

Statement to the WIPO 32nd Session of the Standing Committee on the Law of Patents

Médecins Sans Frontières (MSF), *December 09, 2020*

Thank you, Madam Chair. Médecins Sans Frontières (MSF) welcomes the SCP to continue the discussion of the agenda item Patents and Health. It is a critical time for WIPO members to closely examine the implication of the implementation of patent law on access to medicines in the context of the COVID-19 pandemic.

Since the beginning of the pandemic, MSF has been witnessing multiple challenges to ensure global access to all needed medical tools, and the need to the rapid removal of IP barriers to life saving medical products. While public funding from different governments and the collective efforts at the global level have been driving the research and development on critical medicines and vaccines to combat the pandemic, pharmaceutical industry continues to claim private monopoly over those life-saving products that are needed by all. With several hundreds of patents, owned by different entities, attached to some of the key vaccines technologies used for COVID19 and granted patents on some of the emerging therapeutics in more than 50 countries, some countries and industry sector continue to deny the need to address IP challenges in this pandemic. While global initiatives on equitable access to COVID19 vaccines and medicines such as the WHO ACT-A are facing competition from the wealthier countries' bilateral actions and hoarding of limited resources at the international level, to ensure removing any IP and technology barriers to allow uninterrupted production and supply are essential to achieve the true equity and timely access for developing countries.

Madam Chair, it is not the time for business as usual. We have been analysing and recommending the adequate and bold law and policy interventions at both the international and national levels to be put in place in addressing patents and other intellectual property barriers related to COVID-19 health technologies.

In light of these observations, MSF call for all WIPO members to support an important process at the WTO TRIPS Council on a temporary waiver from certain provisions under the TRIPS agreement concerning COVID19 health technologies. MSF considers the waiver proposal adequately identified the limitations of relying on voluntary licensing and the need to have additional government-led measures in supplementing the existing TRIPS flexibilities for public health safeguarding in the pandemic. If adopted, the waiver could facilitate quicker and better collaboration in development, production and supply of COVID19 medical tools without being restricted by private industry's interests and actions. The process at WTO should inform this Committee especially concerning the discussions of the challenges with the use of voluntary licenses and the limitations concerning the current mechanism of compulsory license in the pandemic.

To support our statement, MSF has recently published two technical briefings on the key issues of the TRIPS waiver proposal and the limitations of voluntary license in the context of access to medicines building upon our over a decade of experience with voluntary license on medicines. We will share these documents with the secretariat for consideration by the SCP members.

Annex:

1. Briefing: Overcoming IP barriers in COVID-19 pandemic
https://msfaccess.org/sites/default/files/2020-07/MSF-AC_COVID-19_IP-monopolies_briefing-doc_July2020.pdf
2. Briefing: Voluntary license and access to medicines
https://msfaccess.org/sites/default/files/2020-10/IP_VoluntaryLicenses_full-brief_Oct2020_ENG.pdf
3. Briefing: Myths and realities on the COVID-19 TRIPS waiver proposal
https://msfaccess.org/sites/default/files/2020-12/MSF-AC_COVID_IP_TRIPSWaiverMythsRealities_Dec2020.pdf