the elements above can be part of a Ministerial Declaration, we are also open to examine other options, and proposals, including on intellectual property, as long as they contribute towards the objectives of expanding production and facilitating equitable access to COVID-19 vaccines and therapeutics.

1.23. The three basic elements reflected in this Communication are without prejudice to other initiatives that could be considered to enhance responsiveness and resilience in the context of future pandemics. While these initiatives go beyond trade, the WTO can make a contribution in cooperation with WHO and other international organizations. The WTO Declaration could therefore also include

elements that contribute towards better preparedness in the context of future pandemics and which are based on cooperation with other international organizations.

1.24. The EU looks forward to discussing the ideas contained in this paper with other WTO Members and to a structured process of discussion under the leadership of the Director-General.
