

November 24, 2021

The Honorable Katherine C. Tai
United States Trade Representative
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508

RE: Continued Opposition to COVID-19 Vaccine Intellectual Property Waiver Proposed at the World Trade Organization TRIPS Council

Dear Ambassador Tai,

On behalf of the patients we represent who are fighting cancer, HIV, and other serious chronic conditions, we write to express our deep and ongoing concerns with a proposal before the World Trade Organization (WTO) to waive intellectual property protections for COVID-19 vaccines. Not only would such a waiver have a devastating impact on medical innovations that are crucial to the world's ability to find new and more effective treatments and cures, but the Office of the United States Trade Representative (USTR) has also failed to follow established procedures that are meant to give patient communities, the public, and all stakeholders the fair and just opportunity to provide input and participate in the development of trade policy and trade initiatives.

On behalf of patients and all stakeholders who deserve the opportunity to meaningfully engage in the policymaking process, we urge the USTR to reject the proposal to waive intellectual property rights for COVID-19 vaccines at the WTO TRIPS Council and call on the USTR to fulfill its responsibility to give the public the necessary ability to provide input on this harmful initiative.

As policymakers, public health officials, and stakeholders across the healthcare systems continue their tireless efforts to inoculate populations against the COVID-19 pandemic, it is essential to remember how enforcement of the TRIPS waiver on IP protections will impact innovation beyond the development and distribution of effective COVID-19 vaccines. The TRIPS waiver could have long term consequences for the American innovation ecosystem, endangering future medical breakthroughs that so many patients depend on to manage their health. We believe it is important to state how such a waiver would ignore the value of continued research, the commitments of the USTR, and American job growth.

- **Biopharmaceutical companies have invested billions in the research and development of new treatments and therapies on the belief that America's strong intellectual property laws would protect their innovations.** According to a report from the [Congressional Budget Office \(CBO\)](#), pharmaceutical companies invested nearly \$83 billion in research and development (R&D) in 2019 alone, supporting efforts to discover new treatments, improve existing innovations, and manage ongoing safety-monitoring, among other activities. Adjusted for inflation, that amount is about 10 times what the industry spent per year in the 1980s. The TRIPS waiver would encroach on this belief and allow other governments to take advantage of decades of dedicated investment in research at zero cost, thus likely deterring future investments by the industry that will only hurt patients who rely on these breakthroughs.

- **The current process guiding decision-making around the waiver at the World Trade Organization has been flawed, fails to engage the public, and violates the United States Trade Representative's "[Guidelines for Consultation and Engagement](#)".** The USTR guidelines clearly state that every trade negotiation necessitates soliciting public comments, recommendations, or concerns along with conducting public hearings and stakeholder briefing events in which interested parties and stakeholders can comment and make proposals on the proceedings. In [May 2021](#), the USTR reiterated its commitment to making its decision-making process more inclusive, however none of these guidelines have been followed during the considerations of the TRIPS proposal to waive IP rights for COVID-19 vaccines. Patient groups, researchers responsible for the very medical innovations we have for COVID-19 today, and all concerned citizens have failed to be heard in a major decision that will have lasting impacts for the innovation ecosystem.
- **The American biopharmaceutical sector has created thousands of jobs, resulting in over [\\$774 million](#) in union wages between 2015-2020.** According to a recent [PILMA study](#) of 14 states, the American pharmaceutical and biotech industry invested \$29 billion in construction between 2015-2020 alone. Those investments supported electricians, instrumentation techs, plumbers and pipefitters, and other American jobs. The TRIPS waiver would deter future innovation efforts and put these and other high-quality union jobs at risk, ultimately threatening U.S. leadership in the global economy.

While the stated intent behind the TRIPS waiver to expand access to COVID-19 vaccines may be noble, such a proposal would ultimately harm patients, future medical innovations, and U.S. leadership in the healthcare ecosystem. Failure to see through an established process of input and engagement on such a proposal would ignore USTR guidelines and leave the public powerless in our policymaking process.

The USTR must remember its commitment to American patients and businesses and reject the adoption of the TRIPS waiver.

Thank you for your time and consideration of this critical issue.

Respectfully submitted,



Carl E Schmid II
Executive Director
HIV+Hepatitis Policy Institute



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ICAN, International Cancer Advocacy Network