

## **Briefing note: EU's hollow promises of global COVID-19 vaccine equity**

September 2021

At a press conference on 24 April 2020, European Commission President Ursula von der Leyen outlined the need to develop a vaccine against COVID-19. Pledging to spare no effort to help the world come together against the virus, she said the vaccine must be “available at affordable prices” and “we need to produce it and deploy it to every single corner of the world”.<sup>1</sup>

More than 15 months later, of the 5.5 billion COVID-19 vaccine doses that have been administered worldwide, only 0.3% of people in low-income countries have been given at least one dose.<sup>2</sup> More than 80% of doses have gone to people in high- and upper middle-income countries.<sup>3</sup> One out of 10 of these doses (approx. 550 million) were administered in the European Union (EU),<sup>4</sup> a region that has about 5% of the global population. Many high- and upper middle-income countries are vaccinating groups at low risk of dying from COVID-19, and a small but growing number are purchasing additional vaccines for booster shots. Much of the COVID-19 vaccine production has also remained centered in Europe, the US, India and China.<sup>5</sup>

### **Widening inequality**

Vaccine supply in many low- and middle-income countries is dependent on COVAX, the global procurement mechanism that aims to purchase, supply and fairly distribute COVID-19 vaccines among participating countries. However, despite the desperate need for the vaccine in these countries, there continues to be insufficient supply through COVAX.

Rather than being “on track” in “vaccinating the world,”<sup>6</sup> the EU is actively contributing to widening inequalities between countries capable of producing or purchasing vaccines in large quantities and others. Not only is the EU’s drive to obtain ever more vaccines for its own citizens causing shortages elsewhere, but it has stood out as one of the strongest opponents of several proposals to maximise and diversify global vaccine production and supply. In places where MSF works, such as Brazil, South Africa and Uganda, this has led to healthcare workers being left largely unprotected.<sup>7</sup>

Despite the EU’s call to make the vaccine a global common good,<sup>8</sup> and its assertion that “no one is safe until we are all safe,”<sup>9</sup> it has introduced policies of self-protectionism and vaccine nationalism. The EU’s refusal to recognise World Health Organization (WHO) approved vaccines produced in lower and middle-income countries for its Digital COVID Certificate further compounds existing inequities.<sup>10</sup>

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<sup>1</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ac\\_20\\_749](https://ec.europa.eu/commission/presscorner/detail/en/ac_20_749)

<sup>2</sup> <https://www.worldbank.org/en/news/podcast/2021/07/30/-absolutely-unacceptable-vaccination-rates-in-developing-countries-the-development-podcast>

<sup>3</sup> <https://www.cnbc.com/2021/09/08/who-extends-call-for-a-moratorium-on-covid-booster-doses-until-the-end-of-the-year.html>

<sup>4</sup> [https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans\\_en](https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans_en)

<sup>5</sup> <https://investmentmonitor.ai/business-activities/manufacturing/covid-vaccine-regions-left-behind>

<sup>6</sup> [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_21\\_3845](https://ec.europa.eu/commission/presscorner/detail/en/IP_21_3845)

<sup>7</sup> <https://msfaccess.org/msf-no-covid-19-booster-shots-anywhere-healthcare-workers-and-vulnerable-people-everywhere-have>

<sup>8</sup> [https://ec.europa.eu/commission/presscorner/detail/es/ac\\_20\\_811](https://ec.europa.eu/commission/presscorner/detail/es/ac_20_811);

<sup>9</sup> [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_20\\_968](https://ec.europa.eu/commission/presscorner/detail/en/statement_20_968)

<sup>10</sup> <https://www.scidev.net/global/news/eu-travel-pass-criticised-over-inequality-of-access/>

With over four million COVID-19 deaths worldwide, MSF is concerned about the rising global death toll from this pandemic. Unequal access to COVID-19 vaccines will likely continue to take a heavy toll on human life, and to have negative impacts on people's health and healthcare systems worldwide. Ultimately this inequity may also affect the EU. While a large proportion of the global population remains unvaccinated, new and dangerous variants can continue to emerge that may undermine vaccine efficacy and spread to Europe.<sup>11</sup> In addition, the European economy continues to suffer from the effects of a prolonged pandemic.<sup>12</sup> As the EU continues to leave the pharmaceutical sector's interests unchallenged, it does so at the risk of people's health, livelihoods and all other economic sectors in the EU and beyond.

## **Sidelining COVAX**

The EU was one of the pioneers in creating COVAX, and it is still the initiative's second largest<sup>13</sup> financial contributor. However, decisions made by the EU during the pandemic have contributed to COVAX being sidelined.

The global need for vaccines is estimated to be 11 billion doses, out of which COVAX originally aimed to provide two billion by the end of 2021. The target was later reduced to 1.4 billion doses.<sup>14</sup> To date, COVAX has distributed fewer than 250 million doses.<sup>15</sup> While several factors compounded COVAX's failure, including slow availability of financial resources and export restrictions, a key factor has been the rush by the EU and other high-income countries to 'pre-book' doses for their own populations through parallel systems, in quantities completely out of proportion to their population size.<sup>16</sup> The EU currently has agreements for up to 4.5 billion doses for a population of 450 million people: up to 10 doses per inhabitant.<sup>17</sup>

Although there was initial interest by EU member states in purchasing vaccines through COVAX, in the end none of them took up that option. Instead, they chose to join the European Commission's effort to secure vaccines, which required them to sign an exclusivity clause for EU purchases and which made purchases through COVAX legally impossible.<sup>18</sup> By buying its doses outside of COVAX, the EU opted out of the initiative's principle of fairly allocating doses around the world, using the WHO fair allocation mechanism.

In January 2021, the EU set up a parallel donation mechanism to allow direct donations of vaccines to third countries, once again sidelining COVAX.<sup>19</sup> Up to now, this EU dose-sharing mechanism has scarcely been used apart from supplies to the EU neighbourhood.<sup>20</sup> Behind the EU's fanfare over the

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<sup>11</sup> <https://news.un.org/en/story/2021/03/1087992>

<sup>12</sup> The International Chamber of Commerce estimates that the global economy stands to lose as much as US\$9.2 trillion if governments fail to ensure developing economy access to COVID-19 vaccines. <https://iccwbo.org/publication/the-economic-case-for-global-vaccinations/>

<sup>13</sup>

[https://diplomatie.belgium.be/en/newsroom/news/2021/belgium\\_donates\\_covid\\_19\\_vaccines\\_third\\_countries\\_through\\_covax](https://diplomatie.belgium.be/en/newsroom/news/2021/belgium_donates_covid_19_vaccines_third_countries_through_covax)

<sup>14</sup> <https://www.reuters.com/world/covax-vaccine-2021-delivery-target-cut-1425-billion-doses-2021-09-08/>

<sup>15</sup> <https://www.gavi.org/covax-vaccine-roll-out>

<sup>16</sup> [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)01367-2/fulltext?dgcid=raven\\_jbs\\_etoc\\_email](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)01367-2/fulltext?dgcid=raven_jbs_etoc_email)

<sup>17</sup> [https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans\\_en](https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response/safe-covid-19-vaccines-europeans_en)

<sup>18</sup> <https://www.reuters.com/article/us-health-coronavirus-eu-vaccines-exclus-idUSKCN24P10Y>

<sup>19</sup> <https://www.reuters.com/world/china/how-who-push-global-vaccines-needed-europe-2021-04-21/>

<sup>20</sup> <https://www.reuters.com/world/china/how-who-push-global-vaccines-needed-europe-2021-04-21/>,  
<https://www.devex.com/news/the-eu-promised-200m-vaccine-doses-how-many-has-it-delivered-101551>

high number of donation pledges, and its commitment to share 200 million doses by the end of 2021 (“mainly” through COVAX), only 18 million of the committed doses had been shared as of 1 September 2021.<sup>21</sup>

Meanwhile, tens of thousands of doses in the EU have expired<sup>22</sup> and many more may remain unused.<sup>23</sup> Many of the donated doses were also close to their expiry date,<sup>24</sup> questioning the efforts of EU member states to help the global response.

### **Blocking independent and diversified global production**

EU statements repeatedly refer to the need to scale up vaccine production, but it has stubbornly prevented global diversity of production. Instead, it has heralded itself as “the pharmacy of the world”<sup>25</sup> with the ambition for Europe to “become the leading vaccine producing continent.”<sup>26</sup>

This ambition to boost the pharmaceutical sector in Europe rather than maximising global production and diversifying vaccine supply was clear in the EU Strategy for COVID-19 vaccines published in June 2020. This strategy centred on the “development of production capacity within the EU” while requiring only a moral commitment from companies to supply third countries.<sup>27</sup>

In line with this ambition, the EU often points to the large numbers of vaccines exported from the bloc as a sign of international solidarity. However, in March, more than half of these doses went to high-income countries such as Canada, the US and Japan.<sup>28</sup> This figure demonstrates that exports are defined by pharmaceutical companies rather than the EU and are based on commercial criteria rather than solidarity or medical needs.

The EU has rejected multiple initiatives to maximise and diversify global vaccine production and supply, and to provide non-EU countries with some independence from pharmaceutical companies based in high-income countries.

- The EU has not negotiated or required the sharing of technologies and intellectual property rights with low- and middle-income countries as part of its funding and purchase agreements with manufacturers, despite widespread calls to do so, including by the European Council<sup>29</sup> and Members of European Parliament (MEPs).<sup>30</sup>

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<sup>21</sup> <https://www.devex.com/news/the-eu-promised-200m-vaccine-doses-how-many-has-it-delivered-101551>

<sup>22</sup> <https://www.washingtonpost.com/world/2021/08/11/millions-coronavirus-vaccine-doses-around-world-face-expiration/>, <https://www.euractiv.com/section/coronavirus/news/eu-countries-are-throwing-away-expired-vaccine-doses/>

<sup>23</sup> <https://www.bmj.com/content/374/bmj.n2062>

<sup>24</sup> [https://www.euractiv.com/section/politics/short\\_news/bulgaria-romania-to-donate-nearly-expired-vaccines/](https://www.euractiv.com/section/politics/short_news/bulgaria-romania-to-donate-nearly-expired-vaccines/)

<sup>25</sup> <https://twitter.com/ThierryBreton/status/1419973566813048834>

<sup>26</sup> <https://www.consilium.europa.eu/en/european-council/president/news/2021/03/09/20210309-pec-newsletter-6-vaccines/>

<sup>27</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0245&from=EN>

<sup>28</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_1352](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_1352)

<sup>29</sup> <https://medicineslawandpolicy.org/2021/01/the-european-commission-says-covid-19-vaccines-should-be-global-public-goods-but-do-their-agreements-with-pharma-reflect-this/>

<sup>30</sup> <https://msfaccess.org/members-european-parliament-ask-commission-make-covid-19-tools-affordable-and-available>

- The EU has not supported WHO initiatives for the voluntary sharing and transferring of vaccine technologies and intellectual property rights, such as the COVID-19 Technology Access Pool (C-TAP)<sup>31</sup> and the WHO mRNA vaccine technology transfer hub.<sup>32</sup>
- The EU is currently the main opponent of the TRIPS waiver, a proposal at the World Trade Organization (WTO) to allow countries to temporarily waive certain intellectual property (IP) rights for the production and supply of lifesaving COVID-19 medical tools such as vaccines, diagnostics and treatments.<sup>33</sup>

The TRIPS waiver proposal was first submitted in October 2020 and later revised in May 2021 by South Africa and India with other co-sponsoring countries at the WTO. It would provide countries with an important tool to remove legal barriers and allow potential producers of medicines, vaccines and diagnostics to scale up production and supply. Today, the waiver is supported by more than 100 countries, including the US.

After months of blockage, the EU recently put forward a counterproposal<sup>34</sup> to the TRIPS waiver. This proposal does not bring anything significantly new to the table to address IP barriers, and clearly aims to delay and distract from moving forward with the TRIPS waiver.<sup>35</sup>

In its opposition to the TRIPS waiver proposal, the EU has increasingly put forward inconsistent arguments, such as on the one hand denying the existence of IP barriers, while on the other hand emphasising the use of compulsory licenses. Compulsory licenses are insufficient in addressing IP barriers in the pandemic, whereas the TRIPS waiver could provide an important complementary measure for countries to use.<sup>36</sup> In the WTO negotiations, the EU also tries to trade off potential access to vaccine technologies against the waiver which aims to overcome IP barriers across *all* health tools.<sup>37</sup>

Instead of backing the waiver, the EU is promoting voluntary agreements between companies. However, voluntary licenses lack transparency and often impose restrictive terms and conditions that limit licensees' full freedom to operate. Many contracts between licensees and big vaccine companies amount to nothing more than contract manufacturing arrangements, and do not allow countries and companies to acquire legal rights to independently supply the relevant technologies, materials and products. Control under such limited voluntary licensing and contract manufacturing agreements remains in the hands of the pharmaceutical rightsholders, who can also refuse to license.<sup>38</sup>

The ramifications of these restrictions were highlighted by a recent revelation that millions of COVID-19 vaccine doses filled by Aspen in South Africa for Johnson & Johnson (J&J) were exported back to Europe despite a severe lack of doses in Africa.<sup>39</sup> In addition, J&J had not shared its technology with Aspen to start local production of the vaccine. Aspen's role as a contract manufacturer was limited to

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<sup>31</sup> <https://www.who.int/news/item/29-05-2020-international-community-rallies-to-support-open-research-and-science-to-fight-covid-19>

<sup>32</sup> <https://www.who.int/news-room/articles-detail/establishment-of-a-covid-19-mrna-vaccine-technology-transfer-hub-to-scale-up-global-manufacturing>

<sup>33</sup> <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669R1.pdf&Open=True>

<sup>34</sup> <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W680.pdf&Open=True>

<sup>35</sup> <https://msfaccess.org/msf-analysis-eu-communications-trips-council-covid-19-ip-waiver-proposal>

<sup>36</sup> <https://msfaccess.org/compulsory-licenses-trips-waiver-and-access-covid-19-medical-technologies>

<sup>37</sup> [https://eeas.europa.eu/delegations/world-trade-organization-wto\\_en/90872/EU%20Statements%20at%20the%20WTO%20General%20Council,%20on%2018%20December%202020](https://eeas.europa.eu/delegations/world-trade-organization-wto_en/90872/EU%20Statements%20at%20the%20WTO%20General%20Council,%20on%2018%20December%202020)

<sup>38</sup> [https://msfaccess.org/sites/default/files/2020-10/IP\\_VoluntaryLicenses\\_full-brief\\_Oct2020\\_ENG.pdf](https://msfaccess.org/sites/default/files/2020-10/IP_VoluntaryLicenses_full-brief_Oct2020_ENG.pdf)

<sup>39</sup> <https://www.nytimes.com/2021/08/16/business/johnson-johnson-vaccine-africa-exported-europe.html>,

Since the revelation, the EU promised to send back the doses. <https://www.businessinsider.co.za/europe-is-returning-the-jj-covid-19-vaccines-imported-from-south-africa-2021-9>

'fill and finish,' and the allocation of doses remained under control of J&J.<sup>40</sup> Even though the European Commission has conceded to the European Parliament that it does not know the terms of bilateral agreements, or whether the agreements include the sharing of technologies and licensing,<sup>41</sup> it continues to blindly promote such secretive and exclusive agreements as the way to help third countries access vaccine doses.<sup>42</sup>

## **Refusing to demand the sharing of technology**

There is a wealth of evidence demonstrating that major multinational vaccine companies are unwilling to voluntarily share technology.<sup>43</sup> This makes pandemic control more difficult, as prolonged transmission anywhere in the world could trigger more deadly variants of the virus. One such example is the fast spread of the Delta variant that has put the lives and health of millions at risk once again. However, this evidence has not influenced the European Commission, which continues to hold its position against imposing obligations on companies to share technologies with potential producers.<sup>44</sup>

The European Commission's resistance to imposing and demanding the sharing of technology, and its refusal to stop blocking the TRIPS waiver are all the more astonishing as Commission President Von der Leyen herself threatened to seize control over vaccine producing companies and lift intellectual property rights when the EU was frustrated over companies not respecting delivery schedules for COVID-19 vaccines.<sup>45</sup>

In April 2021 the WHO established the mRNA vaccine technology transfer hub to expand mRNA vaccine development in low- and middle-income countries.<sup>46</sup> MSF analysis shows that injectable medicine production facilities in Africa could be retrofitted to produce mRNA vaccines in about 10 months.<sup>47</sup> However, the two companies with approved mRNA vaccines, Moderna and Pfizer/BioNTech, have so far refused to share their technologies with the mRNA vaccine technology transfer hub.

The European Commission has recently announced a €1 billion Team Europe initiative to develop manufacturing capacity for medicines, health technologies and vaccines in Africa.<sup>48</sup> Considering the low manufacturing capacity in Africa, this ambition is to be commended. Yet, as highlighted by the J&J-Aspen fiasco, more details are needed about whether and how this initiative will deliver strategic autonomy in production and supply, and better access to health technologies in Africa. Details are scant; the announced projects have a long timeline and focus on technologies and products that still need to be developed.<sup>49</sup> The initiative's focus on the medium- to long-term contrasts with the urgent need for COVID-19 vaccines for which approved technologies already exist. The European Commission sounds far less ambitious about its commitment to tackle this immediate need through production in

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<sup>40</sup> <https://www.dailymaverick.co.za/article/2021-09-01-old-habits-die-hard-jjs-failure-to-deliver-covid-jabs-to-sa-is-nothing-new/>

<sup>41</sup> [https://www.europarl.europa.eu/doceo/document/E-9-2021-000466-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2021-000466-ASW_EN.html)

<sup>42</sup> <https://msfaccess.org/msf-feedback-eu-statement-wto-covid-19-vaccine-equity-event>

<sup>43</sup> <https://www.politico.eu/article/vaccine-producers-reject-offers-to-make-more-jobs/>

<sup>44</sup> Intervention of European Commission Director Bercero-Garcia at the European Parliament Committee on International Trade, 13 July 2021. [https://multimedia.europarl.europa.eu/en/committee-on-international-trade\\_20210713-1645-COMMITTEE-INTA\\_vd](https://multimedia.europarl.europa.eu/en/committee-on-international-trade_20210713-1645-COMMITTEE-INTA_vd)

<sup>45</sup> <https://www.news.com.au/lifestyle/health/health-problems/astrazeneca-europe-threatens-to-seize-coronavirus-vaccine-factories/news-story/1ee2310e840d3e7069177b66ef3302fb>

<sup>46</sup> <https://www.who.int/news-room/articles-detail/establishment-of-a-covid-19-mrna-vaccine-technology-transfer-hub-to-scale-up-global-manufacturing>

<sup>47</sup> <https://msfaccess.org/sharing-mrna-vaccine-technologies-save-lives>

<sup>48</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_2594](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_2594)

<sup>49</sup> [https://ec.europa.eu/commission/presscorner/detail/fr/IP\\_21\\_3562](https://ec.europa.eu/commission/presscorner/detail/fr/IP_21_3562),  
[https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_21\\_3864](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_21_3864)

developing countries: “Further action should also be considered to facilitate increased production in developing countries.”<sup>50</sup>

## A digital COVID-19 certificate that creates even more inequality

EU Digital COVID Certificates<sup>51</sup> were introduced in June 2021, with the intention of facilitating travel within Europe through a common approach to uniform and interoperable proofs of vaccination, tests and recovery. However, the scheme has further contributed to a perception of different standards. Under the regulation, member states are required to accept vaccination certificates issued under the EU Digital COVID Certificate, but it limits this obligation on ‘grounds of public health’ to vaccinations with European Medicines Agency-approved vaccines. In practice this excludes WHO-listed vaccines such as the Sinopharm and Sinovac vaccines. It also excludes Covishield (the AstraZeneca vaccine produced in India rather than in Europe), which is delivered through COVAX and is one of the main vaccines available for many across the world.

With many low- and middle-income countries around the world already facing extreme vaccine inequality and vaccine hesitancy, this exclusion feeds the false perception that EU citizens receive higher quality vaccines, and contributes to the divide between those vaccinated in high-income countries and those vaccinated in the rest of the world. It has seriously damaged the trust of people who depend on COVAX vaccines, aggravated the growing and very dangerous trend of vaccine hesitancy and may also have repercussions for people’s livelihoods if they are unable to travel. Several EU member states have decided to accept vaccination certificates for all WHO-approved vaccines, but we have yet to hear a clear EU-wide message that WHO approval should be sufficient for issuance and acceptance of interoperable vaccination certificates.

We can’t afford to waste any more time. **We must act now to give people around the world the vaccines they so urgently need.** The EU still has the chance to take the lead in ensuring equitable access to COVID-19 medical tools.

It is high time for the European Commission and EU governments to:

- Stop blocking the TRIPS waiver at the WTO. The EU should fully support the TRIPS waiver for COVID-19, while addressing the remaining barriers to compulsory licensing over the longer-term.
- Ensure, by all political, legal and financial means possible, that COVID-19 vaccine technologies are shared with potential producers in low- and middle-income countries, including through the WHO mRNA vaccine technology transfer hub.
- Provide financial and technical support for the global diversification of production and supply of vaccines, therapeutics, diagnostics and other health technologies needed to combat the pandemic.
- Share vaccine doses. EU members must start transferring vaccines to COVAX and to low- and middle-income countries as soon as possible. MSF also urges them to respond to the call of WHO Director-General Tedros Adhanom not to administer booster doses until the end of the year.<sup>52</sup>
- Unequivocally recognise vaccines being used by COVAX or pre-qualified by WHO for the European Digital COVID Certificate and similar purposes.

<sup>50</sup> [https://trade.ec.europa.eu/doclib/docs/2021/june/tradoc\\_159605.pdf](https://trade.ec.europa.eu/doclib/docs/2021/june/tradoc_159605.pdf)

<sup>51</sup> <https://eur-lex.europa.eu/legal->

[content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2021.211.01.0001.01.ENG&toc=OJ%3AL%3A2021%3A211%3ATOC](content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.211.01.0001.01.ENG&toc=OJ%3AL%3A2021%3A211%3ATOC)

<sup>52</sup> <https://www.who.int/about/governance/world-health-assembly/seventy-fourth-world-health-assembly>