

Alliance
for
Biosecurity
Secretariat

May 12, 2021

Ambassador Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Tai,

On behalf of the Alliance for Biosecurity, I write to express our group's concerns with the Biden Administration's plans to consider waiving intellectual property (IP) protections for COVID-19 technologies, including vaccines, at the World Trade Organization's Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS).¹

As you know, the petition is currently under review by the TRIPS Council. India, South Africa, and their supporters argue that weakening IP rights will expand access to vaccines. Our member companies disagree. We believe granting this waiver will not address the underlying supply chain and component shortages that are actually to blame for any vaccine shortage; will not accelerate vaccine deployment, which remains the mutual goal of industry and government alike; and will not benefit the United States' long-term strategic interests.

While we commend the Administration's reengagement with the global community to counter the COVID-19 pandemic, including its decision to join the COVAX vaccine distribution program – it can, and should, do more. U.S. leadership is central to global success against COVID-19. But, as noted above, undermining IP protections would do nothing to address access challenges related to vaccine supply (e.g., raw material shortages), distribution (e.g., lack of infrastructure in developing nations), etc. It would, however, compromise America's ability to prepare for the next natural or manmade biological disaster, without significantly addressing the vaccine backlog.

Already, patient groups and public health authorities are justifiably alarmed by reports of fake COVID-19 vaccines circulating around the world.² And any doubts around the vaccine supply chain will only breed vaccine hesitancy, yet another hurdle we are working together to address.

If granted, the waiver would remove any recourse for COVID technology owners should another company or country, including Russia or China, steal these technologies or violate the terms of any licenses – essentially giving them *carte blanche* to use all of these technologies for any

¹ See, e.g., https://www.wto.org/english/news_e/news21_e/trip_23feb21_e.htm

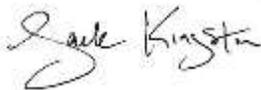
² <https://www.wsj.com/articles/pfizer-identifies-fake-covid-19-shots-abroad-as-criminals-exploit-vaccine-demand-11619006403>

(including non-COVID) purpose without legal repercussion. By supporting this waiver, the United States would essentially be condoning IP theft before it happens. Furthermore, the Defense Advanced Research Projects Agency (DARPA) has invested millions of dollars in early-stage vaccine research, which helped lay the foundation for the Moderna and Pfizer/BioNTech mRNA shots.³⁴ Granting the petition would mean that U.S. taxpayers inadvertently advanced our adversaries' scientific knowledge and biological R&D capabilities. And since there would be no way to govern or monitor what nations like Russia do with the information they glean through this waiver, U.S. technology could easily wind up in the hands of Iran or North Korea.

Further, granting the waiver would undermine the medical countermeasures enterprise that, through "the Operation," delivered multiple safe and effective COVID-19 vaccines in record in time, making it a shining, yet fragile example of a successful public-private partnership. Already, few companies choose to participate in the medical countermeasures enterprise to deliver countermeasures for naturally-occurring, deliberate, or accidental chemical, biological, nuclear, or radiological (CBRN) threats. Indeed, numerous large pharmaceutical companies decline to participate in this sector due to its challenging business model when compared with other products they could develop – even though these medical countermeasures are critical to domestic national, economic, and health security. And yet, this waiver suggests that the reward for companies partnering with the Biomedical Advanced Research and Development Authority (BARDA) to develop, manufacture, and scale a COVID-19 vaccine and who brought these products across the finish line is for the government to undermine their IP rights. The Administration should be working to build on the success of "the Operation" and BARDA's role in it, not undermining it.

The COVID-19 pandemic has presented the greatest global health crisis of the last hundred years. Government and industry have partnered to accelerate vaccine production to rates unimaginable even 20 years ago, and they are working to do so without compromising safety. We hope policymakers will focus on removing trade barriers and shoring up global supply chains to safely and efficiently speed up vaccine manufacturing and distribution.⁵ We believe that protecting American intellectual property will make the world better equipped to fight future pandemics. And we urge you oppose the TRIPS waiver petition.

Sincerely,



The Honorable Jack Kingston
Secretariat
Alliance for Biosecurity

³ https://www.washingtonpost.com/national-security/how-a-secretive-pentagon-agency-seeded-the-ground-for-a-rapid-coronavirus-cure/2020/07/30/ad1853c4-c778-11ea-a9d3-74640f25b953_story.html

⁴ https://www.washingtonpost.com/national-security/how-a-secretive-pentagon-agency-seeded-the-ground-for-a-rapid-coronavirus-cure/2020/07/30/ad1853c4-c778-11ea-a9d3-74640f25b953_story.html

⁵ <https://www.ifpma.org/resource-centre/covid-19-vaccine-industry-cautions-immediate-action-needed-to-remove-manufacturing-supply-barriers-to-meet-production-targets-and-keep-on-course-to-equitable-and-fair-access-to-covid-19-vaccines/>

cc: The Honorable Richard Neal
The Honorable Kevin Brady
The Honorable Ron Wyden
The Honorable Mike Crapo
The Honorable Gregory Meeks
The Honorable Michael McCaul
The Honorable Robert Menendez
The Honorable James Risch