AMNESTY INTERNATIONAL

March 9, 2021

Subcommittee on International Development

COMMITTEE ON FOREIGN AFFAIRS

U.S. HOUSE OF REPRESENTATIVES WASHINGTON, DC 20515-6128

Re: **Amnesty International USA statement for hearing on "A Year into the Pandemic: The State of International Development"**

Dear Chair Castro, Ranking Member Malliotakis, and Members of the Subcommittee:

On behalf of Amnesty International and our 10 million members, activists, and supporters worldwide, we submit this statement for the hearing record on the critical issue of global COVID-19 vaccine equity and the imperative of prioritizing vaccine access for lower-income countries.

A year since the U.S. locked down to contain COVID-19, Americans are finally beginning to see the light at the end of the tunnel, with vaccines being rolled out nationwide. While the U.S. is already administering over two million shots a day, 70 lower-income countries may only be able to vaccinate 20 percent of their populace against COVID-19 in 2021, unless governments and the pharmaceutical industry take urgent action to produce more doses. The U.S. must prioritize saving lives over protecting pharmaceutical companies' profits. To that end, the Biden administration should support multilateral measures to boost vaccine production, including the proposed intellectual property waiver from the World Trade Organization's ("WTO") Trade-Related Aspects of Intellectual Property Rights ("TRIPS") agreement, which will be discussed at TRIPS Council meeting this week on March 10-11.

The U.S. government and international community cannot tackle the COVID-19 pandemic—including the risks posed by new variants of COVID-19—if lower-income countries are denied access to vaccines because wealthier countries have already bought up more than half of future vaccine supplies. There is an urgent need for a multilateral

approach to provide universal fair access to COVID-19 diagnostics, treatments, and vaccines.

President Biden's executive actions to remain in the World Health Organization ("WHO") and to support the Access to COVID-19 Tools Accelerator ("ACT-A") and the COVID-19 Vaccine Global Access ("COVAX") Facility are most welcome. But there is a lot more the U.S. government can and must do to ensure speedy and equitable distribution of vaccines to lower-income countries.

In April 2020 the WHO and partners launched ACT-A to facilitate access to COVID-19 health products around the world. One of ACT-A's pillars, COVAX, seeks to pool global demand around COVID-19 vaccines and distribute two billion doses by the end of 2021. ACT-A and COVAX, while useful emergency tools, can at best provide a fraction of the total doses of vaccine that are needed. They cannot secure the increase in supply that is needed to ensure that all countries can vaccinate sufficient proportions of their populations. Unless production is quickly ramped up around the world to meet global demand, there simply will not be enough supply for COVAX to provide countries in need.

All governments are facing challenges in ensuring sufficient access to COVID-19 tests, treatments, vaccines, but lower-income countries face additional impediments due to intellectual property ("IP") barriers to developing and scaling up manufacturing capacity. Since the start of the pandemic, most pharmaceutical and healthcare companies have continued a "business-as-usual" approach, maintaining rigid control over IP rights, pursuing monopolistic commercial deals with those nations that can afford them, and refusing to join WHO efforts to encourage global sharing and scale-up of the production of COVID-19 products.

Out of the three companies whose COVID-19 vaccines have been authorized for emergency use in the U.S., only Moderna has made a commitment to forgo enforcing its patents against those producing vaccines to combat the pandemic. Beyond vaccines, ample evidence demonstrates that IP rights have hampered the distribution and provision of COVID-19 health products. For example, N95 respirators, a critical protective mask worn by healthcare workers, continue to be in short supply as 3M and other patent holders refuse to release their patents to allow additional manufacturers to produce the masks.

WTO rules around IP have encouraged this approach. The 1994 TRIPS agreement requires WTO signatory countries to provide lengthy monopoly protections for medicines, tests, and the technologies used to produce them. After a global campaign by public health and development groups, in 2001 the WTO issued a binding declaration

about balancing TRIPS intellectual property protections and public health needs. Yet TRIPS rules continue to limit access to vital COVID-19 treatments at an affordable price. Countries that cannot afford the number of needed doses are forced to follow the "product by product" and "country by country" compulsory license approach allowed under TRIPS.

In October 2020 the governments of India and South Africa requested a WTO waiver to address this problem. The proposed WTO Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19 provides a temporary framework to ensure intellectual property rules cannot create barriers to health treatments that unnecessarily cost human lives and undermine the global economy. The TRIPS waiver would remove a key obstacle to governments and manufacturers worldwide accessing the technology needed to invest in making COVID-19 vaccines and treatments as rapidly as possible, in as many places as possible, for the billions of people who need them.

The TRIPS waiver is supported by the WHO and a group of UN independent human rights experts. The majority of low- and mid-income countries—whose populations face multi-year waits before vaccines arrive—also support the proposed TRIPS waiver. Opponents of the TRIPS waiver include the U.S., United Kingdom, Switzerland, Canada, Japan, and Norway -- countries that are home to major pharmaceutical companies. These countries have questioned whether IP laws have actually obstructed efforts to combat the pandemic. Not surprisingly, the pharmaceutical industry has also been a staunch critic of the proposed TRIPS waiver, arguing that IP is essential to incentivize innovation and that the waiver would undermine the development of COVID-19 products.

At the Jan. 19 WTO meeting the Trump administration attacked the proposed TRIPS waiver. Now is the time for the Biden administration to reverse course and to join the middle- and low-income nations led by India and South Africa, thereby making clear that the U.S. will prioritize all human lives over U.S. corporate profits. The U.S. government should recommend that the WTO TRIPS Council adopt the waiver at the upcoming March 10-11 meeting. If the TRIPS Council agrees on a position on the waiver, it will submit a proposal to the WTO General Council which is scheduled to meet on May 5-6. U.S. support for the waiver is critical, as General Council members typically make decisions by consensus only.

Beyond supporting the TRIPS waiver, the Biden administration should promote multilateral efforts to scale up the production of COVID-19 health products through the WHO's COVID-19 Technology Access Pool. C-TAP is a voluntary collaboration platform

which encourages companies to share their intellectual property, technology, and know-how to increase global supply. The platform facilitates technology transfers so that COVID-19 medical products, including vaccines, can be produced quickly and affordably by manufacturers around the world, thus helping scale up access for people in lower-income countries.

None of the three U.S.-based drug manufacturers with approved COVID-19 vaccines (Moderna, Pfizer, Johnson & Johnson) has committed to licensing their intellectual property to C-TAP for worldwide use, nor to facilitating technology transfers with additional manufacturers. The pharmaceutical industry worldwide has thus far largely chosen not to engage with C-TAP, citing concerns that the initiative would undermine IP rights and disincentivize innovation. In reality, C-TAP has the potential to multiply innovation, shorten development timelines, and cut costs. The Biden Administration should support C-TAP and place conditions on public funding for COVID-19 products to ensure pharmaceutical companies share their innovations through the platform.

By supporting the TRIPS waiver, C-TAP, and other multilateral efforts to ensure affordable and equitable vaccine access for all, the Biden administration can lead the global fight to eradicate the pandemic and to ensure that all people, regardless of where they live, are given their fair shots. These steps will help to give the U.S. the credibility and authority to lead the world in what is a crucial year for eradicating the COVID-19 pandemic.

Amnesty International USA looks forward to working with you to ensure the protection of human rights worldwide. Our experts stand ready to provide briefings on any issues outlined above. Please do not hesitate to contact me at 202/281-0017 and jlin@aiusa.org.

Sincerely,

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