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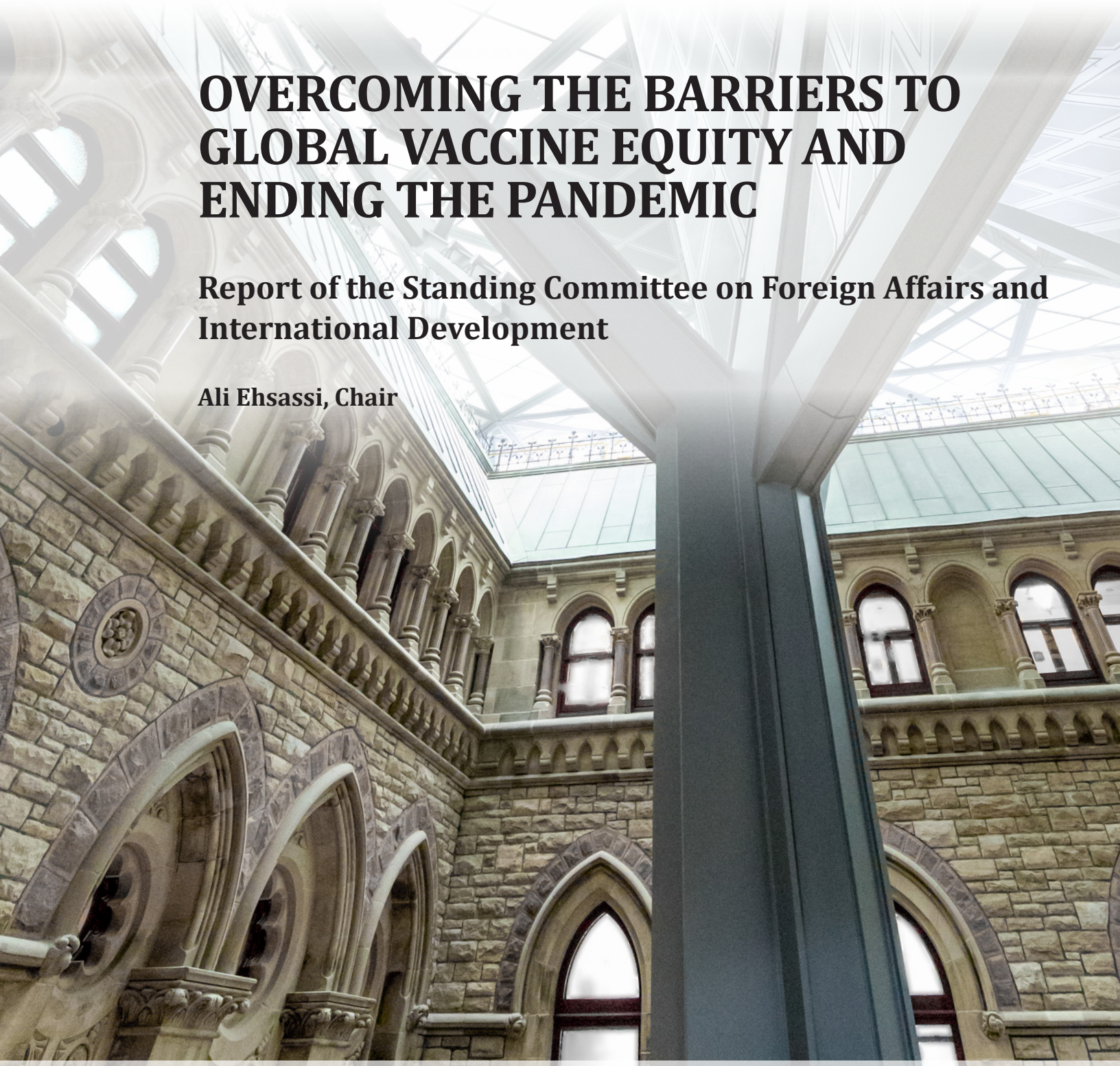

OVERCOMING THE BARRIERS TO GLOBAL VACCINE EQUITY AND ENDING THE PANDEMIC

Report of the Standing Committee on Foreign Affairs and International Development

Ali Ehsassi, Chair

OCTOBER 2022
44th PARLIAMENT, 1st SESSION

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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has the honour to present its

FIFTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has studied the Vaccine Equity and Intellectual Property Rights and has agreed to report the following:

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

OVERCOMING THE BARRIERS TO GLOBAL VACCINE EQUITY AND ENDING THE PANDEMIC

INTRODUCTION

In the fall of 2020, while the COVID-19 pandemic was still in its early stages, the House of Commons Standing Committee on Foreign Affairs and International Development (the "Committee") undertook a multi-part study on the vulnerabilities the pandemic was creating and exacerbating. The reports that resulted from that multi-part study made wide-ranging observations and recommendations, including with respect to the need to provide developing countries with COVID-19 vaccine doses.[1]

In the winter and spring of 2022, with vaccination rates high in wealthy countries but still alarmingly low in many developing and middle-income countries, the Committee revisited the subject of vaccine equity. It did so to better understand the persistent discrepancy in vaccination rates, and to scrutinize the efforts the Canadian government had taken to help meet the World Health Organization's (WHO) goal of vaccinating 70% of the population of every country by June 2022.[2]

With a particular focus on the COVID-19 Vaccines Global Access (COVAX) pillar of the Access to COVID-19 Tools (ACT) Accelerator and the impacts of intellectual property rights on global vaccine equity, the Committee heard from Government of Canada officials, international organizations, civil society representatives, academics, medical professionals, and pharmaceutical companies. The observations and recommendations in this report reflect their insights and perspectives.

FROM SUPPLY CONSTRAINTS TO DEMAND CONSTRAINTS

Throughout the COVID-19 pandemic, many global leaders – from United Nations Secretary-General António Guterres to WHO Director-General Tedros Adhanom

1 House of Commons, Standing Committee on Foreign Affairs and International Development (FAAE), Part 1 of a Study on the Aftershocks of the COVID-19 Pandemic – The Humanitarian Burden: Ensuring a Global Response and Reaching the Most Vulnerable, 43rd Parliament, 2nd Session, February 2021.

2 Jennifer Rigby, "Analysis: Is WHO's aim to vaccinate 70% of world by June still realistic?" *Reuters*, 28 February 2022.

Ghebreyesus – have repeated the maxim that no one is safe until everyone is safe.[3] That is, so long as high-income countries have privileged access to the tools required to end the pandemic – including vaccines – new COVID-19 variants and subvariants will continue to emerge, with unpredictable consequences. As Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance, which co-leads COVAX initiative, told the Committee:

> So far, a new variant has emerged roughly every four to five months, and globally nothing has changed to give us reason to believe that this pattern won't continue. With 2.7 billion people still unvaccinated, the virus continues to have ample room to circulate and mutate. This means that the threat of resurgence or new and potentially more dangerous variants still hangs over us and will continue to do so until global coverage increases and more people are vaccinated.[4]

Nonetheless, vaccination rates remain low in developing countries. As of 22 September 2022, according to Oxford University's Our World in Data project, 67.9% of the world's population had received one dose of a COVID-19 vaccine, but only 22.3%[5] of those in low-income countries had received their first shot.[6]

Diana Sarosi, Director, Policy and Campaigns, at Oxfam Canada, said that in 2021 more than 80% of all vaccines went to G20 countries, while less than 1% reached low-income countries.[7] Low-income countries, she added, have:

> paid the price of vaccine inequality in economic terms and in lives. For every life lost to COVID-19 in a rich country, four were lost in lower- and middle-income countries. Globally, 4.7 million children have lost a parent or caregiver to the virus. That's a staggering four children every minute.[8]

The official COVID-19 global death toll, according to the WHO, was over 6.5 million as of 22 September 2022.[9] A WHO analysis of "excess deaths," however, published on 5 May 2022, estimated that the full death toll associated directly or indirectly with the

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3 World Health Organization (WHO), *A global pandemic requires a world effort to end it – none of us will be safe until everyone is safe*, News release, 30 September 2020.

4 FAAE, *Evidence*, 25 April 2022 (Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance).

5 Our World in Data, *Coronavirus (COVID-19 vaccinations)*. (Accessed 22 September 2022).

6 Note: Low-income countries are defined here as those with a gross national income (GNI) per capita of US$1,045 or less in 2020, while high-income countries are those with a GNI per capita of US$12,696 or more in 2020. See The World Bank, "World Bank Country and Lending Groups," Country Classification.

7 FAAE, *Evidence*, 4 April 2022 (Diana Sarosi, Director, Policy and Campaigns, Oxfam Canada).

8 Ibid.

9 WHO, *WHO Coronavirus (COVID-19) Dashboard*. (Accessed 25 May 2022)

COVID-19 pandemic (between 1 January 2020 and 31 December 2021) was approximately 14.9 million, with over half (53%) of those excess deaths occurring in lower-middle-income countries.[10] An Economist Intelligence Unit's excess death estimate, for the same period, was even higher.[11]

Ana Nicholls – Director, Industry Analysis, at the Economist Intelligence Unit – elaborated on the economic impact of the pandemic, explaining that their analysts had forecast that from 2022 to 2025, Sub-Saharan Africa's gross domestic product (GDP) would decrease by 2.9% because of low vaccination rates, while the GDPs of two other regions – the Middle East and North Africa and the Asia-Pacific – would lose 1.4% and 1.3% of GDP respectively.[12] In contrast, she said, the economic losses in some affluent regions – such as North America and Europe – would be "minimal."[13]

Whereas when the Committee began studying the impacts of COVID-19 in the 43rd Parliament, global vaccine supply was constrained, several witnesses told the Committee that the global vaccine landscape has changed in 2022.

Joshua Tabah, Director General, Health and Nutrition at the Department of Foreign Affairs, Trade and Development, said that "if the landscape in 2021 was supply constrained, the landscape in 2022 is evolving to be demand constrained."[14] In other words, he explained, the current challenges related to low vaccination rates have more to do with health system capacity in low-income countries and the significant amounts of misinformation circulating about the efficacy of vaccines and their side effects.[15] A similar view was expressed by other witnesses who maintained that low vaccination rates can – at this stage of the pandemic – be attributed to other factors such as countries' capacities to turn vaccines into vaccinations.

A background document provided to the Committee by CARE Canada addressed some of these factors, noting that in many low and middle-income countries, women – who also make up 70% of health workers worldwide – are less likely to get COVID-19 vaccines

10 World Health Organization, *14.9 million excess deaths associated with the COVID-19 pandemic in 2020 and 2021*, news release, 5 May 2022.

11 The Economist, "The pandemic's true death toll," 9 May 2022.

12 FAAE, *Evidence*, 28 April 2022 (Ana Nicholls, Director, Industry Analysis, Economist Intelligence Unit).

13 Ibid.

14 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

15 Ibid.

than men due to a lack of access to health services, a lack of access to information, and to a lower trust in vaccines than men.[16]

World Vision, in their written brief, told the Committee that they had conducted a barrier analysis in six low- and middle-income countries to identify the behavioral determinants of COVID-19-vaccine acceptance. They found that "people's perception of the positive and negative consequences, their own risk, and the severity of the illness were significantly associated with vaccine acceptance."[17] They also found that "family members, friends, religious leaders, and political and social leaders are key in influencing people's decision to get a COVID-19 vaccine," and that "individuals were more likely to say they would accept a COVID-19 vaccine if they believed their close family and friends would also get vaccinated."[18]

Other witnesses focussed their remarks on health system constraints. Dr. Berkley said COVAX's greatest challenge is no longer supply, but 'turning vaccines into vaccinations,' while Lily Caprani – Head of Advocacy and Global Lead for Global Health, Vaccines and Pandemic Response at the United Nations Children's Fund (UNICEF) – said:

> It's no good just delivering vaccines, the products themselves; they need to get from the tarmac and into arms. In order to do that, we need sustained efforts to invest in health system capacities in the lowest-income countries in the world.[19]

THE COVAX FACILITY'S ROLE IN FACILITATING GLOBAL VACCINE EQUITY

Overview

Launched in April 2020, at the beginning of the COVID-19 pandemic, the ACT-Accelerator brought together "governments, health organizations, scientists, businesses, civil society, and philanthropists to accelerate the development, production, and equitable access to COVID-19 tests, treatments, and vaccines."[20] Its vaccine pillar, COVAX, was quickly

16 Care International, "Gender Gaps in COVID-19 vaccines," November 2021.

17 World Vision, Written brief, published 5 May 2022.

18 Ibid.

19 FAAE, *Evidence*, 25 April 2022 (Lily Caprani, Head of Advocacy and Global Lead for Global Health, Vaccines and Pandemic Response, United Nations Children's Fund (UNICEF)).

20 World Health Organization, *The Act - Accelerator frequently asked questions*.

embraced by countries across the income spectrum as a mechanism to combine the resources and purchasing power of more than 180 participant economies.

For high-income countries, COVAX was intended to provide access to a larger number of vaccine candidates and serve as an insurance policy if certain manufacturers' vaccines failed to achieve regulatory approval. For 92 low- and middle-income countries, meanwhile, COVAX's Advance Market Commitment (AMC) – a donor-financing mechanism – was intended to enable them to negotiate better prices and to give them equitable access to COVID-19 vaccines that otherwise might have been unattainable.

COVAX has been described as "a creation without precedent,"[21] but has faced criticism at various stages of the pandemic for failing to anticipate the national vaccine procurement strategies of high-income countries and missing its delivery targets.[22] Ms. Sarosi described COVAX as a "brilliant idea" that got "completely undermined."[23] She added:

> COVAX was supposed to deliver two billion doses to low- and middle-income nations by the end of 2021, but delivered only less than half of that because of slow donations from wealthy countries, including Canada, and delivery delays from vaccine makers.[24]

Dr. Robyn Waite, Director of Policy and Advocacy for Results Canada, reiterated Ms. Sarosi's observation that COVAX had been undermined by high-income countries buying into COVAX, but then "procuring mass amounts of doses directly from pharmaceutical companies."[25] Summarizing COVAX's record during the pandemic, she said:

> If all countries that were committed to the vision of COVAX had wholeheartedly backed it up by making sure COVAX had priority access to dose donations, then we could be in a different situation from the one we are in today.[26]

There were also questions regarding COVAX's donation of vaccine doses with short shelf lives. In December 2021, Nigeria was forced to destroy 1,066,214 expired doses of the

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21 Benjamin Mueller, Rebecca Robbins, "Where a vast global vaccination program went wrong," *The New York Times*, 7 October 2021.

22 Rory Horner, "Covax misses its 2021 delivery target – what's gone wrong in the fight against vaccine nationalism?," *The Conversation*, 17 September 2021.

23 FAAE, *Evidence*, 4 April 2022 (Diana Sarosi, Director, Policy and Campaigns, Oxfam Canada).

24 Ibid.

25 FAAE, *Evidence*, 4 April 2022 (Dr. Robyn Waite, Director of Policy and Advocacy, Results Canada).

26 Ibid.

AstraZeneca vaccine because the country received the doses with too little time to administer them.[27] Canada has provided Nigeria 801,600 doses of the AztraZeneca vaccine through COVAX, according to government data,[28] but it was not clear from witness testimony whether those were among the doses the Nigerian government had to destroy. Mr. Tabah told the Committee that the Canadian government does not have any "detailed or granular information about doses going to waste." However, he assured the Committee "that no countries received doses from COVAX that they had not agreed to take."[29]

Despite COVAX's initial struggles, however, Dr. Berkley highlighted that, as of late April 2022, the mechanism had nonetheless delivered more than 1.4 billion doses of COVID-19 vaccines to people in more than 145 countries, with nearly 90% going to the 92 low-income AMC countries "that otherwise would have struggled to get access."[30]

The Pfizer, Moderna, Astra Zeneca, and Johnson & Johnson vaccines have accounted for the majority of COVAX's deliveries, according to data provided by the Department of Foreign Affairs, Trade and Development in March 2022. However, that data also showed that COVAX had delivered 112,738,040 doses of the Chinese Sinovac vaccine and 112,654,800 doses of the Chinese Sinopharm vaccine.[31]

Looking ahead, Brittany Lambert, Women's Rights Policy and Advocacy Specialist at Oxfam Canada, said that COVAX reached a "turning point" at the end of 2021 and "should be able to purchase vaccines more quickly from this point on."[32] From the Canadian government's perspective, Mr. Tabah added that the COVAX Facility "remains the best way to ensure that all countries have equitable and timely access to COVID-19 vaccines."[33]

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27 The Associated Press, "Nigeria destroys 1 million expired doses of COVID-19 vaccine," 22 December 2021.

28 Government of Canada, *Canada's international vaccine donations*.

29 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

30 FAAE, *Evidence*, 25 April 2022 (Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance).

31 DFATD, written responses to questions, received on 21 March 2022.

32 FAAE, *Evidence*, 4 April 2022 (Brittany Lambert, Women's Rights Policy and Advocacy Specialist, Oxfam Canada).

33 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

Liability and Compensation

Some Committee members also sought to better understand COVAX's liability and compensation mechanism. That is, they wanted to know what recourse the citizens of low- and middle-income countries had if they suffered injuries as a result of being vaccinated with a vaccine donated through the COVAX Facility.

In December 2020, the Public Health Agency of Canada – in collaboration with provinces and territories – launched a Vaccine Injury Support Program to ensure that all people in Canada "who have experienced a serious and permanent injury as a result of receiving a Health Canada authorized vaccine, administered in Canada on or after December 8, 2020, have fair and timely access to financial support."[34]

While all the vaccines used by the COVAX Facility must receive the WHO's Emergency Use Listing – a process that assesses the quality, safety and efficacy of COVID-19 vaccines – Dr. Berkley explained that some vaccine manufacturers had refused to supply vaccines to developing countries until there was a no-fault compensation program in place that would protect them from legal claims. As a result, he said, COVAX created one for AMC countries. According to a WHO background document, the COVAX No-Fault Compensation Program is open to all individuals in AMC eligible economies who "have suffered a serious adverse event resulting in permanent impairment or death following the administration of a COVID-19 Vaccine received through the COVAX Facility until 30 June 2023."[35]

The Program's initial capital was "funded by COVAX via donor contributions on the basis of a US$ 0.10 levy per dose for 2 dose vaccines and US$0.20 per dose for single dose vaccines."[36] When asked, Dr. Berkley clarified that the No-Fault Compensation Program does not currently receive any funding from pharmaceutical companies.[37] To date, Dr. Berkley added, there have been few "claims on that account."[38]

34 Public Health Agency of Canada, *Vaccine Injury Support Program*.

35 WHO, *COVAX No-Fault Compensation Program: Explained*.

36 Ibid.

37 FAAE, *Evidence*, 25 April 2022 (Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance).

38 Ibid.

CANADA'S INTERNATIONAL ASSISTANCE IN RESPONSE TO THE PANDEMIC

Overall, the Canadian government has, since February 2020, committed $3.4 billion in international assistance in response to the COVID-19 pandemic. It has allocated over $1.8 billion in funding to ACT-Accelerator partners across the following areas:

- Vaccine Pillar – $1.155 billion (including $840 million for the COVAX Facility in support of vaccine procurement, and delivery, distribution and the dose sharing mechanism and $15 million to COVAX partners in support of South Africa's Vaccine Manufacturing Hub.)
- Therapeutics Pillar - $265 million:
- Diagnostics Pillar - $160 million:
- Health Systems and Response Connector - $240 million.[39]

The Canadian government's 2022 federal budget proposed providing $732 million in 2022-23 to the Department of Foreign Affairs, Trade and Development to further support the efforts of the ACT-Accelerator. The budget noted that the proposed funding would bring Canada's total contribution to the ACT-Accelerator to more than $2 billion since the start of the pandemic.[40] The Prime Minister's Office later noted, in a 12 May 2022 news release, that the new funding will "ensure Canada meets its burden share for the 2021-2022 ACT-A budget cycle."[41]

In addition, on 22 June 2022, International Development Minister Harjit Sajjan announced $200 million in funding for a new initiative aimed at supporting vaccine delivery and distribution in 13 targeted countries, most of them in Africa.[42] The release added that the new Global Initiative for Vaccine Equity (CanGIVE) "will support country-

39 Government of Canada, *Canada's aid and development assistance in response to the COVID-19 pandemic*.

40 Government of Canada, *Budget 2022: A Plan to Grow our Economy and Make Life More Affordable*.

41 Prime Minister's Office, *Prime Minister attends second Global COVID-19 Summit to contribute to a global solution*, News release, 12 May 2022.

42 Global Affairs Canada, *Minister Sajjan announces $200-million contribution to enhance COVID-19 vaccine delivery, demand and production in 13 high-need countries*, News release, 22 June 2022.

led efforts to enhance vaccine delivery and distribution, increase vaccine confidence and generate demand, as well as support local production of vaccines."[43]

Donations of Vaccine Doses

With respect to Canada's donations of COVID-19 vaccine doses, Mr. Tabah reiterated that Canada had committed to donating the equivalent of at least 200 million doses to the COVAX Facility by the end of 2022 and was already at just over 100 million.[44]

As of 22 September 2022, the Government of Canada's international vaccine donations webpage showed that Canada had donated the equivalent of more than 140 million doses, including 50 million doses deemed surplus from Canada's domestic supply. The webpage added that, as of 5 September 2022, over 21.7 million of the 50 million surplus doses Canada had donated to COVAX had been delivered to countries. In addition, Canada has shared more than 3.76 million vaccine doses through direct, bilateral agreements with countries.[45]

Mr. Tabah explained that "equivalent doses" referred to vaccine doses procured to date through the COVAX Facility with Canada's financial contribution, and said that they are "based on a calculation used by all G7 countries to determine the equivalent dose volume that their financial contribution would provide."[46]

Assessing Canada's Contributions to Global Vaccine Equity: Strengths and Challenges

Several witnesses were very complimentary of Canada's contributions to the ACT-Accelerator – and the COVAX Facility more specifically – in addition to Canada's broader efforts to achieve global vaccine equity. Dr. Berkley, for example, said Canada has been "an incredible long-term supporter" of both the COVAX Facility and Gavi, and highlighted Canada's "critical help with the design and operationalization of the [COVAX Facility] dose-sharing mechanism."[47]

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43 Ibid.

44 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

45 Government of Canada, *Canada's international vaccine donations*.

46 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

47 FAAE, *Evidence*, 25 April 2022 (Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance).

Ms. Caprani, from UNICEF, added that Canada has shown global leadership in "generously funding COVAX and the ACT-Accelerator and donating doses when vaccine supplies were not available."[48]

Dr. Waite, from Results Canada, noted that Canada was one of only four countries covering the "ancillary costs" of the vaccine doses that it has donated through COVAX, which refer to the costs for syringes, diluent and safe disposal materials. She also praised former International Development Minister Karina Gould for co-chairing the COVAX Advanced Market Commitment Engagement Group – an action Results Canada's written brief added had "helped create momentum for safe and equitable access to vaccines for the 92 COVAX low- and-middle income countries."[49]

At the same time, other witnesses identified areas where they felt Canada could confirm and strengthen its approach. These areas included more balanced funding for all four pillars of the ACT-Accelerator; additional funding and support for the mRNA vaccine technology transfer hub in South Africa and other initiatives; the calculation of official development assistance funding levels; and the obtention of a WHO Emergency Use Listing for the Medicago COVID-19 vaccine. Witnesses also suggested changes to Canada's approach to intellectual property and to Canada's Access to Medicines Regime, which will be discussed later in this report.

A Balanced Approach to the ACT-Accelerator

Results Canada argued that Canada's substantial investments in the COVAX Facility – the vaccine pillar of the ACT-Accelerator – needed to be matched with more significant investments in the ACT-Accelerator's other pillars: diagnostics, therapeutics, and health systems. "Canada's investments in the vaccines pillar are currently great in comparison to investments in all other, equally important, pillars," the organization stated in their written brief, but added that "vaccines alone are not enough, and Canada must invest equitably and comprehensively across all pillars of ACT-A."[50]

In a similar vein, Dr. Srinivas Murthy, Canada Research Chair in Pandemic Preparedness Research, stressed that overfocussing on vaccine equity is limiting the scope of what is required to save the most lives. He urged the Committee to concentrate on ensuring that low-income countries have the same access to the effective therapeutics on which

48 FAAE, *Evidence*, 25 April 2022 (Lily Caprani, Head of Advocacy and Global Lead for Global Health, Vaccines and Pandemic Response, United Nations Children's Fund (UNICEF)).

49 Results Canada, Written brief, published 25 April 2022.

50 Ibid.

Canada continues to rely. Not doing so, he argued, "compounds the inequities apparent with vaccine inequity, further prolonging the pandemic and causing more lives lost."[51]

With a focus on the diagnostics pillar, FIND, the global alliance for diagnostics, pointed out that even if the world reaches the WHO's 70% vaccination target, the remaining 30% of the world who are unvaccinated will require the "test and treat strategies" that have become the approach in North America.[52]

While in contrast to Results Canada, FIND, argued that Canada is held in "high regard" for ensuring a "balanced approach across all four pillars of the [ACT-Accelerator]," they urged the Canadian government to continue contributing its "fair share" to the ACT-Accelerator "for a comprehensive, end-to-end response to COVID-19 that spans tests, treatments, and vaccines, as well as [personal protective equipment] PPE, oxygen, and health systems strengthening."[53]

Additional Support for the mRNA Vaccine Technology Transfer Hub and Other Initiatives

Many witnesses also recognized the Canadian government's financial contribution to the South Africa mRNA vaccine technology transfer hub while advocating for increased Canadian support. Dr. Shehzad Ali, the Canada Research Chair in Public Health Economics at Western University, highlighted that the hub has already produced vaccines based on publicly available information, but that there were many steps before the vaccine could be distributed. For it to be truly effective, he said, "it is essential either that the technology […] be free of IP constraints in low-income countries or that such rights be made available to the hub through non-exclusive licences."[54]

Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health, McGill University framed funding of the transfer hub as promoting vaccine self-sufficiency, which he said should be the Canadian government's "stated goal,"[55] while Matthew Herder, Director of the Health Law Institute at Dalhousie University, said that if the WHO-supported hub and a separate Pan American Health Organization hub were

51 Dr. Srinivas Murthy, Written brief, published on 13 April 2022.

52 FIND, Written brief, published on 19 April 2022.

53 Ibid.

54 FAAE, *Evidence*, 4 April 2022 (Dr. Shehzad Ali, Associate Professor, Canada Research Chair in Public Health Economics, Western University).

55 FAAE, *Evidence*, 9 May 2022 (Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health, McGill University).

appropriately resourced, they would have "tremendous potential to scale up the global supply of COVID-19 interventions."[56]

The advocacy organization, ONE Canada, for its part, argued that Canada's actions with respect to global vaccine equity, "did not match the Government's rhetoric on the global stage." Though they described the funding announced in the 2022 federal budget as a "big step,"[57] they nonetheless urged the Canadian government to provide additional funding outside of the ACT-Accelerator to support countries with their vaccination programs and deliver tests and treatments. They pointed to the U.S. Agency for International Development's (USAID) Global Vaccine Access (Global Vax) initiative as a possible model.[58] Launched in December 2021, Global Vax, according to USAID, has contributed to increasing the vaccination rate in Uganda from 14% to 47% in six weeks.[59]

World Vision, for its part, urged the Canadian government to "accelerate financing that supports equitable access for the most vulnerable by focusing on community engagement, vaccine hesitancy interventions and local distribution."[60]

Calculating Official Development Assistance and Maintaining Funding Levels

Some witnesses also raised concerns that the Canadian government might count its vaccine donations as official development assistance (ODA).[61] In December 2021, a working party of the Development Assistance Committee of the Organisation for Economic Co-operation and Development (OECD), of which Canada is a member, proposed – for the purpose of valuing COVID-19 vaccine donations as ODA – that OECD members use the average price of US$6.72 per dose.[62]

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56 Matthew Herder, Written brief, published on 19 May 2022.

57 ONE Canada, Written brief, published on 25 April 2022.

58 Ibid.

59 USAID, New Case Studies Show Significant Rise in Vaccination Rates in Sub-Saharan Africa Following U.S. Government's Targeted 'Global Vax' Interventions, News release, 17 February 2022.

60 World Vision, Written brief, published 5 May 2022.

61 The *Official Development Assistance Accountability Act* states that Canada's official development assistance must contribute to poverty reduction; take into account the perspectives of the poor; and be consistent with international human rights standards.

62 Organisation for Economic Cooperation and Development, *Development Assistance Committee, Valuation of donations of excess COVID-19 vaccine doses to developing countries in ODA*, 8 December 2021.

Mr. Tabah informed the Committee, however, that, to date, all financial support the Canadian government has provided to COVAX and to the ACT-Accelerator – for tests, treatments, and health systems – has been in addition to Canada's regular ODA budget. He said:

> These are extraordinary COVID-19 funds that the government has made available to support this initiative, and as such should be viewed as additional and not substituting. It is essential to maintain our current health services for populations in need, in particular during the pandemic.[63]

Ms. Lambert, from Oxfam Canada, urged the Canadian government to continue treating its COVID-19 vaccine donations that way, so that "all the other crises the world is facing" – some of which have been exacerbated by the pandemic – continue to be addressed.[64] "It is great if [the Canadian government] can get credit for its vaccine donations," she said, "but it needs to increase ODA proportionately."[65]

Obtaining a WHO Emergency Use Listing for the Medicago Vaccine.

In light of the Canadian government's $173 million October 2020 Strategic Innovation Fund investment in Quebec-headquartered Medicago[66] – the only Canadian-based company to receive market authorization [in Canada] for its COVID-19 vaccine – Canadian government officials were also asked whether the Canadian government had planned to include Medicago vaccine doses (Covifenz) in the 200 million doses they committed to donating to the COVAX Facility by the end of 2022.

In March 2022, the WHO reportedly turned down the company's application for an Emergency Use Listing for its vaccine, effectively preventing the COVAX Facility from adding it to its vaccine portfolio. Though media reports suggested that the WHO's decision was not final, the company's president and CEO, Takashi Nagao, released a statement attributing the WHO's position to a minority stake held in the company by

63 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

64 FAAE, *Evidence*, 4 April 2022 (Brittany Lambert, Women's Rights Policy and Advocacy Specialist, Oxfam Canada).

65 Ibid.

66 Prime Minister's Office, *Prime Minister announces funding to advance to development of Canadian COVID-19 vaccine technologies*, News release, 23 October 2020.

Phillip Morris Investments – a subsidiary of the multinational cigarette and tobacco manufacturer.[67]

Dr. Madhukar Pai, the Canada Research Chair in Epidemiology & Global Health at McGill University, told the Committee that the Canadian government should have known that UN Specialized agencies such as the WHO cannot have associations with the tobacco industry. He argued that the Canadian government should have anticipated WHO's position, suggested proper "due diligence" was not carried out, and added:

> At a minimum, just by calling the WHO and asking them, "If this were to be developed and a tobacco company were involved, what would happen to the approval?", they would have learned very quickly that it might not be approved, in which case the government could have then invested the money in some other deserving company.[68]

In written responses provided to the Committee, however, the Department of Foreign Affairs, Trade and Development assured that it was aware of Medicago's ownership structure, but had made the determination that "Medicago's presence in Canada contributes to improving our domestic health security, pandemic response capabilities, and strengthens our biomanufacturing and life sciences ecosystem."[69]

Furthermore, with respect to Canada's commitment to the COVAX Facility, Mr. Tabah clarified that "Canada has not been relying on [Medicago's vaccine] to meet the target of donating the equivalent of 200 million vaccines to COVAX by the end of 2022."[70]

Recommendation 1

That the Government of Canada increase its funding for health systems in low-income countries with low vaccine rates and for community-based projects that combat vaccine misinformation and hesitancy.

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67 Sabrina Jonas, "WHO refuses to accept Quebec's Medicago COVID-19 vaccine over company's tobacco ties," *CBC News*, 25 March 2022.

68 FAAE, *Evidence*, 9 May 2022 (Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health, McGill University).

69 DFATD, written responses to questions, received on 21 March 2022.

70 FAAE, *Evidence*, 21 March 2022 (Joshua Tabah, Director General, Health and Nutrition, Department of Foreign Affairs, Trade and Development).

Recommendation 2

That the Government of Canada increase funding for its Global Initiative for Vaccine Equity.

Recommendation 3

That the Government of Canada make every effort to ensure that Medicago's COVID-19 vaccine, Covifenz, receives the World Health Organization's Emergency Use Listing and can be used by the COVAX Facility.

Recommendation 4

That the Government of Canada ensure that any additional funding it provides to the ACT-Accelerator is more equitably distributed across its four pillars.

Recommendation 5

That the Government of Canada provide additional funding to the South Africa mRNA vaccine technology transfer hub.

Recommendation 6

That the Government of Canada continue to consider the funding it provides to the ACT-Accelerator as distinct from, and supplementary to, its official development assistance.

Recommendation 7

That, given the increased global needs as a result of the COVID-19 pandemic, the Government of Canada significantly increase its overall contributions to official development assistance in line with the 0.7% of GNI target.

THE IMPACT OF INTELLECTUAL PROPERTY RIGHTS ON THE GLOBAL PANDEMIC RESPONSE

Many witnesses' primary criticism of the Canadian government's response to the pandemic had to do with intellectual property rights and – more specifically – Canada's position on a proposed waiver from certain provisions of the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

In October 2020, at the WTO's Council for Trade-Related Aspects of Intellectual Property Rights – the body legally responsible for administering and monitoring the operation of the TRIPS Agreement – India and South Africa proposed a "waiver from certain provisions of the TRIPS agreement for the prevention, containment and treatment of COVID-19."[71]

The proposed waiver argued that:

> Beyond patents, other intellectual property rights may also pose a barrier, with limited options to overcome those barriers. In addition, many countries especially developing countries may face institutional and legal difficulties when using flexibilities available in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). A particular concern for countries with insufficient or no manufacturing capacity are the requirements of Article 31bis and consequently the cumbersome and lengthy process for the import and export of pharmaceutical products.[72]

The proposed waiver was supported by over 100 countries and its broad goal of waiving intellectual property protections for COVID-19 vaccines was endorsed in principle by the U.S. government in May 2021.[73] However, the opposition of some influential WTO members, most notably the European Union (EU), the United Kingdom, and Switzerland, proved to be an obstacle at the WTO, where decisions are made by consensus.[74]

The TRIPS waiver negotiations eventually narrowed into a quadrilateral format involving the U.S., the EU, South Africa and India. Meanwhile, Canada – through the Ottawa Group for WTO reform that it established in 2018 with likeminded WTO members – championed a Trade and Health Initiative that called for the implementation of trade-facilitating measures in the areas of customs, services and technical regulations; restraint in the imposition of export restrictions; the temporary removal of tariffs on essential medical goods; and improved transparency.[75]

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71 World Trade Organization, *Waiver from certain provisions of the TRIPS agreement for the prevention, containment and treatment of COVID-19*, 2 October 2020.

72 World Trade Organization Council Trade-Related Aspects of Intellectual Property Rights, *Communication from India and South Africa: Waiver from certain provisions of the TRIPS agreement for the prevention, containment and treatment of COVID-19*, 2 October 2020.

73 Office of the United States Trade Representative, *Statement from Ambassador Katherine Tai on the Covid-19 Trips Waiver*, 5 May 2021.

74 World Trade Organization, *Whose WTO is it anyway?*

75 Government of Canada, *WTO Reform: Canada and the Ottawa Group*.

Canada's Ambassador to the WTO, Stephen de Boer, told the Committee that Canada's efforts in recent years at the WTO, with respect to intellectual property rights, were mostly made through the Ottawa Group.[76]

Regarding the proposed TRIPS waiver more specifically, however, de Boer stressed that Canada had signalled all along that it was "ready to join a consensus on the waiver issue" and would "actively engage in discussions should a text come forward."[77]

Dr. Jason Nickerson, the Humanitarian Representative to Canada for Doctors Without Borders, argued that intellectual property rights continue to be a barrier to accessing other COVID tools, such as therapeutic drugs, and criticized the position Canada had taken to date on the TRIPS waiver. "Canada," Dr. Nickerson said, appeared "to have kicked the can down the road for 18 months, seemingly hoping the problem would resolve itself."[78] Ms. Lambert, from Oxfam Canada, added that the Canadian government had never wanted to engage on the specifics of any clauses in the TRIPS waiver and that it was impossible to tell how "constructive" a role it was playing at the WTO."[79]

France-Isabelle Langlois, Executive Director, Amnistie internationale Canada francophone, reiterated its request to the Canadian government to support a waiver "for all necessary medical technologies, and not just for certain countries but for all those with the means to contribute to vaccine production."[80]

Dr. Shehzad Ali, the Canada Research Chair in Public Health Economics at Western University, argued there are several arguments for supporting an intellectual property waiver during the pandemic. One, he said, is the fact that significant amounts of public money were used for the research and development of the vaccines.[81] A May 2021 report by the OECD, for instance, estimated that the governments of OECD countries had provided at least US$13 billion "in direct funding for [research and development] R&D

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76 FAAE, *Evidence*, 21 March 2022 (Stephen de Boer, Ambassador and Permanent Representative of Canada to the World Trade Organization).

77 Ibid.

78 FAAE, *Evidence*, 28 April 2022 (Jason Nickerson, Humanitarian Representative to Canada, Doctors Without Borders).

79 FAAE, *Evidence*, 4 April 2022 (Brittany Lambert, Women's Rights Policy and Advocacy Specialist, Oxfam Canada).

80 FAAE, *Evidence*, 4 April 2022 (France-Isabelle Langlois, Executive Director, Amnistie internationale Canada francophone).

81 FAAE, *Evidence*, 4 April 2022 (Dr. Shehzad Ali, Associate Professor, Canada Research Chair in Public Health Economics, Western University).

and building of manufacturing capacity for COVID-19 vaccines."[82] Several witnesses argued that pharmaceutical companies that receive public funding should be obligated to ensure equitable access to medicines and vaccines that result with the help of that funding. Dr. Nickerson, from Doctors Without Borders, put it succinctly:

> A vital guiding principle should be that public investments for public health should, first and foremost, yield public benefits. They should not be subsidies for incredibly profitable companies that ultimately retain all decision-making over affordability and access.[83]

Matthew Herder, Director of the Health Law Institute at Dalhousie University, proposed a solution: that "all agreements pertaining to the development of a federally funded patented invention…include one or more clauses that allow for 'equitable access' licensing to manufacturers based in LMICs [low- and middle-income countries]."[84]

Ms. Langlois added that pharmaceutical companies "continue to reap huge profits"[85] and the Canadian Association of University Teachers, in correspondence with the Committee, criticized what it called "crisis profiteering."[86] In a financial document provided to the Committee, Pfizer disclosed that its COVID-19 vaccine (Comirnaty), developed with the German biotechnology company BioNTech, had brought in revenues of over US$36 billion in 2021.[87]

Recommendation 8

That the Government of Canada ensure that its agreements to provide research and development funding include clauses that allow intellectual property resulting from that funding – including vaccines, therapeutics, and diagnostics – to be easily licensed to manufacturers serving low- and middle-income countries.

82 Organisation for Economic Co-operation and Development, "Enhancing public trust in COVID-19 vaccination: The role of governments," 10 May 2021.

83 FAAE, *Evidence*, 28 April 2022 (Jason Nickerson, Humanitarian Representative to Canada, Doctors Without Borders).

84 Matthew Herder, Written brief, published on 19 May 2022.

85 FAAE, *Evidence*, 4 April 2022 (France-Isabelle Langlois, Executive Director, Amnistie internationale Canada francophone).

86 Canadian Association of University Teachers, Correspondence, 20 April 2022.

87 Pfizer, *2021 Annual Review*.

The Pharmaceutical Industry's Perspective

In written briefs and appearances before the Committee, several pharmaceutical companies pushed back against the criticism that they had 'profiteered' and inappropriately benefitted from public funding for research and development. Pfizer, for instance, emphasized that – in contrast to other pharmaceutical companies – it had not received public funding for the research and development of its Comirnaty COVID-19 vaccine.

Pfizer also provided "tiered-pricing," Fabien Paquette, Vaccines Lead at Pfizer Canada, told the Committee. For wealthier countries, such as Canada, the price of the vaccine was benchmarked to the historical costs of flu vaccines; middle-income countries were asked to pay half of that price; and lower-income countries, which represent approximately 50% of the world's population, were offered a not-for-profit price.[88]

"We pledged to provide two billion doses to low- and middle-income countries in 2021 and 2022," Mr. Paquette said.[89] "As of April 17, we've delivered more than 1.3 billion doses to 110 countries toward this pledge." In addition, he noted that Pfizer has shared its technology with manufacturing partners, including Biovac in South Africa, Eurofarma in Brazil, and others – entering into voluntary licensing agreements "with partners with a strong track record in quality vaccine production and with the ability to manufacture at large scale."[90]

Moderna, which did benefit from public research and development funding, informed the Committee in a written brief that it was updating it patent pledge to never enforce its patents for COVID-19 vaccines against manufacturers in or for the 92 low- and middle-income countries in the COVAX AMC, "provided that the manufactured vaccines are solely for use in the AMC 92 countries."[91] They also highlighted an investment of up to US$500 million they are making to build "a state-of-the-art mRNA facility in Africa" that it hopes will produce up to 500 million vaccines doses per year.

For her part, Kiersten Combs, President of AstraZeneca Canada, said that the company had committed to providing broad and equitable access to its vaccines and made them available at no profit "throughout the height of the crisis."[92] She noted that AstraZeneca

88 FAAE, *Evidence*, 25 April 2022 (Fabien Paquette, Vaccines Lead, Pfizer Canada).

89 Ibid.

90 Ibid.

91 Moderna Biopharma Canada Corporation, Written brief, published 5 May 2022.

92 FAAE, *Evidence*, 25 April 2022 (Kiersten Combs, President, AstraZeneca Canada).

was the first biopharmaceutical company to join the COVAX partnership and in 2021, with global partners, supplied more than 2.6 billion vaccine doses to over 180 countries. "Approximately two-thirds of the supply went to low- and middle-income countries," she said. "More than 300 million doses have been delivered to 130 countries through COVAX."[93]

Ms. Combs also acknowledged, however, that at the start of 2022 – as the pandemic moved into what she characterized as an "endemic phase" – the company changed its pricing policy for high-income countries while continuing to offer a no-profit option for low-income countries.[94]

All of the pharmaceutical companies rejected the argument that patents and other intellectual property rights had reduced access to COVID-19 vaccines, with Mr. Paquette calling it a "false problem."[95] In a written brief to the Committee, Innovative Medicines Canada, an industry association that counts AstraZeneca and Pfizer among its members, warned of the "consequences of a TRIPS waiver." They argued that intellectual property has been a "driving force in scaling up the production of COVID-19 vaccines and treatments" and that the TRIPS waiver proposal did not address "the barriers to distributing and administering vaccines in developing nations, but…does create a damaging precedent for intellectual property protections."[96]

The Canadian Chamber of Commerce also had concerns about the TRIPS waiver and argued that there is no evidence that intellectual property protections had been a barrier in delivering vaccines.[97]

Beyond the pharmaceutical companies and industry associations, Dr. Berkley was also of the view that it was "questionable" whether a TRIPS waiver – by itself – would have increased global vaccine supply, and that intellectual property rights were, in fact, the "main reason" so many COVID-19 vaccines had been developed.[98]

Finally, Ms. Caprani said that while UNICEF supports every action that could be taken to expand vaccine manufacturing capacity, lifting the TRIPS waiver would not have made a difference in this pandemic. She added, though, that UNICEF had been very pleased to

93 Ibid.

94 Ibid.

95 FAAE, *Evidence*, 25 April 2022 (Fabien Paquette, Vaccines Lead, Pfizer Canada).

96 Innovative Medicines Canada, Written brief, published 2 May 2022.

97 Canadian Chamber of Commerce, Correspondence, 1 April 2022.

98 FAAE, *Evidence*, 25 April 2022 (Dr. Seth Berkley, Chief Executive Officer, Gavi, The Vaccine Alliance).

see voluntary licensing and proactive partnerships between intellectual property holders and manufacturers. "Where that has happened, it has been because of technology transfer, the sharing of know-how and voluntary licensing and proactive partnership. All those things are essential," she explained. "Lifting IP rights on its own isn't enough. It wouldn't allow a manufacturer to become sufficiently expert to be able to make vaccines."[99]

A TRIPS Compromise

After over a year and a half of negotiations, on 17 June 2022, the WTO's 164 members adopted a "Ministerial Decision on the TRIPS Agreement."[100] The two-page document was lauded by WTO Director-General Dr. Ngozi Okonjo-Iweala as a "compromise [that] will contribute to ongoing efforts to deconcentrate and diversify vaccine manufacturing capacity."[101]

The governments of South Africa[102] and India[103] – the driving forces behind the initial TRIPS waiver proposal – released statements recognizing the outcome of the Ministerial Decision. For its part, the Canadian government "welcomed the multilateral adoption of the WTO Response to the COVID-19 Pandemic, including consensus on the TRIPS waiver, as part of Canada's broader efforts to enhance vaccine equity."[104]

That positive assessment, however, was not universal. Though for very different reasons, civil society organizations and the research-based pharmaceutical industry were both critical of the Ministerial Decision.

Innovative Medicines, for example – the national association representing Canada's brand-name pharmaceutical industry – argued that innovators had been sent the

99 FAAE, *Evidence*, 25 April 2022 (Lily Caprani, Head of Advocacy and Global Lead for Global Health, Vaccines and Pandemic Response, United Nations Children's Fund (UNICEF)).

100 World Trade Organization, *Ministerial Decision on the TRIPS Agreement*, 17 June 2022.

101 World Trade Organization, *MC12 Closing Session*, 17 June 2022.

102 Republic of South Africa – The Department of Trade, Industry and Competition, *SA government, local vaccine producers and labour welcome WTO landmark agreement that will boost vaccine manufacturers in the developing world*, 17 June 2022.

103 Government of India – Ministry of Commerce and Industry, *India leads and delivers at the WTO 12th Ministerial Conference: Shri Piyush Goyal*, News release, 17 June 2022.

104 Global Affairs Canada, *Minister Ng welcomes successful Twelfth Ministerial Conference in Geneva*, News release, 17 June 2022.

"wrong signal" and that the IP waiver would undermine the sector's "ability to respond quickly and effectively to future pandemics."[105]

Dr Christos Christou, International President of Doctors Without Borders, in contrast, expressed the organization's disappointment "that a true intellectual property waiver, proposed in October 2020 covering all COVID-19 medical tools and including all countries, could not be agreed upon, even during a pandemic that has claimed more than 15 million people's lives."[106]

Tamaryn Nelson, Amnesty International's Researcher on Economic, Social and Cultural Rights, added:

> This decision is unlikely to make a significant difference in global access to Covid-19 vaccines right now. And the fact that the WTO decided to postpone by six months the decision around extending the agreement to cover diagnostics and therapeutics – at this stage of the pandemic – demonstrates how the WTO is out of step with reality.[107]

As the majority of witnesses – including Canada's ambassador to the WTO – provided testimony to the Committee before the June Ministerial Decision, their views on it could not be reflected. That said, some witnesses criticized earlier leaked text that appears to have closely resembled the Ministerial Decision.

Ms. Sarosi, for instance, told the Committee that the compromise's "considerable limitations" included that it only covered patents – not tests and treatments – and that it excluded countries with significant manufacturing capacity, creating new onerous barriers for countries seeking to issue a compulsory license. She urged the Canadian government to "remedy the limitations in the proposed text."[108] Dr. Ali also said that early reports indicated the TRIPS waiver compromise had "several limitations."[109] Nicole Tobin, Head of Programs, Global Health, at Care Canada, called on the Canadian government "to improve the compromised TRIPS waiver."[110]

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105 Innovative Medicines Canada, *WTO Decision on Waiving Intellectual Property Rights is the Wrong Solution to Address Barriers to Vaccine Equity*, News release, 17 June 2022.

106 Doctors Without Borders, *Lack of a real waiver on COVID-19 tools is a disappointing failure for people*, Statement, 17 July 2022.

107 Amnesty International, *Covid-19: WTO ministerial decision on TRIPS Agreement fails to set rules that could save lives, News release*, 17 June 2022.

108 FAAE, *Evidence*, 4 April 2022 (Diana Sarosi, Director, Policy and Campaigns, Oxfam Canada).

109 FAAE, *Evidence*, 4 April 2022 (Dr. Shehzad Ali, Associate Professor, Canada Research Chair in Public Health Economics, Western University).

110 FAAE, *Evidence*, 28 April 2022 (Ms. Nicole Tobin, Head of Programs, Global Health, CARE Canada).

Recommendation 9

That the Government of Canada advocate for an extension of the June 2022 Ministerial Decision on the TRIPS Agreement to cover the production and supply of COVID-19 diagnostics and therapeutics.

Problems with Canada's Access to Medicines Regime

Witnesses also raised issues with respect to Canada's Access to Medicines Regime, which was created by statute in 2004 to operationalize what were then new flexibilities under the TRIPS agreement. As the Canadian government explains:

> The Regime is based on a World Trade Organization decision that allows WTO countries, such as Canada, to authorize someone other than the patent holder to manufacture a lower cost version of a patented drug or medical device for export to developing countries that do not have the capacity to manufacture such products. Canada is one of the first countries to implement this decision, which means that generic medicines can now be exported from Canada to eligible countries that cannot produce them.[111]

Dr. Ali told the Committee that "CAMR as it currently exists is not fulfilling its purpose." He noted that the only time the process was ever used was in 2008-09, "for two shipments of an HIV drug that were sent to Rwanda after four years of struggle with the CAMR process." After those struggles, he added, Apotex, the manufacturer, decided not to go through the process again.[112]

Mr. Marc-André Gagnon, an Associate Professor at Carleton University's School of Public Policy and Administration, told the Committee that everyone in Canada who works in intellectual property knows that the CAMR system does not work. He described CAMR as a clear case of "regulatory capture," by which he meant that that the pharmaceutical industry prevents the system from functioning as intended.[113] He reminded the Committee that problems with CAMR are longstanding, and that a private member's bill in the 40th Parliament – Bill C-393 – had aimed to amend:

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111 Government of Canada, *Introduction to the Canada's Access to Medicines Regime*.

112 FAAE, *Evidence*, 4 April 2022 (Dr. Shehzad Ali, Associate Professor, Canada Research Chair in Public Health Economics, Western University).

113 FAAE, *Evidence*, 9 May 2022 (Marc-André Gagnon, Associate Professor, School of Public Policy and Administration, Carleton University).

> the Patent Act to make it easier to manufacture and export pharmaceutical products to address public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics.[114]

The bill passed in the House of Commons but died on the Order Paper when the 40th Parliament was dissolved.

A CAMR Case Study: Biolyse Pharma's Attempt to Export Vaccine Doses to Bolivia

In May 2021, the Bolivian government and Biolyse Pharma, an Ontario-based manufacturer, announced they had reached an agreement that would see Biolyse produce and export 15 million doses of a generic version of Johnson & Johnson's COVID-19 vaccine to Bolivia. In a news release, they stated that "Biolyse can use CAMR for authorization from the Canadian government through the Canadian Commissioner of Patents to make and export the vaccine, with a royalty fee paid to Johnson & Johnson."[115]

Both the company and the Bolivian government expressed their frustration with the CAMR process and their inability to even complete the first step: getting the Canadian government to add Johnson & Johnson's vaccine to Schedule 1 of the *Patent Act*.[116]

Under Section 21.03 the *Patent Act*, the Minister of Health and the Minister of Industry may recommend to the Governor in Council that it amend Schedule 1 of the Act:

> by adding the name of any 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 and, if the Governor in Council considers it appropriate to do so, by adding one or more of the following in respect of

114 Bill C-393, An Act to amend the Patent Act (drugs for international humanitarian purposes) and to make a consequential amendment to another Act, 40th Parliament, 3rd session.

115 Newswire, *Bolivia and Biolyse sign landmark agreement for export of COVID-19 vaccines*, News release, 12 May 2021.

116 Muhammad Zaheer Abbas, "Canada's Political Choices Restrain Vaccine Equity: The Bolivia-Biolyse Case," *South Centre*," September 2021.

> the patented product, namely, a dosage form, a strength and a route of administration…[117]

Mr. Benjamin Blanco Ferri, the Plurinational State of Bolivia's Vice Minister, Foreign Trade and Integration, told the Committee that their proposal with Biolyse for a compulsory license through CAMR – after Johnson & Johnson failed to respond to a request for a voluntary license – was met with an unsatisfactory response from the Canadian government at a time when many Bolivians were dying of COVID-19.[118]

The content of that response, he explained, was also articulated in the Canadian government's answer to an e-petition that was signed by 4,561 Canadians and presented in the House of Commons by New Democratic Party Member of Parliament Niki Ashton.[119] Summarizing that answer, Vice Minister Blanco Ferri said that the Canadian government highlighted its work with COVAX and its efforts at the WTO to identify barriers and solutions to accessing vaccines and other medical products, but did not answer the specific question about their compulsory licence request.[120]

When asked about the Biolyse-Bolivia case, Mark Schaan, Acting Senior Assistant Deputy Minister, Strategic and Innovation Policy, Department of Industry, told the Committee that "Canada has not received a formal proposal through the CAMR process."[121] A formal CAMR proposal, however, would have first required the vaccine being added to Schedule 1 of the *Patent Act*, since only products listed on the Schedule 1 are eligible for export under the regime.

While Mr. Schaan did acknowledge that the CAMR process can increase supply when there is a potential need in other countries, he added that – in this pandemic – significant efforts by "players at the forefront of the vaccine effort" had led to a position of "significant supply across the world."[122]

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117 *Patent Act*, R.S.C., 1985, c. P-4.

118 FAAE, *Evidence*, 9 May 2022 (Mr. Benjamin Blanco Ferri, Vice Minister, Foreign Trade and Integration, Ministry of Foreign Affairs of the Plurinational State of Bolivia).

119 House of Commons, Petition No. 441-00078, 15 December 2021.

120 FAAE, *Evidence*, 9 May 2022 (Mr. Benjamin Blanco Ferri, Vice Minister, Foreign Trade and Integration, Ministry of Foreign Affairs of the Plurinational State of Bolivia).

121 FAAE, *Evidence*, 21 March 2022 (Mark Schaan, Acting Senior Assistant Deputy Minister, Strategic and Innovation Policy, Department of Industry).

122 Ibid.

Vice Minister Blanco Ferri, in contrast, said, "Bolivia's request was clear and direct with Canada" and that it only required "political will."[123]

Fixing Canada's Access to Medicines Regime

Several witnesses, in addition to Minister Blanco Ferri, told the Committee that the Canadian government should add COVID-19 vaccines to Schedule 1 of the *Patent Act*, which would allow them to be used by CAMR. However, as therapeutics become an increasingly essential part of the pandemic response going forward, witnesses also urged the Canadian government to add COVID-19 treatments to Schedule 1.

In a written submission to the Committee, Mr. Herder, Director of the Health Law Institute at Dalhousie University, put it as follows:

> A second change to the Patent Act that stands to improve equitable access is to add the phrase "COVID-19 drugs, biologics, and vaccines" to the list of products currently included within Schedule 1 of the legislation. Forty-one experts called for "COVID-19 vaccines" to be added … in April 2021. Given the importance of newly developed anti-viral therapies, such as Pfizer's Paxlovid (nirmatrelvir/ritonavir), this phrase should be expanded to include COVID-19 drugs and biologics in addition to COVID-19 vaccines. Adding this phrase to Schedule 1 of the Patent Act would make COVID-19 biopharmaceutical interventions part of Canada's Access to Medicine Regime …and permit manufacturers to make and export COVID-19 interventions to eligible LMICs [lower-middle income countries]."[124]

In the current context, Dr. Pai told the Committee, Paxlovid is "pretty much not going to be available for low and middle-income countries,"[125] and Mr. Gagnon said that adding treatments and vaccines to Schedule 1 is one of the first things the Canadian government should do.[126]

In light of witness observations with respect to the functioning of CAMR, the experience of the Bolivian government and Biolyse Pharma, and concerns expressed by several

123 FAAE, *Evidence*, 9 May 2022 (Mr. Benjamin Blanco Ferri, Vice Minister, Foreign Trade and Integration, Ministry of Foreign Affairs of the Plurinational State of Bolivia).

124 Matthew Herder, Written brief, published on 19 May 2022.

125 FAAE, *Evidence*, 9 May 2022 (Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health, McGill University).

126 FAAE, *Evidence*, 9 May 2022 (Marc-André Gagnon, Associate Professor, School of Public Policy and Administration, Carleton University).

witnesses about the availability of COVID-19 treatments, such as Paxlovid, the Committee makes the following recommendations:

Recommendation 10

That the Government of Canada immediately launch a public consultation on Canada's Access to Medicines Regime (CAMR) and publish the findings within one year of the tabling of this report in Parliament, and improve its communications and administration related to the CAMR.

Recommendation 11

That the Government of Canada immediately add COVID-19 vaccines, diagnostics, and treatments to Schedule 1 of the Patent Act.

ENDING THIS PANDEMIC AND PREPARING FOR THE NEXT ONE

In the Committee's final meeting of the study, Dr. Pai warned – as Dr. Berkley did earlier in the study – that there continues to be a significant risk that an even deadlier COVID-19 variant or subvariant emerges. "Can we afford a single variant more? Are we ready to go into another lockdown?" he asked.[127] Assuming the answer is no, he continued, the only option is to help vaccinate the world and share therapeutics – to pay billions now, as he put it, or trillions later. "I would rather that we pay now," he concluded.[128]

To date, the Canadian government's aid and development response to the COVID-19 pandemic has already exceeded $3.4 billion, including $1.8 billion alone to the ACT-Accelerator to ensure equitable access to COVID-19 tests, treatments and vaccines. If federal funding committed in the 2022 federal budget is delivered, that latter number will rise to over $2 billion.

While several witnesses recognized Canada's "global leadership" in its international response to the pandemic, others identified ways Canada's COVID-19 response could be enhanced going forward – through additional funding for the ACT-Accelerator's non-vaccine pillars, for example, and for community-based projects that combat COVID-19 vaccine misinformation and hesitancy. The most challenging and contentious

127 FAAE, *Evidence*, 9 May 2022 (Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health, McGill University).

128 Ibid.

testimony the Committee heard, however, was that which addressed the role of intellectual property rights.

Though there was widespread agreement that Canada's Access to Medicines Regime is not working as it should, there was less of a consensus with respect to the difference a TRIPS waiver would have made in increasing the supply of vaccines to low- and middle-income countries. That said, now that WTO members have reached a decision on the waiver – the June 2022 "Ministerial Decision on the TRIPS agreement" – the Committee believes that the Canadian government should advocate for the waiver to be extended "to cover the production and supply of COVID-19 diagnostics and therapeutics," as envisioned by the decision.[129]

Finally, looking forward, the Committee takes note of the launch by the World Health Assembly – the decision-making body of the WHO – of negotiations on a global accord on pandemic prevention, preparedness and response. Since these negotiations are in the very early stages and expected to wrap up in 2024 at the earliest, witnesses offered limited observations on what the proposed accord might achieve. The Committee does agree with WHO Director-General Dr Tedros Adhanom Ghebreyesus, however, that such as accord has the potential "to keep future generations safer from the impacts of pandemics."[130] At the same time, it shares the concern of Doctor Without Borders' Dr. Nickerson, who argued that the inability to quickly reach a TRIPS compromise in a global pandemic is not a "promising sign" for the nascent pandemic accord process.[131] The Committee intends to keep abreast of any significant developments in the negotiations, and will not hesitate to express any concerns it might have about them.

129 World Trade Organization, *Ministerial Decision on the TRIPS Agreement*, 17 June 2022.

130 WHO, *World Health Assembly agrees to launch process to develop historic global accord on pandemic prevention, preparedness and response*, News release, 1 December 2021.

131 FAAE, *Evidence*, 28 April 2022, (Jason Nickerson, Humanitarian Representative to Canada, Doctors Without Borders).

APPENDIX A
LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's webpage for this study.

Organizations and Individuals	Date	Meeting
Department of Foreign Affairs, Trade and Development	2022/03/21	10
H.E. Stephen de Boer, Ambassador and Permanent Representative of Canada to the World Trade Organization		
Joshua Tabah, Director General Health and Nutrition		
Department of Industry	2022/03/21	10
Darryl Patterson, Director General		
Mark Schaan, Acting Senior Assistant Deputy Minister Strategic and Innovation Policy		
Amnistie internationale Canada francophone	2022/04/04	14
France-Isabelle Langlois, Executive Director		
As an individual	2022/04/04	14
Shehzad Ali, Associate Professor, Canada Research Chair in Public Health Economics Western University		
Oxfam Canada	2022/04/04	14
Brittany Lambert, Women's Rights Policy and Advocacy Specialist		
Diana Sarosi, Director Policy and Campaigns		
Results Canada	2022/04/04	14
Robyn Waite, Director Policy and Advocacy		
AstraZeneca Canada	2022/04/25	15
Kiersten Combs, President		

Organizations and Individuals	Date	Meeting
Gavi, The Vaccine Alliance	2022/04/25	15
Seth Berkley, Chief Executive Officer		
Pfizer Canada	2022/04/25	15
Fabien Paquette, Vaccines Lead		
United Nations Children's Fund (UNICEF)	2022/04/25	15
Lily Caprani, Head of Advocacy and Global Lead for Global Health Vaccines and Pandemic Response		
As an individual	2022/04/28	16
Dr. Zain Chagla, Assistant Professor, Division of Infectious Diseases, Faculty of Health Sciences McMaster University		
Marc-André Gagnon, Associate Professor School of Public Policy and Administration, Carleton University		
Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health McGill University		
CARE Canada	2022/04/28	16
Dr. Ilhas Altinci, Sexual and Reproductive Health Technical Advisor		
Nicole Tobin, Head of Programs Global Health		
Doctors Without Borders	2022/04/28	16
Adam Houston, Medical Policy and Advocacy Officer		
Economist Intelligence Unit	2022/04/28	16
Ana Nicholls, Director Industry Analysis		
As an individual	2022/05/09	19
Marc-André Gagnon, Associate Professor School of Public Policy and Administration, Carleton University		
Dr. Madhukar Pai, Canada Research Chair in Epidemiology & Global Health McGill University		

Organizations and Individuals	Date	Meeting
Doctors Without Borders Adam Houston, Medical Policy and Advocacy Officer Dr. Jason Nickerson, Humanitarian Representative to Canada	2022/05/09	19
Ministry of Foreign Affairs of the Plurinational State of Bolivia Benjamin Blanco Ferri, Vice Minister Foreign Trade and Integration	2022/05/09	19

APPENDIX B
LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's webpage for this study.

Canadian Medical Association

Doctors Without Borders

FIND

Herder, Matthew

Innovative Medicines Canada

Love My Neighbour

Moderna, Inc

Murthy, Srinivas

ONE Campaign

Results Canada

World Vision Canada

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 10, 14, 15, 16, 19, 29 and 30) is tabled.

Respectfully submitted,

Ali Ehsassi
Chair

The Conservative Party is pleased to submit this dissenting report. We would like to thank the many witnesses and experts who testified before the committee.

The frank reality at this point is that the global context is completely different from the context that existed when hearings were held. The committee decided to study this issue at a time when the COVID-19 pandemic was still raging and when there were still significant COVID-19 related restrictions at the provincial and federal level in Canada and in various jurisdictions around the world. Today, even if not everyone considers the pandemic to be over, most people and most governments are behaving as if it is. This is one way that the context has changed. Another new piece of context is that a global compromise was reached on issues of intellectual property and vaccines. This compromise has been praised by some and criticized by others. It might be worthwhile for the committee to study views on and the impact of this compromise. However, since the hearings for this study were held before the compromise was reached and the report is being published after the compromise, it's hard for the committee's reports to actually speak substantively to the current reality. There continue to be many issues worthy of discussion related to vaccine equity, but this report does not speak effectively to the current context.

We also note that witness testimony revealed how there is significant COVID-19 vaccine hesitancy in developing nations. Even in the spring we were told that a lack of demand was more the driver of low vaccination rates than a lack of supply. The committee's report generally fails to engage with the substantive reasons why this might be the case. The committee heard that the Canadian government was primarily distributing doses of a vaccine (AstraZeneca) that was not recommended for use in Canada by Canadians. Conservatives sought to understand how the government could justify recommending against a vaccine for Canadians while distributing it to the developing world. It is not entirely surprising that this apparent inconsistency may have contributed to vaccine hesitancy. Another possible contributing factor to vaccine hesitancy is the fact that pharmaceutical manufacturers sought and received indemnification agreements which involved countries (not companies) contributing to a no-fault compensation mechanism for those who experience vaccine injuries and that countries had to sign onto indemnification agreements before accessing the COVAX mechanism. Seeking indemnification clauses is not a great way for companies to seek to inspire confidence in their products. These current realities, along with the history of colonialism in many developing countries, are likely contributing factors to the lack of demand for COVID-19 vaccination that the committee report does not address. An honest reckoning with the reality of low vaccination uptake in certain quarters needs to take these factors into consideration.

While the Conservative Party believes that this is an important area of study, the committee would have been better advised to prepare a report that engaged with the present circumstances and with the other factors mentioned.

Supplementary Opinion of the New Democratic Party of Canada

Since the beginning of the COVID-19 pandemic, New Democrats have urged the Canadian government to increase Canada's contributions to global vaccine access.

During this study, the committee heard from many expert witnesses who were very clear: Canada must do more to ensure people in low- and middle-income countries can access life-saving vaccines, diagnostics, and treatments. Canadians will not be safe from COVID-19 until everyone is safe.

This study has highlighted a number of weaknesses in the Government of Canada's approach to vaccine equity.

Early in the COVID-19 pandemic, Canada engaged in hoarding behaviour of vaccines. The Government has only delivered some of the vaccines promised to the COVAX facility – and many close to expiration. We question the use of "equivalent doses" purchased by COVAX through financial contributions, rather than the donation of real vaccines. Moreover, it is unacceptable that initial purchase agreements between Canada and mRNA manufacturers didn't allow for those doses to be donated.

We are disheartened by the Government's refusal to support an all-inclusive, comprehensive waiver at the World Trade Organization's (WTO) Trade-Related Aspects of Intellectual Property Rights (TRIPS) Council, despite years of urging from our party and global experts. Moreover, we are troubled by reports of Canada's quiet obstructionism during these negotiations. The temporary and wholly inadequate deal reached in June 2022 must be extended to cover COVID-19 diagnostics and therapeutics – and we urge the Government to now play a leading role in achieving this much-needed extension. It is increasingly apparent that pharmaceutical companies have put profit ahead of the lives of millions of people – and that this Government is letting them do so. This is unacceptable.

It is also unacceptable that documents provided to the committee by the Government of Canada regarding meetings with the pharmaceutical industry were often redacted for "commercial sensitivity." We note that this unfortunate lack of transparency appears to favour the for-profit pharmaceutical industry rather than the people of Canada, who have a right to know what actions the Government is taking in their name.

We were shocked by testimony describing the Government of Canada's failure to engage with the Government of Bolivia on their request for a compulsory licence through Canada's Access to Medicines Regime. That this simple request was ignored shows a blatant abdication of responsibility and a stunning absence of political will. Since 2009, New Democrats have championed legislation to fix Canada's Access to Medicines Regime. The current Government must fix CAMR immediately and enable the export of life-saving medicines to low- and middle-income countries.

We believe this Government must do more to combat misinformation and vaccine hesitancy. We decry the harmful misinformation that has contributed to vaccine hesitancy both in Canada and abroad, and we urge the Government to increase its financial and technical support to community-based organizations fighting vaccine hesitancy.

We are heartened by the committee's strong support for increased international assistance, in line with the 0.7% of GNI target. For too long, Canada's Official Development Assistance contributions have been appallingly low. The pandemic has only highlighted the need for donors like Canada to increase funding for global health and development. Now is the time to take this brave step and significantly increase Canada's ODA.

In conclusion, we urge the Government to find the political will necessary to address these weaknesses in its approach to vaccine equity. We are deeply concerned that, if Canada does not adjust course, these problems will be repeated in the next pandemic. We must learn these lessons, and fast. We must put the lives of people above profit.

October 2022