

## **MSF urges governments to reject the draft COVID-19 text at WTO that would set a negative precedent**

*Draft text is **NOT** the intellectual property Waiver for COVID-19 medical tools people need*

Geneva, 4 April 2022 – Almost one and a half years since India and South Africa [first proposed](#) a landmark intellectual property (IP) Waiver for COVID-19 medical tools at the World Trade Organization (WTO), a draft text that had been under discussion by several governments was leaked in mid-March. Following a thorough [analysis of the leaked text](#), Doctors Without Borders/Médecins Sans Frontières (MSF) strongly urges all governments to reject this draft text, as it does not provide a meaningful solution to facilitate increasing people’s access to needed medical tools during the pandemic that has cost more than six million lives already, and in fact would set a negative precedent for future global health challenges.

“This draft text being discussed at the WTO is simply not the effective intellectual property Waiver that more than 100 governments were asking for, and governments should reject it,” said Yuanqiong Hu, Senior Legal and Policy Advisor for MSF’s Access Campaign. “This text fails to comprehensively address intellectual property challenges for COVID-19 medical tools as India and South Africa’s TRIPS Waiver proposal does: the disappointing draft text covers only vaccines, excluding treatments and diagnostics, it fails to address non-patent intellectual property barriers such as trade secrets, and it restricts which countries can make use of it. In addition, limitations and requirements in the draft text could possibly undermine existing flexibilities and this would be an unnecessary step backwards. If the draft text is agreed without thorough and substantive revisions, it would set a negative and detrimental precedent for future global health challenges. It’s beyond time for governments to move forward with negotiations on a TRIPS Waiver text that could be effective, like the one proposed almost seventeen months ago.”

The draft text is categorically different from the TRIPS Waiver introduced by India and South Africa, which proposes to waive patents and other intellectual property (IP) barriers on all COVID-19 medical tools for the duration of the pandemic, and pave the way for any country to increase production and supply of these lifesaving medical tools. While the draft text attempts to address some restrictions on compulsory licensing rules for export, it fails to do so in a meaningful manner. (Such clarifications to existing rules, even if substantively revised from the current text, should then not apply only to COVID-19 but instead to all compulsory licenses, for all technologies, across disease areas, without a restricted duration, and for all WTO members.)

“It is particularly disheartening to even consider delaying a decision on treatments and diagnostics by an additional six months, especially when access to COVID-19 treatments remains a significant problem for people in many low- and middle-income countries, and particularly [in Latin America](#),” said Felipe de Carvalho, MSF Access Campaign Coordinator in Latin America. “The impact of the pandemic on people in countries in Latin America, including [Brazil](#), [Bolivia](#), [Colombia](#) and [Peru](#), was devastating, and access to affordable generic medicines would be crucial if another COVID-19 wave were to hit this region.”

MSF has [clearly outlined](#) that the final agreed TRIPS Waiver must cover not only vaccines, but all essential medical technologies, including treatments and tests, that all countries should be covered, and that the duration of the Waiver should be at least five years, in order to support the manufacturing and supply of COVID-19 medical tools, including needed materials and components, to be prepared, scaled up, diversified and sustained.

“If the WTO moves forward with this draft text and calls it a day, the world will have missed a major opportunity to agree a meaningful intellectual property Waiver that could have helped overcome the gross inequity in access to COVID-19 medical tools that we have seen in many of the low- and middle-income countries where we work. Adopting this draft text would demonstrate a failed response on behalf of the WTO and global solidarity, and would clearly set a negative precedent for future global health challenges.” said de Carvalho.

MSF also joined more than 40 civil society organizations in an [open letter](#) calling on the European Union to refrain from rushing WTO members to rapidly adopt the draft text.