

VIA ELECTRONIC TRANSMISSION

December 1, 2021

The Honorable Katherine C. Tai
United States Trade Representative
600 17th St. N.W.
Washington, D.C. 20508

Dear Ambassador Tai:

I write you today—for the fifth time—regarding the Biden Administration’s disastrous support for waiving international obligations under the Trade-Related Aspects of Intellectual Property Rights, or TRIPS agreement. As I have done before, I urge the Administration to abandon its misguided attempts to negotiate any waiver of American intellectual property (IP) rights—at home or abroad. The Administration’s continued focus on destroying American IP rights serve not only as a threat to future life-saving innovation, but also as a distraction from the very real problems hindering vaccine access.

I share the Administration’s goal of increasing global access to COVID vaccines, but this disastrous IP waiver is, and always has been, a distraction from the real issues with vaccine access. According to research, of the 92 lower-income countries supported by COVAX, half have used less than 75% of the doses that they have received.¹ Experts have confirmed that barriers to delivery of vaccines, not supply, are the biggest issue with expanding access to COVID-19 vaccinations.

A recent report analyzed these barriers.² It warns that “[s]hortages of syringes are anticipated due to increased vaccine production and high demand disruptions.” The report also highlights the need for better logistical planning and strengthening last mile distribution and delivery capabilities in developing countries. I urge you to focus on resolving urgent trade issues, including export restrictions, supply chain restrictions, ensuring vaccines can clear customs, and financing production. As research makes clear, these logistical and supply chain issues—not the IP rights of hardworking American inventors—are delaying global vaccinations and should be the Administration’s priority.

South Africa, one of the leading countries advancing the waiver proposal, recently asked both Johnson & Johnson and Pfizer to delay delivery of COVID-19 vaccines because it now has too

¹ See <https://covid19gap.org>

² Beth Boyer, Andrea Taylor, Gary Edson, Michael Merson, Mark McClellan, Krishna Udayakumar, *Holding the World to Account: Urgent Actions Needed to Close*, COVID GAP Project, Duke University and Covid Collective.

much stock.³ My understanding is that South African Health Ministry officials said that they are struggling to overcome vaccine hesitancy as they work to continue their inoculation campaign. Clearly their desire for a TRIPS waiver has less to do with vaccination efforts and more to do with their long-standing efforts to steal American intellectual property by forced technology transfer.

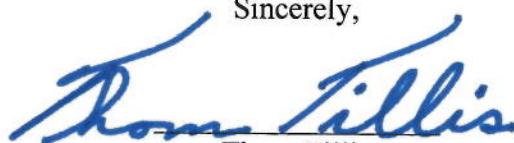
The fundamental assumption that intellectual property is a barrier to production and sharing vaccines is wrong. IP is an enabler—allowing companies to share information to work together to develop and distribute complex, sophisticated medical treatments. There is a massive amount of information needed to create and distribute vaccines. Providing businesses patent protection allows businesses who otherwise would hoard their secrets to collaborate with others. We were able to produce the vaccine so quickly because of tremendous investments that have been made for at least ten years, investments that would not have occurred without IP protections. Let's not sacrifice our ability to combat future diseases for political points. I have heard already that the waiver announcement has already stopped negotiations for future research projects.

The Administration's misplaced focus and politicization of this critical issue poses grave risks. By undermining property rights, the United States risks jeopardizing our ability to respond to the next pandemic because American companies and workers can no longer have faith that our laws will be respected and their property protected. While the Administration is busy seeking to authorize China and other countries to steal innovative U.S. technology, much-needed American leadership is lacking when it comes to solving actual problems on the ground in developing countries — like shortages of healthcare workers, lack of availability of syringes, and a lack of the “cold chain” necessary to transport and store doses.

Despite this reality, President Biden appears to be doubling down on his disastrous and misguided waiver. I urge a different and more productive course. It is past time for the Administration to abandon its dangerous political experiment and focus on the actual barriers preventing vaccine access. I urge the Administration to protect and champion American innovation and focus on the growing supply chain bottlenecks that are hindering access to vaccines and undermining the U.S. recovery.

Any continued pursuit of or support for an IP waiver at the WTO by your office will demonstrate a failure of leadership by this Administration that will not only undermine innovation, but also hinder and obscure the real issues preventing attainment of global vaccination goals. Thank you for your prompt attention to this matter. If you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads "Thom Tillis". The signature is fluid and cursive, with a long, sweeping underline that extends across the width of the name.

Thom Tillis
United States Senator

³ <https://www.reuters.com/world/africa/exclusive-south-africa-delays-covid-vaccine-deliveries-inoculations-slow-2021-11-24/>