

Update on the WTO TRIPS Waiver Needed to Increase Global Production of COVID-19 Vaccines, Test Kits and Treatments

While the United States has done an excellent job of ensuring that COVID-19 vaccines and treatments are readily available domestically, the availability of vaccines, diagnostics and therapeutics remains dangerously low in many low- and middle-income nations throughout the world. As a result, not only are thousands of people dying needlessly each day, but even highly-vaccinated areas, such as Maine, face the consequences of continued damage to the global economy and the ongoing risk of new COVID variants developing abroad.

Recent hopeful comments about the United States potentially “rounding the corner” on the Delta variant are eerily similar to comments about the U.S. rounding the corner on COVID itself that were so commonplace back in the spring. The hard truth is that threat of new COVID variants that continue to undermine our domestic progress against the public health, economic and other societal hardships caused by this pandemic will never be eliminated until the vaccines and treatments that many Americans take for granted are readily available globally.

Status of the COVID TRIPS Waiver

Acknowledging that Americans will not be safe from new COVID variants until the world is vaccinated, President Biden led other heads of state during this fall’s United Nations General Assembly in committing to vaccinate 70% of the world’s population by the fall of 2022.¹ Unfortunately, pharmaceutical monopolies — enforced globally under the World Trade Organization’s (WTO’s) Trade-Related Aspects of Intellectual Property (TRIPS) agreement — are standing in the way of meeting that goal.

In May 2021, at the urging of U.S. Representatives Jared Golden, Chellie Pingree and over a hundred other members of Congress,² as well as hundreds of public health, faith, labor and other civil society organizations,³ the Biden administration voiced its support for an emergency TRIPS waiver⁴ so that COVID vaccines can be produced in as many places as possible as quickly as possible. This was considered a major breakthrough at the time. While even prior to that announcement, a majority of WTO member nations already supported the waiver originally proposed by South Africa and India,⁵ the United States’ support for a waiver led numerous holdout nations to voice their support for one, too. Nonetheless, six months later, the European Union still continues to block a TRIPS waiver, with support from only the United Kingdom and Switzerland. Under WTO consensus-based decision-making processes, these parties’ blockage has prevented the rest of the world from moving forward with the waiver and producing vaccines in the quantities needed to end the pandemic.

The WTO holds its next biennial ministerial in Geneva, Switzerland beginning on November 30.⁶ Citizens Trade Campaign, and many others, have called on the Biden administration to use every diplomatic tool available to secure a comprehensive and effective TRIPS waiver during that conference. What absolutely must not happen, however, is agreement on a symbolic statement or other face-saving measure that does actually address the intellectual property barriers to increased vaccine, test kit and treatment production needed to get these life-saving medicines to the nations that still lack access. The world needs a waiver agreement that can help end the pandemic; not one that only helps the WTO maintain credibility as an institution.

Addressing Monopolists' Claims

For over a year now, public health experts have pleaded with vaccine makers and others to license their technology and share their know-how so that global COVID vaccine and treatment production can be scaled up. In too many instances, these companies have flat-out refused. And the claims floated by some pharmaceutical monopolies they will soon produce enough doses to vaccinate the world, or that additional facilities are incapable of producing vaccines and treatments, simply are not credible.

The companies have repeatedly shown themselves far more interested in selling their vaccines to affluent countries that can outbid others at marked-up prices than in selling them to low- and middle-income nations. The world needed an estimated 14 billion COVID vaccine doses *before* children could be vaccinated and booster shots were approved. Yet vaccine makers are way behind on their 2021 supply pledges of 11 billion doses, and only 14% of promised dose donations have actually been made to COVAX.⁷ In the face of increased demand for booster shots and children's dosages, low- and middle-income countries are once again at the back of the line. There's no reason to believe that vaccine makers will transfer their limited supplies to low- and middle-income nations when Americans, Europeans and others are willing to pay more for ongoing boosters. The solution to this problem isn't asking Americans, Europeans and others to forgo boosters or vaccinations for children; it's to produce enough doses so that they're available to everyone.

One particularly pernicious and racist argument against the TRIPS waiver promoted by its opponents is that low- and middle-income countries lack the technical capabilities needed to produce "complex" mRNA vaccines like those produced by Moderna and Pfizer/BioNTech. To the contrary, a major selling point of mRNA vaccine technologies is that they are far easier and less expensive to produce than traditional vaccines, which have long been produced in low- and middle-income nations. Earlier this year, the *New York Times* published an interactive article titled "Here's Why Developing Countries Can Make mRNA Covid Vaccines."⁸ The piece includes a "Top 10" list of existing drug makers in six different countries in Africa, Asia and Latin America that have the "existing facilities, human capital, the regulatory system for medicines and the political and economic climate" needed to begin quickly making COVID vaccines if they were only given permission to do so.

Beyond vaccines, the promise of effective new treatments, like Merck's anti-viral molnupiravir and a potentially even more-effective therapeutic from Pfizer, makes breaking monopoly control even more urgent. If patent and regulatory data-related exclusivities are removed, generic producers around the world already making HIV-AIDS drugs can easily produce these life-

saving COVID antiviral treatments (and distribution systems already exist for these “small molecule” meds that don’t need refrigeration and can be taken at home). The fact that the cost of producing Merck’s treatment is already estimated at less than \$20 per patient, and could eventually be even lower with economy-of-scale improvements and other efficiencies, but that Merck is charging the U.S. government \$712 per treatment,⁹ points to both companies’ interest in maintaining their monopolies and the need to break these monopolies in order to save lives around the globe.

The final argument voiced against the TRIPS waiver is that it somehow involves giving away secret technologies to China. The premise behind this argument, beyond being outrageously immoral, is also demonstrably false. BioNTech licensed the Chinese firm Fosun to make the Pfizer-BioNTech vaccine in December 2020.¹⁰ In other words, there’s no secret left to be revealed; the monopolies themselves gave China the technology already. What these companies are protecting isn’t so much the know-how over how to make life-saving medicines as their monopoly power to decide how much medicine is produced, where it is sold and what price it is sold for.

As U.S. Trade Representative Katherine Tai said back in May, “This is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures.”¹¹ The world will continue to experience thousands of needless deaths each day and face an ongoing risk of new COVID variants developing until vaccine, testing and treatment production is expanded to as many places as possible. This must become a front-of-the-line priority, and securing a comprehensive TRIPS waiver is a key step towards that end.

Endnotes

¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/09/24/global-covid-19-summit-ending-the-pandemic-and-building-back-better/>

² <https://schakowsky.house.gov/media/press-releases/majority-democratic-caucus-call-white-house-support-trips-waiver-global-vaccine>

³ <https://www.citizenstrade.org/ctc/blog/2021/02/26/400-u-s-groups-call-on-president-biden-to-support-covid-19-wto-waiver/>

⁴ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/statement-ambassador-katherine-tai-covid-19-trips-waiver>

⁵ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True>

⁶ https://www.wto.org/english/thewto_e/minist_e/mc12_e/mc12_e.htm

⁷ <https://www.forbes.com/sites/roberthart/2021/10/21/wealthy-countries-delivered-just-14-of-covid-vaccine-doses-promised-to-poorer-nations-report-finds/?sh=7e9da9606ecb>

⁸ <https://www.nytimes.com/interactive/2021/10/22/science/developing-country-covid-vaccines.html>

⁹ https://www.salon.com/2021/10/07/entirely-unsurprising-merck-slammed-for-4000-markup-of-taxpayer-funded-19_partner/

¹⁰ <https://www.reuters.com/article/us-health-coronavirus-vaccine-fosunpharm/chinas-fosun-plans-plant-to-make-biontechs-covid-19-vaccine-caixin-idUSKBN2940XE>

¹¹ <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/may/statement-ambassador-katherine-tai-covid-19-trips-waiver>