

April 23, 2021

The Honourable Mary Ng, P.C., M.P.
Minister of Small Business, Export Promotion and International Trade
125 Sussex Drive
Ottawa, Ontario K1A 0G2
Canada

Dear Minister,

Re: Proposed TRIPS Waiver for Intellectual Property

On behalf of the member companies of the biotechnology and life sciences organizations across Canada, we are writing on this occasion to urge the government to oppose the TRIPS waivers proposal before the World Trade Organization which would allow countries to force the transfer of intellectual property and know-how on covid-19 vaccines. The proposed waiver fundamentally undermines the very system that produced the current group of COVID-19 vaccines and will be a disincentive for the investors and companies taking risks to develop solutions for the next health emergency.

From the onset of the COVID-19 pandemic in March of 2020, it was clear early that the global biotechnology industry including Canada's biotech sector would be relied upon to identify and develop the vaccines (and therapeutics) needed to allow society and the economy to return to normal. At the time, the most optimistic scenario was for safe and effective vaccines to be available in 3-5 years. Yet in November of 2020, only months after the declaration of a pandemic, two novel technology mRNA vaccines were approved and being administered. This is a remarkable achievement and a testament to science, discovery and research delivered by the global biotech industry.

The rapid discovery and advancement of solutions was not an accidental success. Early in the pandemic, significant cooperation between companies, governments, multilateral organizations and donors under the COVAX initiative significantly accelerated the discovery, manufacturing and distribution efforts of vaccines globally. Major vaccine companies have made important pledges relating to pricing or non-enforcement of patents globally. In a similar way, governments around the world identified and eliminated nationalist many policies that restricted the flow of inputs in global supply chains and vaccines across borders to patients. As a result of this innovation and cooperation, in less than 5 months over 850 million Covid vaccine doses have been administered in over 100 countries, with production and deliveries accelerating every week.

While progress to date is remarkable, it is clear we are not yet through the COVID-19 challenge and equally import, must prepare for the possibility of COVID-19 variants or a future similar pandemic for which the virus has yet to be identified. In this context, continued research and innovation is required. It is important to note the two early approved vaccines, those of Moderna and Pfizer, were built on the new model of innovation. At the core of Pfizer's vaccine is the mRNA technology of German biotech, BioNTech and Canadian biotech Acuitas. When the pandemic began, Moderna was a biotech company which had not yet had any of its products commercially sold. Similarly, promising Canadian companies working on COVID-related solutions such as AbCellera, Precision Nanosystems, Medicago, IMV are also not yet commercial companies. For all of them, their patented intellectual property, their ideas and science, is at the very core of their business just as a forest is to a lumber company or a gas field to an energy company. In this context, the protection of intellectual property is key to a company's ability to innovate, recure investment and move a discovery forward. Any initiative that reduces intellectual property protections runs the risk of undermining the foundation of these companies and those yet to be founded.

It is in this context that our organizations have significant concerns regarding the proposed TRIPS waiver. There is no evidence IP rights are causing delays or inequities in the global COVID-19 vaccination rollout. The challenges to date are related to the scaling up of production and the very complex supply chains that support the COVID-19 vaccine manufacturing process. To illustrate, Pfizer's vaccine, alone, involves 280 components, 86 suppliers and 19 countries. And even once it has been manufactured, there remain significant logistical challenges associated with the storage and distribution (cold chain) globally of the vaccines.

To address global crises, there is already an existing process under TRIPS Article 31 for governments to invoke compulsory licensing to address identified access challenges. Given there is already a process available with safeguards, the proposed TRIPS waiver is unnecessary. The TRIPS waiver proposal to nullify patents might provide the illusion of a speedy conclusion to the very real distribution difficulties being experienced, whereas in reality, they would not offer any meaningful access solution. Moreover, the waiver would significantly undermine the protection of the intellectual property which drives efforts to address the current crisis and prepare for future ones.

Importantly, the waiver will exacerbate the problem not only in the near term but also in the long-term as it will impact investment and production decisions of the companies developing the vaccine technologies which will be needed in future pandemic-like crises. This includes numerous Canadian companies developing the new technologies, therapeutics and vaccines for managing COVID-19 variants as well as treating other healthcare challenges beyond the pandemic. The proposal to waive intellectual property signals to early-stage companies and their investors that the results of their research and investments can be appropriated by anyone and beyond the immediate pandemic. The waiver fundamentally undermines the very system that produced the life-saving science in the first place and destroys the incentive for companies to take risks to find solutions for the next health emergency.

With the above noted considerations, our organizations recommend Canada strongly oppose the TRIPS waiver currently before the WTO and work with the industry to identify ways in which the manufacturing and distribution of vaccines and therapeutics can be improved globally.

Sincerely,



Andrew Casey, President & CEO
BIOTECanada



Anie Perrault, Executive Director
BioQuébec



Jason Field, President & CEO
Life Sciences Ontario (LSO)



Rory Francis, Executive Director
Prince Edward Island BioAlliance





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Gail Garland, President & CEO
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Wendy Hurlburt, President & CEO
LifeSciences British Columbia



Karen Churchill, President & CEO
Ag-West Bio Inc.



Kim Klein, President
Bioscience Association Manitoba (BAM)



cc: The Honourable Francois-Philippe Champagne, Minister of Innovation, Science and Industry