



Ursula von der Leyen
European Commission President
European Commission
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1049 Brussels
Belgium

Joe Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500
United State of America

10 March 2022

Dear President von der Leyen, Dear President Biden

We write to you on behalf of the Transatlantic Consumer Dialogue, a forum of European Union (EU) and United States (U.S.) consumer organisations, as a follow up to our correspondence of June 2021 urging the speedy adoption of the “Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19”.¹ We thank and note the Commission for the response sent to us in July 2021.²

Today marks two years since the World Health Organization (WHO) declared the outbreak of COVID-19 a pandemic, the first ever caused by a coronavirus and the first that, according to the WHO, could be controlled. It could have been the dawn of a new era of cooperation among nations, where life-saving technologies were to be considered a public good and health considerations guided the international response to the crisis. Unfortunately, those hopes, shared by many around the world, have not materialised. Instead, we have witnessed hoarding of vaccines and medical supplies and avoidable shortages of critical health goods.

COVID-19 has wreaked economic and societal havoc, with developing and least developed countries most strongly impacted. In contrast to the developed world, over 90% of people in 21 African³ countries, including first-line health care workers, are still waiting for their first vaccine shot. And nearly six months after the U.S.-led global COVID-19 vaccine summit highlighted the importance of vaccinating at least 70% of the world population by this autumn,⁴ the world still has no plan to increase the global production, affordability, and fair distribution of vaccines, tests, and treatments.

The October 2020 proposal for a temporary waiver of certain aspects of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), submitted by India and South Africa, addresses some of the obstacles facing equitable access to vaccines and other health

¹ <https://tacd.org/wp-content/uploads/2021/06/TACD-Letter-Supporting-COVID-19-TRIPS-Waiver.pdf>

² <https://tacd.org/wp-content/uploads/2022/02/TRIPS-letter-Commission-response.pdf>

³ <https://www.afro.who.int/news/africa-needs-ramp-covid-19-vaccination-six-fold>

⁴ <https://www.who.int/news/item/23-12-2021-achieving-70-covid-19-immunization-coverage-by-mid-2022>

technologies, specifically limited manufacturing capacity mainly caused by intellectual property-based monopolies. While opposed by the EU and a handful of governments, the proposal gained the formal support of 63 official co-sponsoring parties, with scores of members of national Parliaments across Europe endorsing calls for the EU to engage in constructive negotiations. The European Parliament too has approved —by wide margins — up to three formal calls⁵ for the European Commission not to hinder negotiations toward a mechanism that can play a critical role in achieving universal equitable access to vaccines, therapeutics, and diagnostics.

As highlighted in the Commission’s response to our letter, the EU has, through Team Europe and unilateral initiatives, expressed support for a number of initiatives, such as the COVAX facility, donations schemes, or, more recently, the WHO-backed mRNA tech-transfer hub in South Africa. While commendable, these efforts are not likely to bring about the change needed in the short term and amount to ad-hoc solutions that do not properly address the challenges faced by countries with no pharmaceutical manufacturing capabilities and no access to international pharmaceutical markets.

Further, the TRIPS flexibilities relating to compulsory licenses were not designed for, nor do they function effectively in, a global pandemic⁶ where there are multiple forms of IP protections on multiple products of different natures and where production relies on complex global supply chains. And the argument that IP is necessary for innovation in dealing with constantly evolving variants does not hold ground, especially in the case of COVID-19 vaccines and the innovations related to them.⁷ These vaccines were created in record time with the help of billions in taxpayer money and public researchers’ expertise, not by IP protections which are being enforced with the sole objective of reaping profits.

We are aware that discussions are currently taking place among the United States, European Union, India, and South Africa regarding the proposed TRIPS waiver. We welcome this dialogue, and we hope for a comprehensive outcome. However, the U.S. has persisted in its indefensible position of a waiver for vaccines only, excluding the tests and treatments. The U.S., reportedly,⁸ has even suggested limiting the waiver's geographic scope. Meanwhile, the EU continues to block meaningful progress with its singular focus on removing “red tape.”⁹

We ask that the EU and the U.S. heed the call of consumer groups and civil society at large, as well as professional associations and trade unions, all unified in a global day of action¹⁰ as we enter the third year of the pandemic.

⁵ [European Parliament resolution of 20 May 2021](#) on accelerating progress and tackling inequalities towards ending AIDS as a public health threat by 2030 / [European Parliament resolution of 10 June 2021](#) on meeting the global COVID-19 challenge: effects of the waiver of the WTO TRIPS Agreement on COVID-19 vaccines, treatment, equipment and increasing production and manufacturing capacity in developing countries / [European Parliament resolution of 25 November 2021](#) on multilateral negotiations in view of the 12th WTO Ministerial Conference in Geneva, 30 November to 3 December 2021.

⁶ <https://www.citizen.org/article/waiver-of-the-wtos-intellectual-property-rules-existing-trips-flexibilities-unworkable-for-scale-up-of-covid-19-medicines-production/>

⁷ <https://www.citizen.org/article/trips-waiver-facts-vs-myths-v2/>

⁸ <https://genevahealthfiles.substack.com/p/efforts-to-narrow-the-trips-waiver>

⁹ <https://www.twn.my/title2/health.info/2022/hi220207.htm>

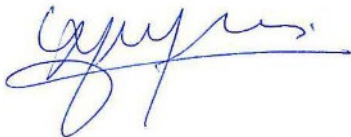
¹⁰ <https://peoplesvaccine.org/take-action/end-covid-monopolies/>

We urge you, as previously, to:

- Engage in text-based negotiations on the proposal from India and South Africa to secure a waiver of patent, copyright, industrial design, and undisclosed data provisions on all COVID-19 health technologies, including vaccines, tests, and therapeutics.
- Support WHO-backed mRNA vaccine manufacturing technology transfer hubs round the world and measures to make manufacturing know-how a global public good.

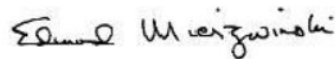
Only a comprehensive waiver will remove the WTO barriers currently standing in the way of global access to COVID health products and unnecessarily prolonging the pandemic's death and devastation.

Sincerely,



Monique Goyens

Director General, BEUC
PIRG
EU Co-Chair of TACD



Edmund Mierzewski

Senior Director, Consumer Programmes, U.S.
US Co-Chair of TACD

C/c:

- **Valdis Dombrovskis**, Executive Vice-President of the European Commission and Commissioner for Trade
- **Stella Kyriakides**, Commissioner for Health, and Food Safety
- **Katherine Tai**, United States Trade Representative
- **Jeffrey Zients**, White House Coronavirus Response Coordinator