

## **Health Action International testimony to US International Trade Commission Public Hearing on COVID-19 Diagnostics and Therapeutics: Supply, Demand, and TRIPS Agreement Flexibilities**

**30 March 2023**

Dear Commissioners,

Health Action International (HAI) welcomes the opportunity to provide testimony today on such a critical issue for trade and health, the extension of the WTO TRIPS decision to therapeutics and diagnostics.

We are an international NGO, based in the Netherlands, working to advance access to medicines and other health technologies, for everyone everywhere. For more than 40 years we have been working to address excessive pricing, lack of transparency in R&D costs and/or the misuse and abuse of intellectual property (IP) in connection to health products, among other relevant pharmaceutical policy issues. We provide high-quality, evidence-based advice to governments and other public entities including the World Health Organization and European Union institutions.

We wish to commend the political leadership of the US Trade representative and this International Trade Commission for seeking to engage with a wide range of actors on such an important issue. Something that has not happened in other instances, in Europe and elsewhere.

However, if we are here, it is because of a collective failure to reach a conducive conclusion at the 12<sup>th</sup> WTO Ministerial Conference. We are still discussing what a year ago was extremely urgent and today remains a suspended promise for many.

Difficulties and obstacles hindering the global response to the COVID-19 pandemic highlighted pre-existing conditions in global health, mainly the effects of monopolies and market exclusivities on manufacturing capabilities, and thus supply and delivery, of health technologies; the concentration of production in a few countries and the literal hoarding of vaccines by some of the same countries posed an almost unsurmountable challenge to universal equitable access.

As many other public interest civil society organisations, unions, human rights groups and grassroots movements all over the world, HAI supported the proposal for a TRIPS waiver submitted by India and South Africa in October 2021 and were heartened by the rapid support it garnered with WTO members, especially from the Global South. We believed then, and remain convinced now, that only lifting IP constraints would allow for the rapid scale-up of production necessary to cater to the monumental needs of a global pandemic.

Called extreme by some and labelled unrealistic by others, such measures would not have been needed if the TRIPS agreement had delivered the promised benefits of technology transfer and access to innovation in exchange for IP protection and enforcement by developing countries, mainly in the Global South. Even the use of TRIPS flexibilities, endorsed by the Doha Declaration, has been systematically hindered by pharmaceutical

companies and supporting governments. It was not possible to overcome the constraints of the TRIPS agreement solely with the very tools it offered to governments for them to respond to the pandemic and protect their citizens. This has not changed.

We have heard from academics, advocates and healthcare professionals the rationale, data and examples of how extending the TRIPS decision would have a definitive positive impact on access to COVID therapeutics and diagnostics. It would also contribute to improving the credibility, and legitimacy, of the WTO as an institution capable of overcoming trade obstacles and of the United States government as a leader in Global Health at a time when the Covid pandemic is yet not over and the risk of mutation most acute.

While we believe this is a positive exercise and we are grateful for the attention granted, we must also point out that a decision with global scope and long-term implications should not depend uniquely on the deliberations of a single government or institution.

I remain at your disposal for further questions.

**END**