

January 12, 2021

To:

Prime Minister SUGA Yoshihide

Finance Minister ASO Taro

Foreign Minister MOTEGI Toshimitsu

Minister of Economy, Trade and Industry KAJIYAMA Hiroshi

Request to the Government of Japan: Ease the protection of intellectual property rights and promote sharing and cooperating on pharmaceuticals and medical technologies, in order to accelerate efforts to overcome COVID-19 all over the world.

“Equal Health and Medical Access on COVID-19 for All!” Japan Network

The pandemic of coronavirus disease 2019 (COVID-19) is becoming more serious with the arrival of winter in the Northern Hemisphere and the emergence of highly infectious mutants. COVID-19, starting from East Asia in the end of the year 2019, swept the Western countries, and has spread to the middle and low income countries (developing countries), in the Middle East, North Africa, Central and South America, South Asia, sub-Saharan Africa, and has led more than 89 million people infected and have caused the death of more than 1.93 million people as of January 10, 2021, according to the World Health Organization (WHO). In Japan, as the declaration of a state of emergency is being considered again, drastic measures are needed.

COVID-19 is having a diverse and enormous impact on society, economy, and the environment around the world, and the countermeasures also varies widely. In less than a year, the world has been engaged in the research and development of new pharmaceuticals, the development and practical use of IT and other technologies to mitigate the social and economic impacts, and the utilization of various existing technologies. In particular, the development of new pharmaceuticals has been made possible not only by private investment in pharmaceutical companies, but also by public funding through national research institutions in each country, international organizations working to promote R&D, and clinical trials in countries around the world, including the developing countries, as well as by the goodwill cooperation of people towards the public good. The developed means to overcome COVID-19 should be available worldwide, enabling equitable global access. At present, however, international supports for equal access is significantly inadequate, and with rich countries monopolizing vaccines, leaving behind developing countries where enough vaccination coverage is not expected to occur in 2021. This pandemic cannot be contained unless it is globally contained, and since COVID-19 is a threat of a different dimension, an innovative response that goes beyond existing frameworks and methods is urgently needed.

On October 2, 2020, the governments of the Republic of South Africa (South Africa) and India proposed to the World Trade Organization (WTO) Trade-Related Intellectual Property Rights Agreement (TRIPs) Council, that in order to enable **each country to expand the development and manufacturing of medicines, diagnostics and prominent vaccine**

candidates, to exempt from intellectual property rights related to prevention, containment and treatment of COVID-19, such as copyright and related rights (TRIPs Agreement Part II, Section 1), designs (Section 4), patents (Section 5) and protection of undisclosed information (Section 7) until COVID-19 is contained. The proposal was co-sponsored by, the Kingdom of Eswatini, Mozambique, Kenya, Pakistan, Bolivia, Mongolia and Zimbabwe and has been fully supported or welcomed by more than 100 countries, as of January 6, 2021. In addition, WHO, the Joint United Nations Program on HIV/AIDS (UNAIDS), and other international organizations, UN human rights experts and many international civil society organizations involved in health care, human rights, and trade and investment issues have endorsed the proposal. However, Japan, the United States, the European Union, and other developed countries took a stance against the proposal and no consensus could be found, so it was decided at the TRIPs Council meeting on December 10, 2020, to continue deliberations for the Council meeting on March 11 to 12, 2021.

Therefore, as members of global civil society, we request the Government of Japan to:

1. Support or not oppose the above-mentioned joint proposal by South Africa and India and others (hereinafter referred to as "South Africa and India Proposal") in order to ensure fair and prompt access to medicines and technologies necessary to combat COVID-19 on a global scale.
2. In addition to and consistent with the above, to support and promote initiatives for global and open sharing of IP and technologies needed for COVID-19 prevention, containment and medical care, including the C-TAP initiative to facilitate the global development of new technologies.
3. At the same time, increase contributions to the "ACT Accelerator" (Access to COVID-19 Tools Accelerator) and international organizations involved in each partnership valuing international cooperation, so that the framework can play a full role in achieving equitable access to new technologies for developing countries.
4. Engage in dialogue with civil society in Japan and around the world calling for ensuring fair and open access to medicines and new technologies to overcome COVID-19 globally.

The reasons for the above request are as follows:

(1) The proposing and supporting countries to the South African-Indian proposal have refuted the reasons for opposition given by the governments of developed countries, including Japan, such as "the flexibility of the TRIPs Agreement will enable us to cope with the situation" and "the exemption from IP protection will impair the incentives for drug development". It is clear that these basic differences in positions and arguments are based on the old conflicts over economy and development between developed and developing countries. In order to converge COVID-19, it is essential to overcome these conflicts as soon as possible and realize global cooperation. This can only be achieved if the developed countries, which are dominant in the field of intellectual property, step up to the plate.

(2) In the event of COVID-19 pandemic, developed countries are monopolizing the market by purchasing large quantities of the personal protective equipment (PPE) and medicines with their financial power, signing advance purchase contracts for large amount of vaccines with pharmaceutical companies. As a result, the developing and emerging countries, which make up the majority of the world's population, have been greatly hindered in securing necessary supplies.

(3) In order to solve this problem, between April and May 2020, the collaboration of WHO, international health-related organizations and private foundations established ACT Accelerator, which integrates the development of and equitable access to new medicines, and C-TAP, which aims to facilitate global and open pooling of intellectual property rights of technology related to COVID-19 and promotes affordable supply in developing countries. However, as of December 22,

2020, the ACT Accelerator is facing a shortfall of 3.7 billion US dollars in urgently needed funds and 23.7 billion dollars for this year, and the C-TAP is also unable to function, with no support from developed countries. In order to promote the COVID-19 initiative globally, it is necessary to increase the financial contribution to the ACT Accelerator and to secure the cooperation of developed countries, and the countries and companies who hold technologies, so that it can fully function.

(4) On the other hand, the convergence of COVID-19 will require more than just utilizing the existing multilateral aid framework. In order to achieve equitable access to COVID-19 related technologies in developing and emerging countries, it is essential to mobilize resources and expand the capacity and willingness of developing and emerging countries to develop, manufacture and disseminate medicines and to transform the current trade rules, including intellectual property rights protection, which constitute those barriers. The South Africa and India proposal recognizes the limitations of relying on country-by-country and the product-by-product approach in addressing IP challenges in COVID-19 under the current intellectual property rules at WTO, and has the potential for the world to make significant strides towards this transformation.

(5) The threat of COVID-19 is strongly linked to the decline in the sustainability of global social, economic, and environmental sustainability. COVID-19 is not the "last pandemic". The world needs to improve its preparedness for future pandemics, as well as to increase its resilience to non-communicable and other diseases that increase the risk of pandemics. To that end, it is necessary to flexibly reform the systems directly and indirectly related to global health, such as intellectual property rights, based on the lessons learned from COVID-19.

At the G7 and G20 meetings, the Government of Japan stressed the need for global access to vaccines and other products, and called for mechanisms such as a patent pool. In addition, as for its contribution for global response to COVID-19, the government of Japan has set the following goals; (1) strengthening of the capacity to respond to COVID-19, (2) building robust and inclusive health systems (strengthening health systems to prepare for future health crises), (3) developing environment that is resilient to infectious diseases (developing an environment for health security in a wider range of fields). In order to realize the above three objectives, we believe it is essential to guarantee timely, sufficient, fair and equitable access to medicines and medical technologies on a global scale. We call on the Japanese government to support or not oppose the South Africa and India proposal in order to overcome COVID-19 globally as soon as possible and to make the world to respond to the pandemic in a strong and flexible manner.

“Equal Health and Medical Access on COVID-19 for All!” Japan Network

Called by: (signees)