



**No Progress to Date on Global Plan to End Pandemic Since You Signed the April Senate Letter Demanding U.S. Support for the Emergency WTO COVID-19 TRIPS Waiver: Your Assistance Requested**

September 15, 2021

Dear Senator:

Thank you for joining the April 17 Senate letter calling on President Biden to support a temporary waiver of certain World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) rules. The letter was led by Sens. Bernie Sanders, Elizabeth Warren, Tammy Baldwin, and Sherrod Brown and joined by Sens. Richard Blumenthal, Edward Markey, Jeff Merkley, Chris Murphy, Chris Van Hollen, and Raphael Warnock. Many people around the world agree with you that suspending some intellectual property barriers is key to boosting production of the COVID-19 vaccines, tests and treatments needed to end the pandemic.

Yet, there has been no progress in actually achieving a final waiver agreement months after you and your colleagues helped convince the Biden-Harris administration to reverse Donald Trump's self-defeating block against this important initiative. Big Pharma monopolies remain, dire vaccine shortages persist, and recently two vaccine makers, Moderna and Pfizer, have announced that they will raise prices by 13% and 26% respectively while billions remain unable to even receive a first dose. And diagnostic and treatment options as well as essential technologies remain out of reach for most people infected with COVID-19.

The vast – *and avoidable* – shortfall of vaccines, tests and treatments in low- and middle-income nations enables more deadly and possibly vaccine-resistant variants to develop and spread here and abroad. The delta variant first seen in India, where few are vaccinated, is burning through the United States with other variants of concern continuing to emerge. Public health experts warn that lockdowns and other measures may be necessary, implicating economic recovery and another school year. Unless people worldwide can access vaccines and treatments, there can be no end to the health or economic crises domestically.

**We are writing you to ask that you please urge the Biden-Harris administration to greatly intensify their efforts to deliver on the WTO TRIPS waiver, as well as to facilitate**

**broad technology transfer to speed vaccine production and to fund significantly expanded global manufacturing to expedite vaccine supplies that are necessary to end the pandemic.**

While the U.S. dose-sharing program is useful, it cannot meaningfully address the gulf between vaccine supply and need. Less than 2% of the African continent's population has had a shot. Beyond the dozen nations, including the United States, that have administered 85% of all vaccine doses, many healthcare workers are not vaccinated. Current producers made many fewer doses less than they projected for 2020 and again are well behind the 12 billion doses promised for 2021, much less the 14-15 billion needed for worldwide immunization. Even more will be needed if wealthy countries start booster programs. Absent a huge production capacity boost, developing nations may remain largely unvaccinated for years, resulting in millions of avoidable deaths and social and economic crisis. This continuing inequity poses direct threats to our national security, as billions of people worldwide are abandoned by the wealthy countries of the western world, as well as to our health and economic recovery.

**The lack of progress on a WTO waiver, technology transfer or funding to greatly increase global vaccine production is edging us toward a scenario of endless shortages of COVID-19 vaccines, tests and treatments, leaving billions of people in the Global South exposed indefinitely. Ever more virulent and infectious variants will continue to emerge as billions remain unvaccinated, continually jeopardizing efforts to turn a corner on the pandemic in the United States.**

**Strong and speedy U.S. leadership can still avert this untenable outcome.** U.S. support for the waiver in May initially shifted dynamics at the WTO. Key allies followed the initial U.S. leadership. Most that had previously opposed the waiver announced support for textual negotiations. More than 130 nations now support a waiver. Opposition has been whittled down to the European Union (led by the outgoing Merkel administration, even as France and other individual European countries support the idea of a waiver), plus the United Kingdom and Switzerland. EU officials are leading a vigorous campaign to derail waiver negotiations by trying to refocus the process on clarifications to TRIPS rules for compulsory licensing that were agreed in 2001 and 2003. The EU's approach is highly cynical: There is wide agreement among health professionals that the already-existing, country-by-country, license-by-license, product-by-product WTO compulsory licensing flexibilities are unworkable in the context of a pandemic and unsuitable for vaccines with complex global supply chains and multiple intellectual property exclusivities each, such as confidential information and trade secrets, for which applicability of WTO compulsory licensing procedures are ambiguous at best.

Yet, reports from Geneva indicate that U.S. officials are not leading efforts to secure a waiver, nor to counter EU efforts to stop a waiver. Months of official TRIPS Council negotiating notes show U.S. officials repeating the same anodyne lines about "pragmatic solutions" and do not reflect the proactive efforts usually employed to deliver on U.S. WTO goals. At the late July

WTO General Council meeting, U.S. officials did not speak at all even as the EU again attacked the waiver, and 39 other nations actively engaged in the debate. The lack of U.S. leadership has allowed the EU delay and diversion tactics to succeed: The result is no progress on a waiver text. U.S. officials lacking the urgency needed to meet this moment is even more alarming in the context of the delta variant spreading throughout the globe.

This outcome is simply unacceptable on every level. As administration officials have stated, protecting Americans from COVID-19 and building the U.S. economy back better relies on ending COVID-19 for all people across the globe as soon as possible. Unlocking IP barriers is a critical first step to scaling up production of COVID-19 medications to do that. Urgent leadership from the Biden-Harris administration is needed to get a waiver approved now. The rising delta variant makes brutally clear that the world is not winning the battles between vaccines and variants. Unless the U.S. can deliver a TRIPS waiver, the loss of lives and livelihoods that motivated the administration's historic support for the waiver will continue.

We respectfully request that you engage with the administration to urge the U.S. Trade Representative to actively cooperate with South Africa and other waiver proponents to produce a draft WTO TRIPS waiver text promptly and use all means available to press the European Union and others to end their opposition and secure swift passage of a comprehensive waiver agreement. If U.S. officials choose to initially focus on a waiver text that removes intellectual property barriers to increased production of COVID-19 vaccines, then they should immediately progress to negotiations over the waiver of IP obstacles for COVID-19 treatments, diagnostic tests and other critical COVID-19 technologies and health products, all of which have been prioritized and deployed in the U.S.

Every day the U.S. fails to act, more people will die. The mismatch between the administration's stated priority of enacting a waiver to get the world vaccinated and ending the pandemic to save lives, versus its failure to deliver to date is disastrous. We thank you again for being a leader in support of the urgently needed WTO TRIPS waiver and are extremely eager to work with you to deliver the broad and comprehensive waiver needed to end the pandemic.

Sincerely,

Joyce Ajlouny, General Secretary  
American Friends Service Committee

Sara Nelson, International President  
Association of Flight Attendants-CWA

Sarah Roth-Gaudette, Executive Director  
Fight for the Future

Paul O'Brien, Executive Director  
Amnesty International USA

Arthur Stamoulis, Executive Director  
Citizens Trade Campaign

Asia Russell, Executive Director  
Health GAP

Bonnie Castillo, RN, Executive Director

Kristin Urquiza, Co-Founder & Co-Executive Director  
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Mary J. Novak, Executive Director  
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Alan Minsky, Executive Director  
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Abby Maxman, President & Chief Executive Officer  
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Bree Carlson, Deputy Director  
People's Action

Lori Wallach, Director  
Public Citizen's Global Trade Watch