**Informal Session - TRIPS COUNCIL**

**03 December 2020**

**Delegation of Mozambique**

Excellencies

Dear Colleagues

We would like to thank you Madame Chair and the WTO Secretariat for organizing this meeting that is one more opportunity opened to Members to use the available time for more work, discussion, and clarifications on this so important issue to us.

We thank you Chair for the report presented on the status of the work under this issue, and for the proposals of language for the agenda item to the GC which we agree with. We are committed to continue in this interaction.

The threatening effects of the pandemic Covid 19 continue to drastically affect the world in multiple manners. It is our view that the huge burdensome effects derived from the COVID 19, can only be contained if globally addressed.

For the sake of economy of time, we would not like to be repetitive and, through this, stress our previous intervention. We would like to contribute through expressing considerations, in connection to E U’s emphasis on the TRIPS flexibilities.

We welcome EU’s emphasis on the TRIPS flexibilities.

However, in the E. Commission Report on the protection and enforcement of intellectual property rights in third countries of 2020[[1]](https://mail.yahoo.com/d/folders/1?.src=fp" \l "_ftn1" \o "), developing countries are criticized for improving the criteria for granting compulsory licenses on the basis it undermines  “effective patent protection”[[2]](https://mail.yahoo.com/d/folders/1?.src=fp" \l "_ftn2" \o ") although the 2001 Doha Declaration on TRIPS and Public Health states in paragraph 5(b) that “Each Member has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted”. For instance it states “stakeholders report that very broad, vague and arbitrary criteria are applied for granting compulsory licenses, which undermine the effective patent protection in Ecuador, India, Indonesia and Turkey, notably for pharmaceuticals and chemicals” and in relation to India criticizes its use of TRIPS flexibilities including compulsory license.[[3]](https://mail.yahoo.com/d/folders/1?.src=fp" \l "_ftn3" \o ")

After years of discouraging WTO members especially developing countries to take steps to improve their patent law so that compulsory licenses may be issued in the interest of public health, how does the EU expect all WTO members to be ready to use Compulsory Licenses should the need arise?

We also stress that the Art. 31*bis* mechanism does not offer fast track procedures that can be used in health emergencies. The sheer fact that both the importing and exporting countries have to issue CLs and other procedures have to be followed, nullifies it as a workable mechanism.

These deficiencies are accumulated results of many years of inaction and omission, and cannot be repaired overnight in responding to the new challenges facing us in this pandemic.

Being so, we continue to see the suggested and requested waiver as the way to rapidly go through, to collectively address the needs which are very urgent access to diagnostics, therapeutics, vaccines and other related, necessary to ensure a rapid and needed response to face the Covid 19 pandemic disease, in this way saving thousand or millions of lives throughout the world.

Thank you very much for your kind attention.

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