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REF.: ORD. 462, del 27 de abril de 2021

ANT.: Resolución N° 1509, de 22 de abril de 2021, de la H. Cámara de Diputados.

SANTIAGO, 18 OCT. 2021

DE : SR. MINISTRO DE RELACIONES EXTERIORES
A : PROSECRETARIO
HONORABLE CÁMARA DE DIPUTADOS

1. En relación al oficio de la referencia, en el que transmite la resolución del antecedente, mediante la cual la H. Cámara de Diputados solicita a SE. el Presidente de la República que, *"por intermedio de los Ministros de Relaciones Exteriores, de Salud y de Ciencias, Tecnología, Conocimiento e Innovación, realice todas las gestiones necesarias ante los Organismos Internacionales que correspondan y las organizaciones multilaterales competentes en la materia, para obtener, al más breve plazo, la liberación de las patentes de propiedad intelectual de las vacunas contra el SARS-CoV-2 que genera la enfermedad COVID-19, a fin de que todos los países puedan producir sus propias vacunas, para que éstas sean distribuidas a la población de manera rápida y oportuna, y así, poder superar con prontitud como humanidad la pandemia de la enfermedad COVID-19."*, quisiera dar respuesta en aquellas materias que son competencia de este Ministerio. En particular, podemos informar a Ud. lo siguiente:
2. En el marco de la Organización Mundial del Comercio (OMC) nuestro país ha participado con el objetivo de facilitar el comercio de productos médicos esenciales y mejorar la capacidad del sistema comercial para hacer frente a esta emergencia de salud pública.
3. Entre las iniciativas que se han presentado en la OMC, se cuenta la denominada *"Exención de Determinadas Disposiciones del Acuerdo sobre los ADPIC para la Prevención, Contención y Tratamiento de la COVID-19."* La iniciativa, originalmente presentada por las delegaciones de India y Sudáfrica, ha ocupado un importante lugar en la agenda de trabajo de la OMC.
4. Chile ha valorado el interés de los proponentes, así como de las delegaciones que han dado su apoyo a esta iniciativa, participando de manera constructiva en las discusiones de texto, intentando acercar posiciones de los Miembros para alcanzar resultados prácticos y efectivos, que puedan ser incorporadas como herramientas al servicio de los Miembros de la OMC, sumándonos al consenso de las distintas declaraciones internacionales que favorecen una discusión sobre el Waiver, incluyendo la Declaración Conjunta de los Ministros Responsables del Comercio de

APEC 2021, que llama a "trabajar de manera proactiva y urgente en Ginebra para respaldar las discusiones basadas en texto, incluida una exención temporal de ciertas protecciones de propiedad intelectual sobre las vacunas COVID-19, lo antes posible y a más tardar en la Conferencia Ministerial 12".

5. Para nuestro país, resulta fundamental hacer frente al desafío de escalar la capacidad de producción y distribución de medicamentos, tecnologías médicas y, especialmente, de vacunas para combatir el COVID-19. En este espíritu, Chile, junto a otros países, presentó la propuesta "*Trade in Health*" y que hoy es copatrocinada por más de 50 Miembros de la OMC, incluyendo a Canadá, China, la Unión Europea, Nueva Zelanda, México y Brasil. Esta iniciativa, nacida dentro del Grupo de Ottawa, busca adoptar medidas comerciales para facilitar y acelerar la distribución de vacunas a nivel global, y que adjuntamos a la presente.
6. Asimismo, Chile, junto a otros miembros, hizo un llamado a la Directora General de la OMC para implementar un diálogo con la industria farmacéutica denominado "tercera vía". En el primero de estos diálogos, se identificaron los desafíos a la hora de aumentar la producción y distribución de vacunas a nivel global.
7. Entre ellos se destacó, facilitar el tránsito de bienes necesarios para la elaboración de vacunas, para permitir que las cadenas de suministro operen fluidamente; facilitar los procedimientos aduaneros; prohibir las restricciones y prohibiciones a las exportaciones; y, mejorar la transparencia.
8. La eliminación de las barreras comerciales que han representado obstáculos a una adecuada y equitativa distribución de vacunas, como, por ejemplo, las restricciones a la exportación o la falta de transparencia es uno de los ejes fundamentales de la posición manifestada por nuestro país en la OMC.
9. En ese espíritu, reafirmamos nuestro compromiso para seguir trabajando de forma constructiva en todas las medidas que puedan contribuir a enfrentar la actual pandemia, incluyendo aspectos relacionados a la propiedad intelectual.

Sin otro particular, saluda atentamente a Ud.



ANDRÉS ALLAMAND
MINISTRO DE RELACIONES EXTERIORES

ANEXO: Documento WT/GC/223, COVID-19 AND BEYOND: TRADE AND HEALTH.

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COVID-19 AND BEYOND: TRADE AND HEALTH

COMMUNICATION FROM AUSTRALIA, BRAZIL, CANADA, CHILE, THE EUROPEAN UNION, JAPAN,
KENYA, REPUBLIC OF KOREA, MEXICO, NEW ZEALAND, NORWAY,
SINGAPORE AND SWITZERLAND

The following communication, dated 23 November 2020, is being circulated at the request of the delegations of Australia, Brazil, Canada, Chile, the European Union, Japan, Kenya, Republic of Korea, Mexico, New Zealand, Norway, Singapore and Switzerland.

1. The COVID-19 crisis has had an enormous social and economic impact, with more than 1.1 million deaths and more than 43 million confirmed cases, resulting in a huge strain on the health care sector and the largest economic shock the world has experienced in decades. The recent WTO forecast suggests that world trade in 2020 will contract by 9.2% compared to 2019. The World Bank estimates that in a pessimistic scenario, where COVID-19 outbreak persists, the global GDP could shrink by almost 8% in 2020.

2. Desiring to make international trade a powerful tool to help contain the pandemic and contribute to economic recovery, the signatories of this communication invite all WTO Members to start working on a Trade and Health Initiative, draft elements of which are presented in the Annex.

3. The WTO Secretariat reports that, since the beginning of the crisis, 88 WTO Members have taken trade measures that had either restrictive or facilitating character. It appears that today still over 70 WTO Members have measures in place that restrict exports of medicaments, medical supplies or food. At the same time, Members that implemented liberalizing measures such as temporary tariff suspension, expedited regulatory approvals and streamlined customs procedures, were able to facilitate trade to their benefit and thus strengthen supply chains.

4. Notwithstanding positive unilateral actions taken by Members, a global health crisis requires a coordinated global response. Public health emergencies will not be effectively addressed without resilient, robust and well-diversified supply chains that operate in a predictable trading environment. If we are to meet the unprecedented challenge of ensuring availability of essential medical goods, including vaccines, in these turbulent times, we must enhance our cooperation.

5. In this context, the WTO, as the cornerstone of the international trading system, can help deliver an effective global response to crisis situations. Through seeking multilateral solutions, we can be better prepared to fight both COVID-19 and future pandemics.

6. With this objective in mind, we call on WTO Members to make their utmost efforts to prevent further disruptions in the supply chains of essential medical goods. As set out in the Annex to this Communication, we propose specific actions relating to export restrictions, trade facilitation, technical regulations, tariffs, transparency and review, and call for the WTO to enhance its cooperation with other relevant international organizations, such as WHO, WCO, OECD as well as G20, given the context of the on-going evaluations of the global response to COVID-19. These proposed actions are not intended to be prescriptive and do not cover the universe of possible measures that could support trade in essential medical goods. Rather, they reflect emerging best practices and should provide sufficient flexibility to be adapted to differing national circumstances.

7. Recognizing that multilateral outcomes generate the greatest possible common good, we strongly encourage all Members to undertake actions set out in the Annex and join us in the work on a WTO Trade and Health Initiative.

8. The first step in the work on the Trade and Health Initiative could take the form of a joint statement of all Members, which should be adopted in early 2021. In addition to helping fight the pandemic in the short-term, such a statement would be intended to serve as a confidence-building measure. The short-term actions under the Trade and Health Initiative could also serve as a starting point for negotiations on new WTO commitments, which, ideally, could be concluded at the 12th Ministerial Conference. Some signatories to this communication have also signalled an interest in exploring commitments relating to tariffs in the healthcare sector and liberalization of relevant logistics, distribution and transport services, among others.

9. We realize that the challenges related to the scarcity of essential medical goods, now alleviated to some extent by the response on the supply side, may be repeated at the moment of the development of a vaccine or new medical treatments. In this context, we welcome the COVID-19 Vaccine Global Access Facility (COVAX), a global pooled procurement mechanism for COVID-19 vaccines, managed by Gavi, the Vaccine Alliance, the Coalition for Epidemic Preparedness Innovations (CEPI) and WHO. This mechanism is critical in securing an equitable share of vaccines for all Members of the international community. As we strongly support the objective of this facility, we call on WTO Members to ensure that any export-restricting measures do not pose a barrier to the delivery of necessary supplies under the COVAX facility.

10. We recognize the collaborative efforts of private and public stakeholders in the research and development of COVID-19 diagnostics, vaccines and treatments. We encourage the industry to take actions to ensure access at affordable prices to COVID-19 diagnostics, vaccines and treatments for vulnerable populations and support voluntary pooling and licensing of IP rights to accelerate the development of such diagnostics, treatments and vaccines and scaling up their production. We recognize the importance of the IP system in promoting R&D and innovation for access to effective treatments. We note that the flexibilities provided by the TRIPS Agreement and reaffirmed in the Doha Declaration on the TRIPS Agreement and Public Health remain available to protect public health and to promote access to medicines for all.

ANNEX: DRAFT ELEMENTS OF A "TRADE AND HEALTH" INITIATIVE

A successful fight against COVID-19 and any future pandemic requires increased cooperation of WTO Members. In order to ensure accessibility of essential goods during a pandemic, disruptions in the functioning of supply chains must be minimized, and efforts must be made to support their resilience and robustness.

In response to pandemic-related challenges in international trade, Members could agree on a joint statement on a new Trade and Health Initiative. The objectives of such an initiative would be to enhance the capacity of the trading system to respond to the public health emergencies and to support improvements in the resilience of supply chains.

The initiative could include the following immediate actions in response to the current COVID-19 crisis, which reflect emerging best practices, and which could pave the way for new WTO commitments.

EXPORT RESTRICTIONS

Members will:

- review and promptly eliminate unnecessary existing restrictions on exports of essential medical goods necessary to combat the COVID-19 pandemic;¹ and
- exercise restraint in the imposition of any new export restrictions, including export taxes, on essential medical goods and on any prospective vaccine or vaccine materials.

In doing so, Members will:

- ensure that any measures deemed necessary to prevent or relieve critical shortages are implemented in a manner that is targeted, transparent, proportionate and temporary and consistent with WTO obligations;
- give particular consideration to the interest of the least developed and developing countries, many of which have scarce manufacturing capacities and are highly dependent on imports, in order to avoid a negative impact of such measures on their access to essential medical goods; and,
- ensure that any trade measures, including export restrictions, do not disrupt the provision of humanitarian shipments of essential medical goods, nor the work of the COVAX facility in distributing vaccines.

Any export restrictions should be promptly notified to the WTO and published on a domestic website. The notification should include justification of the measures and an explanation of how the measure is consistent with the WTO agreements and why it was considered targeted and proportionate to the objective pursued. Equally, if following the review referred to above, Members decide to continue to maintain export restrictions, upon request, they will provide justification for the continuation of the measures and an explanation as above.

The period of validity of such measures should be as limited as possible and ideally, it should not exceed 3 months, subject to a possible extension. In any event, the duration of export restrictions should not exceed the duration of the state of public health emergency.

The above actions would help ensure equitable distribution of scarce essential medical goods and vaccines amongst WTO Members, in particular the most vulnerable ones.

¹ Members are free to decide what constitutes an essential medical good based on national circumstances. It is understood, however, that such essential goods would include pharmaceutical products, medical devices as well as any other products required by the medical sector to fight the COVID-19 pandemic. In particular, Members should take into consideration the indicative list of COVID-19 related goods, established by the WCO and WHO. See the 3rd edition of the list available at: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/covid_19/hs-classification-reference-edition-3_en.pdf?la=en

CUSTOMS, SERVICES AND TECHNICAL REGULATIONS

Members will:

- share experiences as regards the trade facilitating measures that have been put in place in response to the COVID-19 crisis with a view to establishing best practices in the context of a crisis. Members will consider to what extent they can be made permanent. Such measures may include digital customs procedures, and services such as freight, logistics, distribution and transport, which have proven an effective tool for members to facilitate the frictionless movement of essential medical goods across borders.
- cooperate in the exchange and implementation of best practices in the area of standards and technical requirements and, through collaboration within relevant international organisations, work towards enhanced regulatory alignment with the aim of facilitating trade and reducing adaptation costs for manufacturers of essential medical goods.

To this end, Members will fully engage in the work of the relevant WTO bodies, including the TFA and TBT Committees as well as the Council for Trade in Goods and Council for Trade in Services.

TARIFFS

Members will make best endeavours to temporarily remove or reduce tariffs on goods that are considered essential to fighting COVID-19 pandemic, as far as possible, taking into account national circumstances. Members may choose the method of implementation of such a temporary tariff removal or reduction, which could take the form of emergency duty relief programs. The indicative list of COVID-19 related goods, established by the WCO and WHO² could be helpful in the determination of the product scope.

TRANSPARENCY AND REVIEW

Members will respond swiftly to requests for information on trade measures adopted during the present health crisis, including on measures undertaken to implement this initiative, from any other Members.

Members will engage fully with the trade monitoring exercises done on a regular or an ad hoc basis in the WTO, including the bi-annual Trade Monitoring Report, and pay particular attention to complying with all WTO notification requirements during the Covid-19 crisis. The monitoring and notification of measures should allow for a quick identification of disruptions in the supply chains and allow Members to enter into consultations with a view to avoiding such disruptions in the shortest possible timelines.

The WTO Secretariat shall make a summary report on the actions implemented by Members under the Initiative which should be made available by the date of the 12th Ministerial Conference. Members will provide any requested information or clarification to the WTO Secretariat for the purpose of the preparation of such a report.

COOPERATION OF THE WTO WITH OTHER ORGANIZATIONS

Members commend the work of the WTO Secretariat resulting in an extensive database of measures related to COVID-19 and a range of dedicated studies and reports allowing them to have a comprehensive and accessible overview of the situation. WTO Secretariat is encouraged to continue that work, focusing on the causes and effects of the disruptions in the supply chains of essential goods and drawing on research of other international organizations.

² See footnote 1.

Given the need to enhance pandemic preparedness and respond to current and future pandemics, WTO Director-General is strongly encouraged to intensify cooperation with other relevant international organizations such as the WHO, WCO, WIPO, OECD, UN as well as the G20 with the aim of improving the analytical capacity of Members to monitor market developments in trade and production of essential medical goods. This would enhance Members' preparedness for a health crisis and contribute to the creation of an early warning mechanism in the event of critical shortages of essential medical goods.

CONSIDERATIONS FOR THE 12TH MINISTERIAL CONFERENCE

As a next step under the Trade and Health Initiative, Members will take stock of the effectiveness of the above actions at the 12th WTO Ministerial Conference with a view to adopting possible commitments regarding trade in essential medical goods.
