



May 5, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Re: United States support for temporary, limited and targeted Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver to ensure equitable global vaccine production and distribution

Dear President Biden,

On behalf of the undersigned members of the International Network of Civil Liberties Organizations (INCLLO), an international network of national human rights and civil liberties organizations from 15 countries in the North and South, we write to urge you to support the temporary, limited and targeted Trade-Related Aspects of Intellectual Property Rights (TRIPS) waiver proposal presented by South Africa and India to the World Trade Organization (WTO) on October 2020 as an important step towards universal, equitable and affordable access to COVID-19 vaccines.

We acknowledge your leadership in prioritizing COVID-19 vaccination efforts in the United States, and urge you to take the necessary measures to close the troubling vaccination gap globally. In the words of Soumya Swaminathan, the chief scientist of the World Health Organization (WHO): “The virus doesn’t respect borders, or nationalities, or age, or sex or religion.” There is no way out of the pandemic if states don’t coordinate and work in solidarity with each other to enable universal access to COVID-19 vaccines for all.

The current pattern of distribution has led to most vaccines being reserved for and being delivered to developed and high-income countries. In contrast, many lower income countries have either not seen any vaccination program rolled out or witnessed their programs lag behind significantly. According to the World Health Organization (WHO) one in four people in high-income countries have received a dose; in low-income countries the proportion is closer to 1 in 500.

The extremely slow and inequitable distribution of vaccines is having dire consequences for billions of people. In addition to the challenges presented by new COVID-19 variants, which may be less responsive to current vaccines, the global COVID-19 pandemic has already had catastrophic consequences: as of May 4, 2021, there have been 153,187,889 confirmed cases of COVID-19, including 3,209,109 deaths, according to the WHO. As staggering as these figures

are, they are but one facet of the crisis that has deepened existing health and economic inequalities across the world.

The right to health is a fundamental human right and states have a moral duty and obligation to ensure that people across the world have access to the highest attainable level of health. As recently affirmed by the United Nations Committee on Economic, Social and Cultural Rights, “access to a vaccine for COVID-19 that is safe, effective, and based on the best scientific developments is an essential component of the right to the enjoyment of the highest attainable standard of physical and mental health and the right to enjoy the benefits of scientific progress”.

This means states must prioritize the available resources and mechanisms at their disposal to ensure access to COVID-19 vaccines for all persons, without discrimination. In order to avoid entrenching health isolationism, the production and distribution of vaccines must be organized through international cooperation and assistance. This cooperation must include sharing the benefits of scientific progress.

However, this is not just a moral imperative. These and other international human rights obligations and commitments are not being currently honored by some states, including the United States, which has signed the International Covenant on Economic, Social and Cultural Rights and at a minimum is prohibited under international law from defeating the objects and purposes of the Covenant.

The insufficient supply of vaccines, and the deeply unequal global distribution of the same, necessitates urgent additional measures. While we commend your Administration’s recent delivery of emergency COVID-19 assistance to India, without equal access to vaccination, India and other hard-stricken countries will not be able to stem the high infection rates and the horrific death toll.

Therefore, we believe that an immediate step that must be taken to ensure universal and equitable access to COVID-19 vaccines is to adapt intellectual property regulations, governed by the TRIPS agreement, to respond to the exceptional circumstances of the COVID-19 pandemic. As noted by several UN human rights experts, “The TRIPS Agreement can and should facilitate the protection of public health on a global scale, promote self-sufficiency of all members, and not be a barrier to accessibility of COVID-19-related medicines and vaccines.” States have a duty to prevent, and safeguard against, intellectual property and patent legal regimes from undermining the enjoyment of economic, social and cultural rights. We also note that intellectual property rules have previously acted as a barrier to equitable access to health treatments. We cannot allow this to continue.

India and South Africa, two countries which led the effort 20 years ago to ensure intellectual property rules were not a barrier to scaling up HIV treatment, have proposed that WTO rules on intellectual property rights be temporarily waived so they are no longer blocked from using patented technologies to manufacture and deliver COVID-19 vaccines, diagnostics, and treatments. This limited, targeted and temporary waiver proposal has already been supported by over 100 countries. In addition to UN human rights experts, over 100 members of Congress, the WHO, the UN Expert Mechanism on the Right to Development and an increasing number of scientific and humanitarian organizations have also expressed support for the waiver proposal.

We applaud your Administration’s commitment to racial justice. Your words that “racial equity will not just be an issue for one department in our administration, it has to be the business of the whole of government in all our federal policies and institutions” resonated around the world and the State Department is prioritizing racial justice in U.S. foreign policy. However, equal access to vaccines is a racial justice issue at home and abroad. We urge you to support the TRIPS waiver proposal presented at the WTO and to take all other necessary measures, including the rapid transfer of technology and all other knowledge, to contribute to the universal and equitable access to COVID-19 vaccines for all.

Sincerely,

American Civil Liberties Union (ACLU)

Canadian Civil Liberties Association (CCLA)

Centro de Estudios Legales y Sociales (CELS/Argentina)

Egyptian Initiative for Personal Rights (EIPR)

Human Rights Law Network (HRLN)

Hungarian Civil Liberties Union (HCLU)

Irish Council for Civil Liberties (ICCL)

Kenya Human Rights Commission (KHRC)

KontraS (Indonesia)

Legal Resources Centre (LRC/South Africa)