



The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Ave NW
Washington, D.C. 20500

cc: Ambassador Katherine Tai

May 23, 2022

Dear President Biden:

Please find enclosed a document describing the changes necessary to deliver on your righteous goal of removing intellectual property (IP) barriers to increase global access to COVID-19 vaccines relative to the text that the World Trade Organization (WTO) Secretariat submitted in early May as an alternative to a waiver.

The WTO Secretariat's alternative text does not waive even the patent barriers necessary to deliver the increased vaccine production that you rightly identified as necessary to save lives from the extraordinary threat of the pandemic. It simply reiterates existing flexibilities in the text of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS). Indeed, the WTO Secretariat text even adds new obstacles and conditions limiting countries' use of the flexibilities already established in the existing WTO text.

The attached mark-up of the WTO Secretariat text reflects only the changes necessary to alter that text in order to deliver the "IP waiver" for COVID-19 vaccines that you called for on May 5, 2021.

However, as noted in the letter sent to U.S. Trade Representative Katherine Tai by over 175 U.S. civil society organizations on May 9th of this year, combatting the pandemic effectively also requires waiving IP barriers to COVID treatments and diagnostic tests. As you proclaimed during your 2022 State of the Union address, the way forward on COVID in the United States must be "test and treat." This is equally true for the rest of the world. Since your May 2021

announcement of support for a TRIPS waiver for vaccines, effective treatments like Paxlovid have been developed. These treatments can be a game changer in saving lives. That is why prominent academics, leading generic medicine producers and public health experts have all urged you and leaders from the 100-plus countries that support a TRIPS waiver to ensure it also covers treatments and tests.

Reports from Geneva indicate that the WTO process for considering the Secretariat text (IP/C/W/688) is being organized to foreclose opportunities for amendments to address most of the proposal's shortcomings. Rather than allowing member countries to bring amendments to ensure that IP barriers are lifted, negotiations are being structured so as to only address narrow questions related to a non-waiver approach.

To be clear, the WTO Secretariat's text — by not waiving intellectual property barriers necessary to get more shots in arms and by adding new constraints on existing WTO flexibilities — is worse than having no WTO text on IP barriers related to the COVID pandemic. This view is shared uniformly throughout U.S. civil society and by our counterparts in South Africa, India and the scores of other countries that support a WTO waiver. We are all committed to your mission, which we also share, to save lives and livelihoods from the COVID crisis. That is why we oppose the Secretariat's text, which seems mainly designed to convey that the WTO is not entirely irrelevant, if not damaging, so as to try to save the WTO's reputation.

We respectfully urge you to try your utmost leading up to the WTO's 12th Ministerial Conference, slated to begin June 12th, to achieve these necessary changes to the Secretariat text. We know this is extremely difficult because the European Union has been entirely inflexible in its opposition to any waiver of WTO IP monopolies and thus, to date, has blocked the rest of the world's countries seeking to remove WTO obstacles from access to medicines. We also urge you to join the many countries insisting that a real waiver of IP barriers also apply to tests and treatments.

The document is available [here](#).

Sincerely,

Citizens Trade Campaign

NETWORK Lobby for Catholic Social Justice

Oxfam America

Partners In Health

Public Citizen

ReThink Trade

Trade Justice Education Fund

Treatment Action Group