



*To the President of the European Council, Honorable Charles Michel*

*To the President of the Commission, Honorable Ursula von der Leyen*

*To the High Representative, Honorable Josep Borrel*

*To the European Commissioner for Trade, Honorable Valdis Dombrovskis*

*To the European Commissioner for Health and Food Safety, Honorable Stella Kyriakides*

*Bruxelles, 3 February 2021*

**Subject: For a moratorium on the suspension of covid-19 vaccine patents**

The development and distribution of an effective COVID-19 vaccine have been at the heart of the European Commission's health response to the coronavirus since the early stages of the pandemic crisis. As Members of the European Parliament, we are satisfied that the Commission and the Member States have agreed on joint action. An action which has guaranteed to conclude preliminary purchase agreements with vaccine manufacturers at the European level; to finance the initial development costs through the Emergency Support Instrument; to start a powerful common vaccination campaign.

Notwithstanding, we are sincerely concerned by the recent reports of delivery delays and dose reductions compared to the forecast for the first quarter of 2021, regarding producers BioNTech-Pfizer and AstraZeneca. We believe that these delays seriously undermine the objectives of the Union and Member States vaccination plans and the full effectiveness of the European covid-19 vaccine strategy and the Union's exit from the health emergency, including in terms of recovery economic.

For this reason, we believe that the debate on compliance with negotiation conditions, their transparency, and possible legal actions by the Member States, which was proudly stimulated by us in the Parliament, is subordinate to the real issue of 2021, the worldwide shortage of production capacity of covid-19 vaccines.

We, therefore, believe that should concentrate all our efforts on this global issue. Some states have already shown concrete solutions. South Africa and India sent a joint proposal to the World Trade Organization requesting an exemption from patents and other intellectual

property rights concerning drugs, vaccines, diagnostics, personal protective equipment, and other medical technologies throughout the pandemic and this proposal is still pending.

This approach, moreover, is not an absolute novelty. There were similar actions for the introduction of generic drugs for HIV at affordable prices 20 years ago, and the distribution of another vaccine during the polio epidemic in the 1950s. When, during a famous television interview they asked Jonas Salk, the scientist who developed the first effective vaccines against polio, who owned the patent, who holds the patent, he replied: "people, I would say. There is no patent. Could we patent the sun?"

We believe that the same principles must now inspire the European Union. It is time to act in the same direction. We can not accept that to protect the pharmaceutical sector's interests; we have to bear considerable consequences in human lives, economic losses, and increased inequalities. We must firmly affirm that vaccines represent global public goods. Vaccinating against covid-19 is not an enjoyable privilege based on national origins or the quality of zealous trade agreements between governments and pharmaceutical companies. Vaccinating against covid-19 is an exercise of the right to health, a human right global recognized in the World Health Organization's founding act, the Universal Declaration of Human Rights and the United Nations International Covenant on Economic, Social and Cultural Rights.

For us, suspending patents, therefore, appears to be a moral imperative. Of course, we are perfectly aware of the reasons for some resistance linked to support for "intellectual property rights", such as legal assets and tools to provide adequate incentives for companies to invest in research and development. Nevertheless, we believe that these instances fail to consider that many of the pharmaceutical companies, which developed vaccines against Covid-19, received enormous public resources from the European Union and the Member States.

Furthermore, international law itself provides for explicit exceptions to intellectual property law. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), annexed to the treaty established by the WTO, in article 31 provides for the right of Member States to include in their legislation a provision for the use of the patent without the authorization of the holder to facilitate access to drugs through the so-called "compulsory license", in emergency and other unconventional situations. Circumstances defined by article 5 of the 2001 Doha Declaration, which confirms that the member states of the WTO have "the freedom to determine the reasons for the granting of compulsory outbreaks of human immunodeficiency virus infection, tuberculosis, malaria and other diseases, may represent a national emergency or other circumstances of extreme urgency.

Consequently, to guarantee widespread and equitable access to vaccines on a global scale;

We ask the European Union:

- to evaluate to support the adoption of a moratorium that allows the suspension of patents and the sharing of technology, data, know-how, allowing generics manufacturers to contribute to increasing global availability, including through support for India and South Africa's proposal at the WTO;

- to evaluate, as a member of the WTO, subject to an appropriate legislative act, the granting of a compulsory license for the production of covid 19 vaccines to public agencies or a generic drug manufacturer, according to TRIPS and the Doha Declaration.

Yours sincerely,

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