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Third World Network

WTO: CSOs call on ministers to reject current draft of TRIPS Decision

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Geneva, 15 Jun (Kanaga Raja) -- More than 150 civil society organizations (CSOs) on 15 June called on the trade ministers attending the World Trade Organization's twelfth ministerial conference (MC12) to not accept the current draft of the Ministerial Decision on the TRIPS Agreement and to instead demand a real waiver.

In an open letter to the trade ministers currently negotiating the draft Ministerial Decision on the TRIPS Agreement, the CSOs called on all trade ministers to negotiate an effective and meaningful TRIPS Waiver that covers all major Intellectual Property Rights on all COVID-19 medical products for all people.

This is not what is currently proposed in the draft ministerial decision on the TRIPS Agreement (WT/MIN(22)/ W/15), they underlined.

"We therefore call on you to not accept the current proposed COVID-19 decision on the TRIPS Agreement as it does not deliver a meaningful global response to the pandemic and fails to uphold many of the key founding principles of the WTO, including non-discriminatory treatment by and among members, and transparency," said the CSOs.

Ms Winnie Byanyima, UN Under Secretary-General, UNAIDS executive director, and Co-Chair of the People's Vaccine Alliance, a signatory of the open letter, said: "A handful of countries are refusing to make concessions. They are blocking a consensus among most of the world for a simple, full waiver. This is a historic mistake. It is dividing the world at a moment we need global unity."

"It is creating billions of losers for the gain of a handful of billionaires. It is widening inequalities - creating global pandemic haves and have-nots. And, as the UN Committee on the Elimination of Racial Discrimination found, it is "replicating colonial-era racial hierarchies"," said Ms Byanyima.

"We have supported developing countries as they voice their real needs - they have articulated how we get the world out of this crisis of inequitable access. To them I say - persist, persist, persist."

"Together, we must stand up for the right to health for every person in the world. Unity is our strength," she added.

Christos Christou, International President of MSF (Medecins Sans Frontieres), said: "During the pandemic, MSF has repeatedly spoken out about the glaring gap in access to COVID-19 medical tools that we have witnessed first-hand in the places where we work."

"It is disheartening that calls for a global solution to overcome intellectual property barriers that was supported by front-line health workers, community networks, academics, civil society groups and millions of people across the globe went largely ignored," Christou added.

"We are concerned that the alternative text that is under negotiation now is inadequate and does not offer a meaningful response to the current pandemic or any future health crisis," said the MSF President.

"We urge all negotiating governments to not accept this text that prioritises protecting corporate and political interests over saving lives."

Anna Marriott, Health Policy Manager at Oxfam GB, said: "The text under negotiation is no longer a TRIPS Waiver in any meaningful sense."

"It largely restates the compulsory licensing rights that are already in the TRIPS Agreement, but adds burdensome new obligations that could make it even harder for developing countries to produce and supply vaccines. The UK, EU, and Switzerland have been major blockers of the TRIPS Waiver for twenty months while millions have died without access to COVID-19 vaccines."

"They have repeatedly disrupted negotiations using the amendment process to ensure that any text is difficult to use or implement. It would be totally false for rich countries to shift the blame for the current state of the TRIPS negotiations onto anybody else," Marriot added.

In their open letter, the CSOs said people continue to die from COVID-19 without access to life-saving treatments.

It is therefore indefensible that the draft Ministerial Decision does not immediately apply to all COVID-19 medical tools, including therapeutics and diagnostics, they added.

"The failure of the text to address intellectual property barriers beyond patents severely limits its effectiveness in increasing production and supply."

The CSO said the draft Ministerial Decision is discriminatory as it arbitrarily excludes some of the world's largest producers of medical tools and "encourages developing countries with export capacity to opt out" from using the proposed decision to produce and supply medical tools.

"This is contradictory and counterproductive to saving people's lives by ensuring the access to medical tools they need," they added.

It is unacceptable that the text restricts the free movement and rapid distribution of needed medical products during a global pandemic by imposing a ban on re-exportation of COVID-19 vaccines produced under the decision. This restriction cannot be justified, said the CSOs.

Under the guise of "clarifying" existing flexibilities under the TRIPS Agreement, the proposed text risks adding restrictions and complex bureaucratic conditions resulting in hurdles to the production and supply of COVID-19 medical tools, the CSOs further said.

"These, together with never-before required time limits and product limits applied to clarifying the existing public health flexibilities, would set a negative precedent for responses to future health challenges."

The CSOs stressed that the process to reach the current draft text has been "flawed, discriminatory and lacking in transparency."

"It has given outsized influence to the opponents of additional intellectual property flexibilities while limiting, or even excluding, the voice of some countries hit hardest by inequality in access to COVID-19 technologies."

In addition, civil society organizations have not been able to participate meaningfully in the process and have been criticized for raising legitimate concerns, they added.

The CSOs said that the draft Ministerial Decision on the TRIPS Agreement is inadequate and contradictory to the WTO's foundational principles, and results from "a flawed and exclusionary process."

"We therefore call on you, as Trade Ministers, to not accept this current text and demand a real and effective TRIPS Waiver, as originally proposed under IP/C/W/669/Rev.1, delivered via democratic, transparent and accountable negotiations," the CSOs concluded. +