



Note No.: GENEV-7731

Reference: Canada's response to OL CAN 6/2021

The Permanent Mission of Canada to the Office of the United Nations and World Trade Organization at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the joint letter OL CAN 6/2021 dated 14 October 2021. The Permanent Mission of Canada further has the honour to submit Canada's response.

The submission consists of one document.

The Permanent Mission of Canada to the Office of the United Nations and World Trade Organization at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 10 February 2022

RESPONSE OF CANADA TO THE JOINT COMMUNICATION FROM SPECIAL PROCEDURES

REFERENCE OL CAN 6/2021

Introduction

On 14 October 2021, the Working Group on the issue of human rights and transnational corporations and other business enterprises, the Special Rapporteur on the right to development, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Independent Expert on the promotion of a democratic and equitable international order, the Independent Expert on human rights and international solidarity, and the Special Rapporteur on extreme poverty and human rights, sent a Joint Communication to Canada (Ref: OL CAN 6/2021).

The Joint Communication expresses concerns about the unequal access to COVID-19 vaccines, medicines, health technologies, diagnostics and health therapies within and between States, which can negatively affect the well-being of individuals living in low- and middle-income States, exacerbating inequality and discrimination and impeding the realization of a democratic and equitable international order. The Joint Communication requests that Canada clarify the following:

1. Views on the proposed temporary waiver of certain COVID-19 Trade-Related Intellectual Property Rights (TRIPS) protections;
2. Information about relevant national policies, laws, and practices to produce and distribute vaccines;
3. Ways in which Canada supports efforts for international economic and scientific cooperation and international solidarity; and,
4. Information about laws and policies on full transparency in its contracts with pharmaceutical companies purchasing vaccines.

Canada takes its international human rights obligations seriously, and we welcome the opportunity to respond to this Joint Communication. Canada is committed to maintaining a constructive dialogue with the various United Nations mechanisms, such as the Special Procedures. Canada continues to engage with the Special Rapporteurs, Independent Experts, and Working Group in good faith, while maintaining its position that States' international human rights obligations apply within a State's territory and subject to its jurisdiction.

CANADA'S COVID-19 RESPONSE

COVID-19 has presented unprecedented challenges that have impacted the health, social and economic well-being of everyone, globally. Canada's response to the COVID-19 challenges is: 1) to protect the health and safety of Canadians; and, 2) to support global and equitable access and distribution of COVID-19 diagnostics, equipment, therapeutics, and vaccines.

Protecting the Health and Safety of Canadians – law, policies and practices

Laws, policies, and practices are in place to ensure that COVID-19 vaccines are distributed across Canada's jurisdictions and available to all Canadians. The [Canada Health Act](#), Canada's federal legislation for publicly funded health care insurance, sets out the roles, responsibilities, and requirements for each jurisdiction (federal, and provincial or territorial) with regard to health care and services provision, including immunizations and other public health programs.

Procurement of routine vaccine supply is nationally coordinated through Canada's Bulk Purchase Program, and jurisdictions manage immunization programs directly, working with manufacturers to get vaccines to their preferred points of delivery. The distribution and management of a vaccine once delivered is managed by the jurisdiction, and vaccine supply chains across Canada regularly manage refrigerated product (2-8°C) to reach Canadians, including remote and isolated communities.

Canada's distribution of COVID-19 vaccines is an ad hoc responsibility created under [Canada's COVID-19 plan](#), and involves close collaboration between the Federal Government, Provincial and Territorial Governments, Indigenous leaders, municipal governments, public health and logistical experts, manufacturers, and all Canadians. In addition, expert advisors such as the [National Advisory Committee on Immunization \(NACI\)](#) and international partners are key players of Canada's COVID-19 plan.

The objectives of Canada's COVID-19 plan are to minimize serious illness, overall deaths, and societal disruption from the pandemic, with the goal to enable all eligible Canadians to be immunized as quickly as possible against COVID-19, while ensuring that high-risk populations are prioritized. Canada's COVID-19 plan contains key elements to: 1) allocate, distribute and administer vaccines as efficiently, equitably and effectively as possible; 2) provide safe and effective vaccines as quickly as possible for all who want them; and, 3) monitor the safety, coverage and effectiveness of COVID-19 vaccines.

Canada's COVID-19 vaccine rollout is secured through advance purchasing agreements with pharmaceutical companies negotiated by the [Federal Government](#). Recognizing the urgent need for COVID-19 treatments, the Federal Minister of Health signed an [Interim Order Respecting the Importation, Sale and Advertising of Drugs for Use in Relation to COVID-19](#), to speed up the review and authorization of drugs and vaccines for COVID-19 without compromising safety and quality.

By August 2020, seven vaccine candidates were considered under the Canadian COVID-19 vaccine portfolio. The first COVID-19 vaccines authorized for use in Canada under the Interim Order -- Pfizer/BioNTech and Moderna's mRNA vaccines - required substantial adaptation of specialized supply chains, to manage in a centralized manner.

Canada's COVID-19 Vaccine Comprehensive Distribution Plan uses a multi-phased approach to vaccine rollout based on independent, scientific, and expert advice of the NACI and other committees, and federal, provincial-territorial (FPT) health ministers. Planning for a phased immunization approach

commenced in October 2020. Vaccine distribution and administration began in December 2020, and expanded to a larger percentage of the population as vaccine supply increased in 2021.

Canada formed a Vaccine Rollout Task Force (VRTF), and established an Immunization National Operations Centre (NOC) for COVID-19, supported by a multidisciplinary team of experts, including the Canadian Armed Forces, as the federal logistical coordination entity and focal point for managing vaccine delivery and collaboration with provinces and territories for distribution and tracking.

Provinces and territories, in collaboration with municipal health units and Indigenous leadership, are responsible for decisions on sequencing, distribution and administration of vaccines, and each have their own operating system and use different models for vaccine logistics, delivery, and administration.

Information on transparency in contracts with pharmaceutical companies is stipulated by Canada's [Access to Information Act \(ATIA\)](#). The ATIA is Canada's legislation that provides access to information under the control of the Government of Canada. Disclosure of information relating to contracts between Canada and pharmaceutical companies on purchasing vaccines, including all elements of vaccine development, procurement, and provision is governed by the ATIA.

The ATIA establishes a right of access to information in records under the control of a government institution (s. 2(1)). Pursuant to this right, and following a request for information, a government institution is required to make every reasonable effort to assist the requester and provide timely access to records in the format requested (s. 4).

In addition to providing a right of access to information, the legislation also authorises the proactive disclosure of information in specific circumstances. However, the requirement for proactive disclosure under the ATIA may be limited where the information would otherwise be exempt from disclosure (s. 90).

The disclosure of information regarding contracts with pharmaceutical companies may be limited by exemptions set out in the legislation (s. 2(2)). For example, exemptions may apply for trade secrets, information that risks a material loss or prejudice, and information whose disclosure could interfere with contractual negotiations of a third party (ss. 20(1)). Exemptions may also apply for disclosure of information obtained in confidence from a variety of institutions (ss. 13(1)), or for records that contain personal information (s. 19).

Canada's [Policy on Access to Information](#) and the [Interim Directive on the Administration of the Access to Information Act](#) set out the effective and consistent administration of the ATIA.

Canada's contracting authority, Public Services and Procurement Canada (PSPC) is bound by Canada's Policy on Access to Information. In support of Canada's commitment to transparency and accountability, PSPC worked extensively with its vaccine suppliers to secure their agreement on publicly releasable versions of Canada's vaccine contracts without compromising confidentiality or ongoing negotiations. As permitted by contract and law, PSPC has publicly disclosed information regarding its vaccine contracts to the fullest extent possible following requests through Canada's ATIA.

Supporting global and equitable access and distribution of COVID-19 diagnostics, equipment, therapeutics, and vaccines – international cooperation and solidarity

Canada is committed to end the acute phase of the pandemic and supports comprehensive global efforts to ensure that everyone, everywhere, has equitable access to affordable, safe, and effective COVID-19 diagnostics, equipment, therapeutics, and vaccines.

Canada firmly supports the Access to COVID-19 Tools (ACT) Accelerator and its vaccines pillar, the COVAX Facility. To date, Canada has invested over \$2.5 billion in international assistance in COVID-19 response, including a total of \$1.3 billion to support low- and middle-income countries to access COVID-19 vaccines, tests, and treatments through the ACT-Accelerator, and is a leading donor to this global collaborative effort.

These investments include \$545 million to the COVAX Advance Market Commitment for the procurement, and equitable allocation, delivery and distribution of COVID-19 vaccine doses for low- and middle-income countries. In addition, Canada has committed to donate the equivalent of at least 200 million doses to the COVAX Facility by the end of 2022 and provide further financial support to COVAX for procurement and delivery of doses. Canada's support to ACT-A includes the following collaboration on global health system strengthening with the World Health Organization (WHO) and others:

WHO Health Systems and Response Connector (HSRC) - CAD \$100 million

- to identify and address health systems bottlenecks and weaknesses inhibiting the effective scale-up, delivery and equitable deployment of COVID-19 vaccines and therapeutics in up to 75 countries.

WHO Primary Health Care Systems Strengthening in the Context of COVID-19 - CAD \$30.38 million

- to assist 10 target countries (Bolivia, Ghana, Kenya, Mali, Mongolia, Pakistan, South Sudan, Sri Lanka, Sudan, and Ukraine) to address needs and gaps identified for the continuation of essential services.
- to the Joint Special Programme of Research, Development and Research Training in Human Reproduction (HRP), to identify and analyze specific innovations and modifications made by countries to ensure continued access to and delivery of health services.

Support to WHO's COVID-19 Preparedness and Response Activities - CAD \$15 million

- to focus on the eleven pillars of the COVID-19 Strategic Preparedness and Response Plan (SPRP) 2021 in the WHO Africa Region

Pan American Health Organization (PAHO): Access to COVID-19 Vaccines and Therapeutics for Populations in Situations of Vulnerability in Americas – CAD \$50 million

- to strengthen mechanisms for the regulation and oversight of COVID-19 vaccines, and provide targeted support to Latin America and the Caribbean for the development, procurement, and distribution of vaccines and therapeutics to populations in situations of vulnerability.

Vaccine Manufacturing - \$15 million

- to support the COVAX Manufacturing Task Force partners and set up an mRNA technology transfer and manufacturing hub in South Africa to enable regional development and production of mRNA vaccines and technologies.

In response to the proposed temporary waiver of certain COVID-19 Trade-Related Intellectual Property Rights (TRIPS) protections, the Minister of International Trade, Export Promotion, Small Business and Economic Development announced on May 7, 2021, Canada's support to discuss proposals for an IP waiver under the [WTO TRIPS Agreement](#). Canada continues to work closely with all WTO Members to reach an agreement that addresses IP challenges and accelerates global vaccine production, in particular for COVID-19 vaccines.

Canada's longstanding view is that IP can serve as an important incentive to innovation, while ensuring that there is an appropriate balance between protecting IP rights and promoting access to medicines and other health technologies. For instance, [Canada's Patent Act](#) provides pathways for the authorization of the use of a patent, both domestically in Canada, as well as for export under [Canada's Access to Medicines Regime](#). Canada's Regime is fully consistent with all of its obligations under the WTO TRIPS Agreement and the flexibilities affirmed by the [Doha Declaration on the TRIPS Agreement and Public Health](#).

Canada notes that IP rights are one part of a broad discussion informing the availability and accessibility of treatments for COVID-19. As the Doha Declaration emphasizes, the TRIPS Agreement is part of the wider national and international effort to address public health problems, and Canada notes the importance of collaboration in the transfer of technology between originators and manufacturers of vaccines and other medical products to facilitate the production and global distribution of medicines.

Since the onset of the COVID-19 pandemic, Canada has actively worked with other WTO Members and international partners to identify barriers to accessing vaccines and other medical products, such as supply chain constraints and export restrictions. In addressing these challenges, Canada remains actively committed to the work of the WTO Trade and Health Initiative to strengthen global supply chains and support timely, open trade and the delivery of essential medicines and medical supplies, including vaccines, around the world.

Canada also continues to support the WTO Director General's efforts to enhance the WTO's role in global dialogue with the pharmaceutical sector towards accelerating the production and distribution of affordable, safe, effective COVID-19 vaccines and other medical products in coordination with the World Health Organization and other relevant organizations.

In Conclusion

Canada is committed to a comprehensive, global response to COVID-19 that leverages the entire multilateral system in supporting the research, development, manufacture, and equitable distribution of affordable, safe and effective COVID-19 diagnostics, equipment, therapeutics and vaccines so that no one is left behind.

Canada maintains its steadfast support for the United Nations system and thanks the Working Group, the Special Rapporteurs, and the Independent Experts for the opportunity to respond to their Joint Communication of 14 October 2021.