MSF calls on Kenya to support landmark move to ban patents on COVID-19 medicines and tools

- Move to request WTO to waive intellectual property has already been taken by South Africa and India

16th October 2020 — In a landmark move, India and South Africa on 2 October asked the World Trade Organization (WTO) to allow all countries to choose to neither grant nor enforce patents and other intellectual property (IP) related to COVID-19 drugs, vaccines, diagnostics and other technologies for the duration of the pandemic, until global herd immunity is achieved. This bold step is akin to efforts by governments nearly 20 years ago, which spearheaded the use of affordable generic HIV/AIDS medicines, and, if approved, could signal a major turning point in countries’ response to the pandemic, according to Médecins Sans Frontières/Doctors Without Borders (MSF).

In today’s global emergency, MSF called on all governments to support this waiver request at the WTO, whose TRIPS Council (Trade-related Aspects of Intellectual Property Rights Agreement) is meeting on 15 October to start building consensus on the issue.
“A global pandemic is no time for business-as-usual, and there is no place for patents or corporate profiteering as long as the world is faced with the threat of COVID-19,” said Leena Menghaney, South Asia Head of MSF’s Access Campaign. “During the pandemic, treatment providers and governments have had to grapple with intellectual property barriers to essential products such as masks, ventilator valves and reagents for test kits. With this bold action, India and South Africa have shown that governments want to be back in the driver’s seat when it comes to ensuring all people can have access to needed COVID-19 medical products, medicines and vaccines, so that more lives can be saved.”

WTO member countries can seek a waiver from certain obligations in WTO treaties under exceptional circumstances. If members agree on the waiver, countries can choose not to grant or enforce IP (patents, industrial designs, copyright and trade secrets) related to all COVID-19 medical products and technologies.

So far, pharmaceutical corporations and other manufacturers of products needed to address COVID-19 have not shown any willingness to take a different approach during the pandemic to ensure the necessary broad access to needed products. Gilead, the patent holder on remdesivir, the only drug so far approved specifically to treat COVID-19, has licensed it in a manner that excludes nearly half of the world’s population from benefiting from price-lowering generic competition on the drug. In June 2020, Gilead announced that remdesivir would be priced at US$2,340 for a five-day treatment course in most countries. This despite the corporation receiving more than $70 million in public funding to develop it, and pricing research showing it can be manufactured for less than $9 per treatment course. Meanwhile, shortages for remdesivir have been globally widespread.

Additionally, emerging biologic medicines, including repurposed and new anti-viral monoclonal antibodies currently in COVID-19 clinical trials, are under patent protection in many developing countries such as Brazil, South Africa, India, Indonesia, China and Malaysia. This means that if these therapeutics show clear efficacy, production and supply by multiple manufacturers in different countries would be blocked unless governments take early actions to remove such barriers.

Furthermore, there has been an astonishing number of patents filed for COVID-19 vaccines in development, including more than 100 for the mRNA platform technology being used by Moderna to develop a vaccine. Contrary to common disinformation that patents are less of a problem for vaccine access—propagated by pharmaceutical lobby groups—MSF has documented the chilling effect of patents in hindering the introduction of affordable vaccines in developing countries, looking at the pneumonia and human papillomavirus vaccines as examples.

“We urge all governments to support this lifesaving move by India and South Africa to make sure human lives are prioritised and countries can tackle this pandemic by scaling up every COVID-19 medical tool that exists,” said Candice Sehoma, MSF Access Campaign’s Advocacy Officer in South Africa. “Nobody can afford to let corporations that have been supported by billions in publicly-funded research money to simply pursue their bottom-line interests without regard to global COVID-19 needs. This pandemic will not be over until it’s over for everyone.”