

27 April 2021

The Right Honourable Justin Trudeau, P.C., M.P.
Prime Minister of Canada
Office of the Prime Minister
80 Wellington Street
Ottawa, ON K1A 0A2

The Honourable François-Philippe Champagne, P.C., M.P.
Minister of Innovation, Science and Industry
C.D. Howe Building
235 Queen Street
Ottawa, Ontario K1A 0H5

The Honourable Patty Hajdu, P.C., M.P.
Minister of Health
House of Commons
Ottawa, Ontario K1A 0A6

RE: Request to Amend Schedule 1 of the Patent Act

Dear Prime Minister and Ministers,

We would like to call to your attention the ongoing attempts to amend Schedule 1 of the *Patent Act*, a part of the Canadian Access to Medicines Regime. We are writing to formally request for the expeditious recommendation by the Minister of Health and the Minister of Innovation, Science and Industry to add COVID-19 vaccines to the list of eligible products pursuant to Schedule 1 of the *Patent Act*.

Schedule 1 is a list of pre-approved patented pharmaceutical products that are eligible for export under the Canadian Access to Medicines Regime. A product is eligible to be added to Schedule 1 if it is a “patented product that may be used to address public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics” (s. 21.03 *Patent Act*). It is without question that COVID-19 vaccines constitute an eligible product that should be added to Schedule 1.

Schedule 1, and by extension the Canadian Access to Medicines Regime, needs to remain current with public and global health needs. The inclusion, in general language, of the diphtheria vaccine and hepatitis B vaccine lends support to adding the broad term ‘COVID-19 vaccine’ to Schedule 1. The addition of COVID-19 vaccines to Schedule 1 would ensure that the Schedule aligns with immediate demand for COVID-19 vaccines to combat the ongoing global pandemic, instead of acting as an inhibitor. Additionally, the amendment would ensure that generic or biosimilar manufacturers in Canada could

come forward with an application for a compulsory license under the Canadian Access to Medicines Regime without delay.

Besides the aforementioned reasons to amend Schedule 1, the amendment would also align with Canada's December 10, 2020 statement at the World Trade Organization (WTO) that Canada "can thus observe, on the basis of concrete experience, that the system worked as intended". By expeditiously amending Schedule 1, it would corroborate that the mechanism, in its current form, is a successful system to export medicines to countries facing a public health crisis.

We therefore request the urgent response regarding the following actions:

- The Minister of Health and Minister of Innovation, Science and Industry to offer their recommendation for the addition of COVID-19 vaccines to Schedule 1; and
- The Governor in Council make an order to amend Schedule 1 within the next 30 days.

The world has an interest in ensuring that idle Canadian biomanufacturing capacity is used to combat the global pandemic and its ever evolving variants. We respectfully request that the Government of Canada take leadership by acknowledging the urgency needed and take action to help respond to the global COVID-19 pandemic by updating Schedule 1 of the *Patent Act*. We look forward to your response and welcome the opportunity to speak with you directly on these matters if helpful.

Yours sincerely,

Individuals (with affiliations) and Organizations, listed alphabetically

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Aidan Hollis, Professor of Economics, University of Calgary

Arianna Schouten, Researcher, Knowledge Ecology International

Ariel Katz, Associate Professor, University of Toronto Faculty of Law

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