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Dr. Ngozi Okonjo-Iweala  
Director-General  
World Trade Organization  
Rue de Lausanne 154  
1211 Geneva 2  
Switzerland

March 1, 2021

Dear Dr. Ngozi,

Knowledge Ecology International (KEI) congratulates you on your appointment as Director-General of the World Trade Organization (WTO). Great expectations rest upon your shoulders as you hit the ground running today on March 1, 2021 to make the WTO responsive to the COVID-19 pandemic.

There have been extensive and widely reported discussions of a TRIPS waiver for the COVID-19 response. There are also other measures that can be undertaken by the WTO and its members that would be helpful, and KEI suggests the WTO do the following:

- 1) **TRIPS Article 31bis opt-out.** Encourage WTO members who have opted-out of Article 31bis of the TRIPS Agreement as importers to notify the TRIPS Council of their intention to opt-in. Article 31bis of the TRIPS is a provision that a country must invoke to enable another WTO member to export products under compulsory licenses. While the countries that have opted out as importers are generally higher income countries (except for some of the EU member states), the restriction can be also seen as harmful to developing countries, as it limits the economies of scale that manufacturers located in developing countries can realize, not only for this pandemic but in future, using the same drug and vaccine manufacturing facilities post-pandemic. As it stands, Article 31bis is an embarrassment to the WTO, as it is clearly designed as a protectionist measure favoring manufacturers in high income countries, who are free to export to developing countries, but are sheltered from competition from developing countries.
- 2) **Model exceptions for emergencies.** Provide model patent law exceptions to address pandemics or other emergencies. In 2020, Germany amended its patent law to address the pandemic (*Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite*), but no developing country has followed suit. Many WTO members have patent laws that fail to provide useful

exceptions or compulsory licensing provisions for a pandemic or other emergencies. Model laws are the type of technical assistance appropriate for the WTO.

- 3) **Sharing manufacturing know-how.** Consistent with your remarks on March 1, 2021 to the WTO General Council, establish modalities to facilitate the sharing of manufacturing know-how in a pandemic. Your General Council remarks identified the need for this action.

*“The world has a normal capacity of production of 3.5 billion doses of vaccines and we now seek to manufacture 10 billion doses. This is just very difficult, so we must focus on working with companies to open up and license more viable manufacturing sites now in emerging markets and developing countries.”*

The TRIPS Agreement notes that measures may be needed to address practices that protect public health and enhance the international transfer of technology, but the actual mechanisms for doing so, as regards manufacturing know-how, are not spelled out. There is a global interest in scaling manufacturing of COVID-19 vaccines and vaccinating more people faster. The WTO can at a minimum, propose voluntary norms for doing so, particularly when public funding has supported technologies, such as new COVID-19 vaccines and therapeutics. These norms could now, but also in the future, avoid some of the worst practices from last year, such as the R&D subsidies and research contracts that do not allow public use of inventions to address health needs in other WTO members.

- 4) **WTO Agreement on the Supply of Public Goods.** Establish modalities to consider the notion of a WTO agreement on the supply of public goods. As you rightly noted in your inaugural press conference on February 15, 2021, the pandemic is part of the problem of the global commons. The WTO has been asked to consider a new agreement, based in some ways on the GATS, to create voluntary offers of binding commitments to supply public goods. The COVID-19 crisis would have benefited if such an agreement had been in place.

I welcome the opportunity to speak directly with you or your staff on any of these matters.

Sincerely,



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