

Esteemed Mme Secretary Raquel Buenrostro Sánchez (Mexican Secretariat of Economy)

Esteemed Mr Secretary Marcelo Ebrard (Mexican Secretariat of Foreign Affairs)

Civil society organizations in Mexico and across the world are watching with attention and concern the recent developments on the extension of the Ministerial Decision on the TRIPS Agreement, adopted on 17 June 2022, to therapeutics and diagnostics, at the World Trade Organization (WTO).

On 1 November 2022, Mexico and Switzerland submitted a joint communication to the WTO TRIPS Council presenting flawed and biased data, largely from Big Pharma, in order to dismiss the need for the extension. Mexico's role in delaying and blocking the extension is worrying and problematic, especially considering that a Mexican government representative had publicly supported¹, on 28 March 2022, the original TRIPS waiver proposal highlighting the need to expand manufacturing capacity and to increase the supply of diagnostics and therapeutics across the global South.

The importance of diagnostics and therapeutics as critical tools to deal with the COVID-19 pandemic is undisputed. Inequity in timely availability and affordability of these tools is widely acknowledged. In October, the International Health Regulations (IHR) Emergency Committee convened by the World Health Organization (WHO) specifically highlighted the "persistent inequities to WHO-recommended therapeutics", that "have resulted in many COVID-19 deaths that may have otherwise been avoided." The ACT-Accelerator report of September 2022 stressed that "the pandemic is not over and issues of access to COVID-19 therapeutics and diagnostics must be addressed."² It added that developing countries still experience limited access, unaffordable prices and extensive delays, linked to the unavailability of generic alternatives. The ACT-A report as well as the Emergency Committee have highlighted with concern the challenges posed by the high concentration of manufacturing, and the need for diversified production at the local level, in order to address the problem of inequitable access.

It surprises us that Mexico has sided with developed countries like Switzerland that are primarily interested in enabling Big Pharma's profits.³ This is to the detriment of access and equity within its own region. Latin America has the [highest excessive COVID-19 death](#) rate in the world – 254.0 per 100,000 people, double the world average of 120.3 deaths per 100,000 people. This has been largely due and will continue to be affected by the lack of access to affordable therapeutics. Today, developed countries account for 76% of total known supply deals. This also impacts Mexico detrimentally at the national level by benefiting Big Pharma at the expense of transparency and the promotion of the human right to health⁴. This is clear in Mexico's agreement with Pfizer for the production of Paxlovid. To date, Mexico's Ministry of Health has only been able to procure 300,000 treatment courses for the whole country, making the drug extremely inaccessible, while civil society, patients and the public in general have remained in the dark regarding the conditions of the agreement.

In its joint communication with Switzerland, Mexico argues that there is no demand for COVID-19 therapeutics. This flawed argument fails to reflect actual need, i.e. the number of people infected globally, especially those at the highest risk of disease progression, hospitalization, and death. Given the nature of the virus, it is just a matter of time before infection rates increase⁵. A recent [report](#) concluded that the lack of demand does not represent the actual need for therapeutics since prices are unaffordable⁶, and in many countries, there is a lack of knowledge of their existence. Furthermore, in the absence of widely available affordable treatments, governments are unable to put test and treat strategies in place.

Mexico also argues that signed voluntary licenses (VL) will ensure supply, and therefore there is no need for the waiver extension. However, these licenses exclude supply to many developing countries and are subject to terms and conditions that may delay or hinder access. The VL between Merck and the Medicines Patent Pool (MPP) for the production of generic Molnupiravir [excludes supply to almost 80%](#) of the Latin American and Caribbean population, leaving out countries such as Argentina, Chile, Colombia and the Dominican Republic. Similarly, Pfizer's VL with the MPP for the combination of nirmatrelvir+ritonavir (brandname: paxlovid), excludes supply to 47% of the world population, including most of Latin America. While some excluded countries have manufacturing capacities and sufficient market demand, others have neither. This means they are dependent on countries with manufacturing capacity for supply. An extension of the 17th June decision would support the production and export of supplies for dealing with COVID-19. Furthermore, paxlovid costs \$500 per treatment course in some developed countries and more than \$250 in some developing countries. With sufficient generic competition, facilitated by the extension, the cost of a 5-day treatment can be as low as \$73⁷.

In the case of baricitinib – a WHO-recommended treatment for patients with severe or critical COVID-19 – there is no similar VL from the drug's patent owner Eli Lilly. The company currently holds baricitinib patents in more than 50 developing countries, including most of Latin America. baricitinib's patents would only begin to expire in 2029, but Eli Lilly's monopoly could be extended if additional patents are granted. In the US, baricitinib is prohibitively priced at US\$ 822.78 for a 14-day treatment course. Some developing countries are paying much higher prices for the original version: in Argentina, the treatment course is US\$ 886.48⁸ However, where patents are not a barrier, generic versions of baricitinib are available for about US\$ 6-7 per treatment course⁹, i.e. nearly 158 times less than Eli Lilly's price in the US.

The pandemic is known to have disproportionately larger effects in relation to gender, especially in intersection with other factors such as race, ethnicity, caste, migration status, sexual orientation, gender identity, etc. These effects manifest themselves in the form of increased domestic violence, barriers to accessing sexual and reproductive health services, unemployment, lack of income, indebtedness, increased care workloads, school closures, and the murder of trans and gender non-conforming people. Without the needed resources and technologies to respond to the continuously mutating virus, women – who make up the majority of frontline healthcare workers – will continue to be detrimentally affected by the pandemic. Women are more likely to have jobs with precarious work contracts, have less access to personal protective equipment, and are more likely to become infected and ultimately die. For instance, 80% of Brazilian healthcare workers who died of COVID-19 were women. Of these, 47% were black and brown women, and 66% had no work contract. Nursing auxiliaries and technicians (70%) had higher death rates than nurses (25%), and doctors (5%)¹⁰. Therefore, it seems contradictory to us that Mexico would take a stand against its own commitment to gender equality and well-being as stated in its Feminist Foreign Policy.¹¹

Equitable access to diagnostics and therapeutics is an essential component of the right to the enjoyment of the highest attainable standard of physical and mental health, as well as the right

to enjoy the benefits of scientific progress and its applications. All states, including Mexico, have a duty of international cooperation and assistance to ensure equitable access. This means refraining from taking measures that obstruct this goal. Mexico has an international obligation to respect the enjoyment of the right to health in other countries and to prevent the violation of this right by opposing the extension of the TRIPS decision to cover diagnostics and therapeutics. Failure to do so will impair the protection of global public health and will prohibit urgent economic recovery from the impact of the COVID-19 pandemic.

The undersigned organizations, therefore, urge the Mexican government to:

(I) Review its position and support the expeditious unconditional extension of the Ministerial Decision on the TRIPS Agreement adopted on 17th June 2022 to the production and supply of COVID-19 diagnostics and therapeutics;

(II) Support the full use of existing TRIPS flexibilities such as compulsory licensing of patents and adequate exceptions to the protection of undisclosed information, copyright and industrial designs.

Yours sincerely,

Mexican civil society

Accionario

Acciones Voluntarias sobre Educación en México A.C.

Agenda LGBT A.C.

Balance Promoción para el Desarrollo y Juventud A.C.

Casa de las Muñecas Tiresias A.C.

Casa Tochan

Centro de Estudios Sociales y Culturales Antonio de Montesinos A.C.

Centro Mujeres AC

Circuito de la Diversidad Sexual

Colectiva Ciudad y Género AC

Colectiva Feminista Eco Buap

El Caracol A.C.

Equidad de Género: Ciudadanía, Trabajo y Familia

Fundacion Arcoiris por el Respeto a la Diversidad Sexual

Internacional Feminista

Luchadoras

Movimiento Mexicano de Ciudadanía Positiva, A.C.

My World México

Nosotrxs A.C.

Project on Organizing, Development, Education, and Research (PODER)

RAÍCES, Análisis de Género para el Desarrollo A.C.

Red de Médicas por el Derecho a Decidir

International Civil Society

Abolición de Lógicas de Castigo y Encierro (ALCE)	Colombia
Acción Internacional para la Salud	Peru
Action Contre la Pauvreté (ACP)	Burundi
Asian-Pacific Resource and Research Centre for Women (ARROW)	Malaysia
Asociación CCEFIRO Construyendo Caminos de Esperanza frente a la Injusticia, el Rechazo y el Olvido	Peru
Asociación de Mujeres Gente Nueva (AMUGEN)	Guatemala
Association for the Promotion of Sustainable Development	India
Association for Women's Rights in Development (AWID)	International
Association pour la Conservation et la Protection des Écosystèmes des Lacs et l'Agriculture Durable	DRC
Brazilian Interdisciplinary AIDS Association	Brazil
Campaign of Campaigns	International
Cancer Alliance	South Africa
Caribbean Feminist Network	The Bahamas
Cellule Associative des Femmes Actives pour la Gouvernance, les Droits Humains et le Bien-Être (CAFAGB)	Cameroun
Centro Interdisciplinario de Estudios sobre Desarrollo (CIEDUR)	Uruguay
Coalizione Italiana per le Libertà e Diritti civili (CILD)	Italy
Colectiva Feminista para el Desarrollo Local	El Salvador
Congregation of the Mission	International
Datasketch	Latin America
Daughters of Charity of Saint Vincent de Paul	International
Development Alternatives with Women for a New Era (DAWN)	International
Disability People's Forum Uganda	Uganda
Drug Action Forum-Karnataka	India
Echoes of Women in Africa Initiatives	Nigeria
Equality Bahamas	The Bahamas
ESCR-Net	United States
Fundación GEP	Argentina
Fundacion para el Estudio e Investigacion de la Mujer (FEIM)	Argentina
Gender Studies and Human Rights Documentation Centre	Ghana
Global Humanitarian Progress Corporation GHP Corp	Colombia
Global Policy Forum	International

Grupo de Incentivo à Vida (GIV)	Brazil
Grupo Solidariedade e Cida	Brazil
Health Action International Asia Pacific	Asia Pacific
Health Global Access Project	International
Human Rights Research Documentation Centre (HURIC)	Uganda
INNOVARTE ONG	Chile
Instituto Patrícia Galvão - Mídia e Direitos	Brazil
International Campaign for Women's Right to Safe Abortion	International
International Women's Rights Action Watch Asia Pacific (IWRAP AP)	International
IT for Change	India
Kasese Women's Health Support Initiative	Uganda
Kenya Human Rights Commission	Kenya
Men Stopping Violence, Inc.	USA
Misión Salud	Colombia
Network Lobby for Catholic Social Justice	USA
Observatorio de Género y Equidad	Chile
Oxfam LAC	Latin America
Pakistan Fisherfolk Forum	Pakistan
Pakistan Fisherfolk Forum	Pakistan
Passionists International	USA
People's Vaccine Alliance (PVA)	International
Plateforme Haïtienne de Plaidoyer pour un Développement Alternatif (PAPDA)	Haiti
Positive Malaysian Treatment Access & Advocacy Group (MTAAG+)	Malaysia
Promsex, Centro de Promoción y Defensa de los Derechos Sexuales y Reproductivos	Peru
Rede nacional das pessoas que vivem com HIV e AIDS núcleo Pernambuco	Brazil
Servicio Desarrollo Rural y Agrícola (SEDRA)	Chile
Sisters of Charity Federation	USA
Society for Alternative Media and Research	Pakistan
South Feminist Futures	International
Southern and Eastern Africa Trade Information and Negotiations Institute (SEATINI)	South Africa
Synergia - Iniciativas por los Derechos Humanos	International
The Jus Semper Global Alliance	International
The William Gomes Podcast	UK

Third World Network (TWN)	International
Transnational Institute	International
Universities Allied for Essential Medicines (UAEM) Latin America	Latin America
Unlad Kabayan	Philippines
Women and Media Collective	Sri Lanka
Women Coalition Against Cancer (WOCACA)	Malawi
Women Empowerment Against Poverty of Nepal (WEAPoN)	Nepal
Womensway Foundation	Suriname

Notes

- 1- See [statement signed by Hugo López-Gatell Ramírez, Deputy Secretary of Prevention and Health Promotion, Government of Mexico.](#)
- 2- See [pg 2 of the ACT-Accelerator Facilitation Council Working Group Report on Diagnostics and Therapeutics.](#)
- 3- See [pgs 8 and 12-14 of the FPV campaign's report about Switzerland's IP history and interests behind its position at the WTO.](#)
- 4- See [PODER's study on how Big Pharma influenced Mexico's policies regarding vaccine procurement.](#)
- 5- According to a recent *Nature* report: "New immune-evading strains of the Omicron variant of SARS-CoV-2, behaviour changes and waning immunity mean that many countries could soon see large numbers of COVID-19 infections — and potentially of hospitalizations — say scientists."
- 6- Examples of prohibitive pricing and stockouts that hinder access include Roche's price for tocilizumab at between USD510 to USD3,383 per treatment, despite the fact that nearly all of the [research for the drug as a treatment for COVID-19 has been funded by governments](#) and other non-industry institutions. The true cost of production could be as low as \$56, [according to MSF](#); Eli Lilly's baricitinib [voluntary license](#) to Indian generic companies that inhibits the supply of generic versions of the drug (originally at USD1,109 but priced at USD7 in its generic version) to any other country outside of India; [lack of supply](#) of tocilizumab in India on May 2021; and the [unmet request](#) by WHO representative for Somalia, Dr. Mamunur Rahman Malik, who received ten times less Pfizer' paxlovid courses for lack of supply.
- 7- https://scholar.harvard.edu/files/melissabarber/files/estimated_cost-based_generic_prices_for_nirmatrelvir_ritonavir_paxlovid.pdf
- 8- https://scholar.harvard.edu/files/melissabarber/files/estimated_cost-based_generic_prices_for_baricitinib.pdf
- 9- https://scholar.harvard.edu/files/melissabarber/files/estimated_cost-based_generic_prices_for_baricitinib.pdf
- 10- See that and more examples in developing countries at [Public International Service's study.](#)
- 11- See [Mexico's Feminist Foreign Policy presentation.](#)