

January 25, 2024

President Joseph R. Biden
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden:

We appreciate your partnership with Congress in combatting COVID-19 throughout the global public health emergency that began in 2020. By working together to ensure that lifesaving vaccines and treatments for COVID-19 are accessible to every American and broadly available around the world, our collaborative efforts have reduced global COVID-19 deaths to their lowest levels since the pandemic began and led the World Health Organization (WHO) to declare an end to the global public health emergency last year.

Despite this success in overcoming the pandemic, members of the World Trade Organization (WTO) are still seeking to weaken global intellectual property (IP) protections for medicine to treat COVID-19. The proposal from countries including India, South Africa, and China would waive the protections afforded by the WTO Agreement on Trade-Related Aspects of IP Rights (TRIPS) with respect to COVID-19 diagnostics and therapeutics. Such a waiver would not improve global access to these medicines and would have significant adverse consequences for American manufacturers, innovation, and global competitiveness. We strongly oppose waiving IP protection for these products, and we urge you to oppose this proposal at the WTO.

A 2022 WTO agreement to waive certain IP protections for COVID-19 vaccines has had minimal impact: to date, no countries have used that waiver. Meanwhile, U.S. companies have provided free access to COVID-19 vaccines, therapeutics, and diagnostics through donations and more than 400 voluntary licensing partnerships, leading to a global surplus of supply. As the U.S. International Trade Commission (USITC) explained in a recent report, “current levels of manufacturing far exceed purchases” of COVID-19 treatments globally. Given the negligible impact of the 2022 waiver, the abundant supply of COVID-19 treatments, and the fact that the WHO has declared an end to the global public health emergency, it is hard to see any validity to the continuing pressure brought by certain WTO members to waive IP rights for these products.

Waiving rules meant to incentivize the discovery and production of life-saving medicines will cause investors and innovators to shift their efforts elsewhere. In this way, the proposed IP waiver would have the perverse effect of diminishing development of new treatments for dangerous diseases. What is more, allowing foreign competitors to disregard IP protections for made-in-the-USA biomedical technologies would undercut U.S. businesses and undermine the efforts of the workers who brought those technologies to market. Much of our economic strength is built upon the basis of robust IP protection, and eroding this foundation would only serve to weaken our global competitiveness.

To be sure, lower-income countries tend to have less access to medicine and poorer public health as a result. But as the USITC report notes, many factors other than IP are responsible for these

deficits, including distribution challenges, delays in regulatory approval, weak healthcare infrastructure, and insufficient health education. Furthermore, less than 20 percent of low-income and lower-middle-income countries have even authorized COVID-19 therapeutics for sale in their markets. It is clear that IP protection is not constraining access to COVID-19 diagnostics and therapeutics for people in lower-income countries, and an expanded TRIPS waiver will not solve broader health system challenges. To address these challenges, the United States invests more than \$12 billion every year in developing public health systems around the world, and invested an additional \$10.5 billion specifically for the global response to COVID-19. We remain committed in Congress to continuing U.S. leadership in providing the tools and resources that will effectively address the barriers that constrain global access to life-saving medicines.

We welcome continued partnership with your Administration to solve challenges in global public health, and we ask that you champion American innovation and competitiveness by opposing efforts to waive IP protections at the WTO.

cc:

Ambassador Katherine C. Tai
Office of the U.S. Trade Representative
600 17th St. NW
Washington, D.C. 20006

Sincerely,



Christopher A. Coons
United States Senator



Mike Crapo
United States Senator



Thomas R. Carper
United States Senator



Thom Tillis
United States Senator



Mazie K. Hirono
United States Senator



John Barrasso, M.D.
United States Senator



Kyrsten Sinema
United States Senator



Marsha Blackburn
United States Senator



Jon Tester
United States Senator



Tim Scott
United States Senator



Maria Cantwell
United States Senator



James Lankford
United States Senator



Mark R. Warner
United States Senator



John Cornyn
United States Senator