

**CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA**

October 25, 2021

The Honorable Katherine Tai
United States Trade Representative
Washington, DC 20508

Dear Ambassador Tai:

We know that we have been in touch with you previously on the global intellectual property (IP) architecture, but we wanted to send you further comments given the upcoming WTO Ministerial (MC12). November's WTO Ministerial will be an inflection point for global pandemic response, the rules-based multilateral trading system, and international IP.

In Geneva, we strongly urge the administration to herald the tremendous success of the U.S. and international innovation ecosystem that continues to produce technological solutions to the technical problems of the COVID-19 pandemic. The administration should reinforce longstanding bipartisan U.S. policy of championing the global IP framework supported by the WTO TRIPS Agreement.

In our view, the appropriate solutions to continued effective pandemic response do not include weaker IP but are instead three-fold: 1. Return to health: accelerate supplies through safe and effective manufacture and licensing of vaccines and other medical technologies; 2. Return to Growth: ensure we continue to foster innovation (across the board); and 3. Prepare for the ongoing vaccination needs and the next pandemic, especially in least developed economies – through effective and lasting solutions to national infrastructure for healthcare delivery and remove supply chain and regulatory barriers, not false solutions like IP waivers. We believe any path forward should include all three.

Thanks to the strength of our IP framework and substantial contributions from the public sector, private sector and academic institutions whose work it supports, the United States found itself nearly uniquely positioned to provide durable and unprecedented answers to the problems posed by a novel coronavirus. Rejection of this approach would undermine not just longstanding U.S. policy but undercut U.S. led efforts to vaccinate the global community.

Since the pandemic, manufacturing of COVID-19 vaccine doses has surged to 1.6 billion per month, 9.3 billion so far this year, more than 12 billion by the end of 2021, and a projected 24 billion by the end of June 2022. This explosive growth in global vaccine production confirms that IP was not an impediment to vaccine discovery, development, or production at a scale to serve the world. Moreover, we would encourage the U.S. to promote genuinely positive actions at MC12 – particularly through the proposed Trade and Health Initiative – to drive actions to ramp up dose sharing, address supply chain bottlenecks and support country level distribution.

Broadening global innovation and production capabilities for this and future crises requires that WTO members fully and effectively implement the rights and responsibilities of the

TRIPS Agreement, which in the quarter century history of the Agreement has yet to be realized. The findings of the U.S Chamber International IP Index demonstrate clearly that the TRIPS standard has been undermined by exceptions, limitations, and failures of both implementation and enforcement. This leaves IP rights in the majority of the world at a standard inadequate to enable investment in innovation or participation in technology transfer networks.

Indeed, in those nations around the world where IP rights and private contracts are adequately protected by law, hundreds of IP licensing partnerships are driving the successful testing and production of both vaccines and therapies to meet the ever-shifting challenges of the pandemic. Should we move from a cooperative, voluntary licensing arrangements to a compulsory, forced technology transfer environment, it would risk diverting scarce inputs to startup facilities ill-prepared to use them efficiently or quickly. In doing so it may well undermine and complicate the current surge in vaccine production. In the United States, until now the world's foremost champion of IP rights, knowledge and technology transfers are organic, pervasive, and multi-directional across a robust innovation ecosystem. It is no trade secret; this winning formula is hidden in plain sight.

Considering the enormous progress made to date, we are disappointed that the administration continues to entertain actions, such as a waiver of the TRIPS Agreement, that would undermine the pandemic response. U.S. support for even a limited cessation of TRIPS standards will have an immediate dampening effect on the ability of the private sector to finance research and development, and a chilling long-term impact on U.S. technological leadership (in biotechnology, green technology, defense and other key sectors), all while providing formal impunity to IP theft by Chinese entities and other serial offenders.

We therefore urge the Biden administration to double down on efforts to distribute vaccines globally. The United States should take further steps to fund Covax, send surplus COVID-19 vaccine doses abroad, address critical supply chain bottlenecks, and support country preparedness for vaccine distribution and administration.

We appreciate your attention to this matter and look forward to an opportunity for robust and broad-based industry consultation ahead of any related U.S. policy announcement.

Sincerely,



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cc: The Honorable Gina Raimondo, Secretary of Commerce