Amendments to the Resolution Calling on the Current Presidential Administration to Oppose Efforts to Undermine Global Intellectual Property Rights

Summary

Following a misguided World Trade Organization (WTO) decision in June 2022 to eliminate global intellectual property rights (IPR) for COVID-19 vaccines that resulted in what is commonly referred to as the TRIPS Waiver, China and India are among the countries encouraging the World Trade Organization (WTO) to expand the waiver to include surrendering the intellectual property (IP) for American-made COVID-19 treatments and diagnostics. The current U.S. Administration is seriously considering agreeing to this proposal, likely at the WTO's 13th Ministerial Conference in February 2024 in the United Arab Emirates, even though it would (i) undermine American property rights and market-derived innovation, (ii) unilaterally forfeit American IP – and therefore American research and manufacturing jobs – to China and other foreign competitors, and (iii) compromise global public health and undermine U.S. global leadership in healthcare innovation. This resolution calls on the current U.S. presidential Administration to reject the expansion of the TRIPS waiver and all other efforts by the WTO, and other international organizations, or their member states to erode American global intellectual property rights.

Resolution Calling on the Current Presidential Administration to Oppose Efforts at the World Trade Organization (WTO) to Expand the Trade Related Aspects of Intellectual Property Rights (TRIPS) Waiver Which Would to Undermine Global Intellectual Property Rights

WHEREAS, in June 2022 the World Trade Organization (WTO) announced a waiver of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement rules protecting the IP underpinning COVID-19 vaccines; and

WHEREAS, this decision appears to have been politically motivated as many of the same countries demanding the TRIPS vaccine waiver refused or destroyed vaccine doses due to an inability to distribute and administer the doses they had already received; and

WHEREAS, more than 154 billion vaccine doses – nearly enough to vaccinate each person on the planet twice – have been produced since the COVID-19 pandemic began, evidence that vaccine supply is adequate; and

WHEREAS, certain WTO member states have asked for an expansion of the TRIPS waiver which the current U.S. presidential Administration is considering that would extend the waiver to COVID-19 therapeutics and diagnostics as well; and

WHEREAS, the stated rationale for the waiver and its expansion is to ensure that people in low and middle income countries have access to lifesaving COVID-19 vaccines and treatments, despite evidence that access, if it is limited, is not limited by insufficient supply but by regulatory barriers and inadequate healthcare distribution infrastructure in low to middle income countries and by hesitancy on the part of many around the world to utilize COVID-19 vaccines and other medical therapies; and
WHEREAS, surrendering U.S. biopharmaceutical intellectual property (IP) is likely to result in the outsourcing of American jobs in an industry sector that directly employs more than 900,000 US workers and indirectly supports 4.4 million American jobs; and

WHEREAS, America’s robust IP protections have incentivized US-based global biopharmaceutical companies to concentrate 90% of their research and development expenditures in the United States with facilities scattered across the nation and attracted outsize Foreign Direct Investment (FDI) in biopharmaceutical research and manufacturing which increased 97% from 2018-2021 in the United States contrasted with an overall 6% decline overseas; and

WHEREAS, the current waiver erodes American global intellectual property rights and compromises US global leadership in healthcare innovation and an extension would exacerbate an already unsustainable situation; and

WHEREAS, continuing and expanding the TRIPS waiver is likely to lead to unregulated manufacturing processes that could lead to the distribution of inferior and even dangerous products, the impact of which is most likely to be felt by those living in low to middle income countries – the very people that the misguided TRIPS waiver was purported to help; and

WHEREAS, far from being a barrier to lifesaving innovation, the global IP system that TRIPS supports and that the TRIPS waiver and the proposed expansion undermine created the conducive ideal environment for the rapid development and production of COVID-19 vaccines and therapeutics; and

WHEREAS, the biopharmaceutical industry has shared significant portions of its IP related to COVID-19 vaccines and treatments through voluntary partnerships with trustworthy actors and is committed to ensuring timely and equitable access to its lifesaving innovation, however an uncontrolled release of IP could result in its acquisition by economic and strategic competitors and irresponsible actors.

Therefore be it resolved that this state legislative chamber reject any expansion of the TRIPS waiver.

Therefore be it further resolved that this state legislative chamber call on all relevant policy makers to identify and resolve the real barriers to universal access to COVID-19 vaccines and therapeutics.

Therefore be it further resolved that copies of this resolution be transmitted to the U.S. Trade Representative, to the Director General of the World Trade Organization, to the Director General of the World Intellectual Property Organization, to the Chairman and Ranking Member of the U.S. House Ways and Means Committee, to the Chairman and Ranking Member of the U.S. Senate Finance Committee, and to the U.S. Secretary of State, and to the U.S. National Security Advisor.