

The Honorable Ambassador Katherine Tai
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508
United States of America

Cc: Jeffrey Zients, White House Coronavirus Response Coordinator
Gayle E. Smith, State Department Coordinator for Global COVID Response and Health Security

June 29, 2021

Re: To Save Lives, a COVID Intellectual Property Waiver Must Cover Medicines and Other Health Technologies

Dear Ambassador Tai:

Thank you for the Biden-Harris administration's vital global leadership in support of a temporary, emergency COVID-19 waiver of intellectual property monopolies under the World Trade Organization's (WTO) Agreement on Trade Related Aspects of Intellectual Property (TRIPS). Speedy adoption of a waiver is key to ensuring increased production of the medical supplies necessary to treat those with COVID-19 and prevent more from becoming ill. As you said on May 5 while putting the United States on the right side of history by reversing Donald Trump's self-defeating blockage of the waiver, the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures to save lives. To this end, it is critical that a waiver temporarily suspend intellectual property barriers on COVID-19 treatments, diagnostic tests and other medical technologies as well as vaccines.

We appreciate that you have worked to build support for the waiver and as a result that textual negotiations have begun at the WTO. We are extremely disappointed that the anti-waiver position of German Chancellor Angela Merkel has resulted in the European Union's continuing opposition to a waiver. The EU's recent submission is a counterproductive distraction: The existing WTO rules do not provide an effective means for countries to scale up needed

production in a timely manner, and the EU proposal that countries issue a Declaration claiming otherwise, instead of agreeing to a waiver, is offensive. The EU stands virtually alone in opposition to the more than 130 nations, including the United States, that consider the speediest possible adoption of a waiver to be critical to save lives and end the pandemic. We urge you to use all available means to persuade the EU to join the rest of the world in supporting a temporary TRIPS waiver.

On June 30, the TRIPS Council will discuss the scope of the waiver. We appreciate the commitment of the United States to waiving all intellectual property barriers that hinder expanded production, not only patents. We also urge the Biden-Harris administration to ensure that the scope of COVID-19-related health products and technologies addressed in text-based negotiations extends beyond vaccines.

The recent [Washington Post story](#) about all of the COVID-19 medical technologies and treatments used to save former-President Trump's life underscore the need for a broader waiver. Given the Biden-Harris administration's goal of saving lives at home and worldwide, certainly a waiver should include the same tools of diagnosis and treatment critical to saving a seriously ill at-risk patient here, including tests that quickly diagnosed Trump's infection, oxygen that helped him breathe, and treatments such as Gilead's remdesivir and Regeneron's monoclonal antibody product. As well, ventilators were available if needed. For some Americans and almost everyone in middle- and low-income countries, such interventions are unavailable due to shortages and high costs. Yet, which of these health products would we not want for any and every American – for our loved ones and communities – and for all people around the world stricken with COVID-19?

Although we agree that quick progress on vaccines is vitally important, we strongly disagree with any effort to limit the waiver to one health technology only. As [130 health and trade advocacy groups](#) have argued to you recently, combatting the risks and consequences of COVID-19 infection and its new variants is too important to leave global populations with artificially limited access to all health technologies needed to prevent, treat, and contain COVID-19.

The case for increased access to diagnostic tests and genomic surveillance technologies is grimly clear. Low- and middle-income countries have had much less access to coronavirus testing than rich countries, including both molecular polymerase chain reaction tests and antigen rapid diagnostic tests. Without increased supply and more affordable access to these tests, which are essential to test-isolate-trace strategies, clinicians and countries will be flying blind to emerging hot spots and community prevalence. Likewise, without additional tests for community deployment, future test-and-treat strategies will be thwarted, preventing connection to outpatient treatment in the narrow window appropriate for mild and moderate cases before progression to more severe disease, hospitalization, and death. As we increasingly understand, expanded genomic surveillance in all corners of the world is essential to the early detection of new variants of concern that may threaten everyone, even those previously infected or vaccinated.

The need for therapies to prevent severe disease and cure those infected could not be clearer. The U.S. has already secured initial supplies of Gilead's remdesivir and monoclonal antibodies from AstraZeneca, Eli Lilly, and Regeneron and is expected to seek supplies of Roche's tocilizumab now that it has received FDA emergency use listing. Although many repurposed medicines have not yet proven to be safe and effective against COVID-19, several promising novel antivirals are in the pipeline, including Merck's molnupiravir, which the U.S. again has already pre-purchased, and at least two Pfizer antivirals. All of these medicines have intellectual property protections that could block expanded manufacture and equitable distribution. This is so, even with respect to those few medicines where originators have granted bilateral voluntary licenses (Gilead and Merck) because of stringent territorial limitations that restrict generic sales to a majority of the world's population.

In the same vein, shortages of personal protective equipment and inequitable global access are a continuing nightmare that expose health workers and many others facing the public to needless health risks. Inadequate access to ventilators, oxygen concentrators, and other oxygen health equipment has resulted in devastating losses of lives in India and elsewhere. Although it is not the purpose of this letter to list each and every supply component, medical tool, and piece of equipment that is needed globally in the COVID-19 response, it should be clear by now that limiting the waiver to vaccines would be ill-advised medically, politically, and morally.

The burden of COVID-19 in the United States has been devastating. Imagine how much worse it would have been if U.S. political clout and financial means had not secured preferential access to PPE, tests, medicines, and other COVID-19 health supplies. That very scenario of dire shortages and needless death and suffering with no end in sight is the fate now faced by billions of people worldwide because intellectual property monopolies block greater production.

We commend your principled leadership to date on the COVID-19 emergency WTO intellectual property waiver, which showed the world that the United States government can be a force for great good. To deliver on the mission of saving lives at home and worldwide, we urge the Biden-Harris administration to call for inclusion of treatments, diagnostic tests and other medical supplies in the scope of a TRIPS waiver.

Very truly yours,

Association of Flight Attendants-CWA

Doctors Without Borders / Médecins Sans Frontières USA

Health GAP

Indivisible

Network Lobby for Catholic Social Justice

Partners In Health

Public Citizen

Right to Health Action

Treatment Action Group