

Annex: Draft Decision Text

The General Council

Having regard to paragraphs 1, 3 and 4 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (“the WTO Agreement”);

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Noting that the coronavirus disease 2019 (COVID-19) is a new infectious disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

Recalling that on 11th March 2020, the World Health Organization (WHO) declared the 2019–20 coronavirus outbreak to be a pandemic, and it continues to be a very high risk across the globe in all WTO Members;

Noting with concern the threat to human health, safety and well-being caused by the COVID-19 pandemic, which has spread all around the globe, as well as the unprecedented and multifaceted effects of the pandemic, including the severe disruption to societies, economies, global trade and travel and the devastating impact on the livelihoods of people;

Recognising the need for unimpeded and timely access to affordable medical products including diagnostic kits, vaccines, medicines, personal protective equipment and ventilators for a rapid and effective response to the COVID-19 pandemic;

Recognizing also that the COVID-19 global pandemic requires a global response based on unity, solidarity and multilateral cooperation;

Noting that, in the light of the foregoing, exceptional circumstances exist justifying waivers from the obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);

Decides as follows:

1. The obligations of Members to implement or apply Sections 1, 4, 5 and 7 of Part II of the TRIPS Agreement or to enforce these Sections under Part III of the TRIPS Agreement, shall be waived in relation to prevention, containment or treatment of COVID-19, for 10 years from the decision of the General Council.
2. The waiver in paragraph 1 shall not apply to the protection of Performers, Producers of Phonograms (Sound Recordings) and Broadcasting Organizations under Article 14 of the TRIPS Agreement.
3. This decision is without prejudice to the right of least developed country Members under paragraph 1 of Article 66 of the TRIPS Agreement.
4. This waiver shall be reviewed by the General Council not later than one year after it is granted, and thereafter annually until the waiver terminates, in accordance with the provisions of paragraph 4 of Article IX of the WTO Agreement.
5. Members shall not challenge any measures taken in conformity with the provision of the waivers contained in this Decision under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994, or through the WTO’s Dispute Settlement Mechanism.