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

Adrienne Shnier, PhD, JD, Adjunct Professor, School of Health Policy & Management, York University

Anne-Emanuelle Birn, Professor, University of Toronto

Aidan Hollis, Professor of Economics, University of Calgary

Arianna Schouten, Researcher, Knowledge Ecology International

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

Arne Ruckert, Senior Research Associate, University of Ottawa

Brian Hutchison, Professor Emeritus, Departments of Family Medicine and Health Research Methods, Evidence and Impact, McMaster University
Colleen Fuller, President, REACH Community Health Centre

Corinne Packer, Assistant Director, Globalization and Health Equity Unit, School of Epidemiology and Public Health, Faculty of Medicine, University of Ottawa

Danyaal Raza, MD MPH, Assistant Professor, University of Toronto

Dr Dzintars Gotham, Public Health Researcher

Dr. Hasan Sheikh MD MPA, University of Toronto

James Elliott, T1International

Janice Graham, Professor, Dalhousie University

Jeremy de Beer, Full Professor, University of Ottawa

Jillian Kohler, Professor, Leslie Dan Faculty of Pharmacy, Dalla Lana School of Public Health & Munk School of Global Affairs & Public Policy, University of Toronto

Joel Lexchin, Professor Emeritus, School of Health Policy and Management, York University

Dr. John Calvert, Faculty of Health Sciences, Simon Fraser University

Jordan Jarvis, DrPH Researcher, London School of Hygiene & Tropical Medicine (currently based in Toronto, ON)

Lisa Forman, Associate Professor and Canada Research Chair in Human Rights and Global Health Equity, Dalla Lana School of Public Health, University of Toronto

Marc-André Gagnon, Associate Professor, Carleton University

Mary Wiktorowicz, Professor, York University

Matthew Herder, Director, Health Law Institute, Schulich School of Law, Dalhousie University

Melanie Bechard, MD, University of Ottawa

Michael Geist, University of Ottawa

Muriel Mac-Seing, PhD Candidate, School of Public Health, Université de Montréal

Myra Tawfik, Professor of Law, University of Windsor
Nancy Olivieri, MD, FRCP(C)

Nav Persaud, Canada Research Chair in Health Justice, University of Toronto

People’s Health Movement - Canada

Rachel Kiddell-Monroe LL.B Bioethics, Executive Director SeeChange Initiative and Professor of Practice at McGill University, Board member MSF and UAEM

Régis Blais, Professor, School of Public Health, Université de Montréal

Richard Gold, Professor, McGill University

Ronald Labonté, Professor and Distinguished Research Chair, University of Ottawa

Roojin Habibi, Doctoral Student, Osgoode Hall Law School

Sharon Batt, PhD, Adjunct Professor and Author, Department of Bioethics, Dalhousie University

Smita Pakhale, MD, FRCPC, MSc (Epi & Biostat), Ottawa Hospital Research Institute, University of Ottawa

Srinivas Murthy, MD CM, MHSc, University of British Columbia, Research Chair in Pandemic Preparedness

Dr. Steven G. Morgan, Professor, University of British Columbia

Trudo Lemmens, Professor and Scholl Chair in Health Law and Policy, University of Toronto

Udo Schuklenk, PhD, Professor, Queen’s University