

Brief to the Parliamentary Standing Committee on International Trade regarding “Canada’s International Trade and Investment Policy: Selected Considerations Concerning COVID-19 Vaccines”

Introduction

1. Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the request for submissions related to the Committee’s:

study of Canada’s trade and investment policy, and trade agreements in respect of how they may help or hinder the production and distribution of COVID-19 vaccines in Canada and across the world, including, but not limited to,

- (i) Canada’s position with respect to a proposal at the World Trade Organization to provide “a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of Covid-19”;
- (ii) how Canada’s trade agreements, like CETA, may be used to ensure Canada’s vaccine advance-purchase contracts are respected; and
- (iii) whether Canada’s current trade position should motivate accelerated capacity in domestic vaccine manufacturing capability[.]

IP and Trade Agreements Should be Respected

2. IPO applauds the government of Canada’s initiative in instituting this study and seeking consultation on it. Based on the analysis that follows, IPO respectfully suggests that Canada uphold both the language and spirit of its obligations under trade agreements by not supporting the TRIPS waiver proposal being discussed at the World Trade Organization (WTO).

Analysis of Issue

3. IPO strongly supports equitable, widespread, and successful distribution of vaccines, medicines, diagnostics, personal protective equipment, and other measures necessary to meet the challenges of COVID-19. The intellectual property (IP) developed and relied on by our members and their clients has fueled the innovation that has allowed us to combat COVID-19 and will continue to do so.

4. There is no data to show that waiving IP rights would further the goal of countering the pandemic. In fact, IP rights are what is driving the innovation that is allowing the world to combat COVID-19. The incentives provided by IP rights and in particular the patent system have enabled innovators to build the infrastructure that has allowed them to devote the resources, technical knowledge, and know-how necessary to develop the solutions required to counter the pandemic. Maintaining the IP system will fuel the next generation of solutions.

5. The TRIPS waiver proposal being discussed at the WTO, which would waive IP rights related “to prevention, containment or treatment” of COVID-19, incorrectly portrays IP as a barrier to rapid innovation, R&D collaboration, and ample manufacturing of COVID-19 technologies. This has not been the experience of our members. On the contrary, IP protection enhances these developments. IP has enabled an unprecedented amount of innovation and facilitated collaboration between innovators and their partners. This is evidenced by the rapid pace at which companies in various countries have worked together to produce vaccines and needed respirators to combat the pandemic. They have cooperated to provide technology to facilitate contact tracing, improve testing, and create potential treatments for COVID-19.

6. The manufacturing of COVID-19 vaccines is a complicated process. Poor quality vaccines being produced by underqualified manufacturers could have extreme negative consequences for patients and society, as well as undermine the public’s confidence in such highly needed preventive measures. IPO supports the continued efforts of vaccine manufacturers to identify, and engage with, new potential partners in order to create even more manufacturing capacity that can increase the availability of high-quality vaccines.

7. The TRIPS waiver proposal would also impact IP rights related to testing, treatments, and personal protective equipment, among other things. The waiver would destroy the IP framework for further development of those and other tools.

Conclusion

8. IPO is not aware of any examples where IP has been used to limit access to COVID-related technology. Rather, innovator companies have partnered and shared IP in an effort to create testing, vaccines, and therapies to address this pandemic.

9. Throughout the world, nations have asked our innovative industries to find solutions to help us battle COVID-19. They have done so and continue to do so.

10. As the globe continues to tackle this crisis, nations should be wary of proposals that would have an immediate chilling effect on the continued research and collaborations that are needed, for example, to overcome new variants of the virus, create vaccines for children, and develop new tools to help defeat the pandemic.

11. A stable IP framework must be in place to provide confidence to investors, the private sector, and other organizations that they can take the necessary risks associated with innovation as we continue to combat COVID-19 – and in order to allow us to tackle any future crisis.

12. For the aforementioned reasons, IPO urges Canada to oppose the TRIPS waiver proposal.¹ IPO thanks you for this opportunity to comment and would welcome any further dialogue or the opportunity to provide additional information.

¹ IPO takes no position as to how Canada’s trade agreements, like CETA, may be used to ensure Canada’s vaccine advance-purchase contracts are respected. IPO also takes no position as to whether Canada’s current trade position should motivate accelerated capacity in domestic vaccine manufacturing capability, other than to suggest that motivation to manufacture, and the acceleration of

IPO is an International Voice for Intellectual Property Owners Across All Industries

13. IPO is an international trade association representing a “big tent” of diverse companies, law firms, service providers and individuals in all industries and fields of technology that own, or are interested in, IP rights. IPO membership includes over 125 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; and disseminating information to the public on the importance of IP rights.

14. IPO’s mission is to promote high quality and enforceable intellectual property rights and predictable legal systems for all industries and technologies. Our vision is that this will result in the global acceleration of innovation, creativity, and investment necessary to improve lives.

capacity in domestic vaccine manufacturing, should be driven by an innovation agenda based on protecting the core IP principles set out in Canada’s trade agreements, including TRIPS.