

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

October 20, 2022

The Honorable Katherine Tai
Ambassador
Office of the United States Trade Representative
600 17th Street, NW
Washington, D.C. 20508

Dear Ambassador Tai,

We write to request that you preserve all documents and communications in your custody relating to the Administration's decision to agree to the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS waiver) that was adopted on June 17, 2022.¹ Over the past year and a half, congressional Republicans have repeatedly voiced opposition to the TRIPS waiver, expressed disappointment in the Administration's failure to properly consult with Congress and stakeholders, and sought information regarding the Administration's due diligence on the waiver.

In an effort to obtain information about the Administration's due diligence on the TRIPS waiver, we filed a Resolution of Inquiry (ROI) requesting the President transmit certain information to the House of Representatives relating to a waiver of intellectual property (IP) commitments under the TRIPS waiver.² Unfortunately, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1285.

The lack of sufficient engagement and information from the Administration to date is disappointing and unacceptable. Transparency is essential because it promotes accountability and provides information to Congress and Americans about the actions of the federal government. The American people deserve to know how their government works and how decisions are being made, and congressional oversight is especially critical when the risks of such a decision by the Administration are high.

By agreeing to the TRIPS waiver, the Biden Administration has effectively waived IP rights on vaccines for five years, with the possibility of an extension. This decision undermines American innovation and exposes American firms to those who have been trying to steal U.S. vaccine research. Even worse, the Administration also agreed to discussions to expand the scope of the waiver beyond vaccines to medical diagnostics and therapeutics. Members of Congress

¹ World Trade Organization, *Ministerial Decision on the TRIPS Agreement, adopted 17 June 2022* (June 22, 2022), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/30.pdf&Open=True>.

² H. Res. 1285, 117th Cong. (2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1285.pdf>.

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have repeatedly voiced their concerns over the TRIPS waiver, and its possible extension, and asked the Administration to reverse course.

Despite the Administration's inadequate response to our opposition to the TRIPS waiver, the Administration's lack of proper consultation with the Congress and stakeholders, and the effort by Committee Democrats to block our request for information, we reiterate our request that the Administration reverse course on the TRIPS waiver, and we request that the Administration provide the information requested in the H. Res. 1285, which is attached here for your reference.

Moreover, we write to insist that you take all appropriate measures to collect and preserve all documents, communications, and other records that are relevant to the Administration's agreement to the TRIPS waiver and the ongoing consideration of the proposed expansion of the scope of the waiver. Specifically, this request includes, but is not limited to, all types of documents and essential communications related to the June 17, 2022, decision and the ongoing consideration of the proposed expansion of the scope of the waiver.

Please provide a response to the information requested in H. Res 1285 and confirm that you have taken actions to preserve documents related to this matter by November 3, 2022. If you have any questions or wish to discuss the request, please contact Sean Clerget of the Ways and Means Committee staff at (202) 225-4021.

Sincerely,



Kevin Brady
Republican Leader
Committee on Ways and Means



Adrian Smith
Republican Leader
Subcommittee on Trade