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USTR-2023-0004

Ms. Jamila Thompson
Senior Advisor to the U.S. Trade Representative
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Re: Request for Comments on Advancing Inclusive, Worker-Centered Trade Policy, 88 Fed. Reg. 38118 (June 12, 2023)

Dear Ms. Thompson,

The Pharmaceutical Research and Manufacturers of America (PhRMA) appreciates the opportunity to provide comments in response to the Office of the United States Trade Representative's (USTR) request for comments on the topic of "Advancing Inclusive, Worker-Centered Trade Policy." PhRMA represents the country's leading innovative biopharmaceutical research and manufacturing companies, which are devoted to discovering and developing medicines that enable patients to live longer, healthier and more productive lives. Over the last decade, PhRMA member companies have more than doubled their annual investment in the search for new treatments and cures, including nearly \$101 billion in 2022 alone.¹

USTR has requested comments and recommendations on trade and investment policy actions, including responsible business conduct, that would further the Administration's objective to advance racial and gender equity and support for historically underserved communities. As the information and data below demonstrate, the U.S. innovative biopharmaceutical industry and its participation in the global trading system contribute significantly to that objective by supporting a large and highly diverse U.S. workforce that affords significant opportunities to women, racial minorities and LGBTQI+ persons at a wide range of education and skill levels.

The below submission highlights the following: (1) the U.S. biopharmaceutical industry employs a highly diverse workforce; (2) the U.S. biopharmaceutical industry is a key driver of the U.S. economy; (3) the U.S. biopharmaceutical industry and its diverse U.S. workforce depend on robust international trade and investment policies; (4) current Administration trade policies harm America's biopharmaceutical industry workers and fail to advance a more inclusive and worker-centered U.S. trade agenda; and (5) a more inclusive and worker-centered U.S. trade agenda must prioritize innovation, protect intellectual property (IP) and champion open trade.

¹ 2023 PhRMA Annual Membership Survey, Jul. 26, 2023, <https://phrma.org/resource-center/Topics/Research-and-Development/2023-PhRMA-Annual-Membership-Survey>.

I. The U.S. Biopharmaceutical Industry Employs a Highly Diverse Workforce

The U.S. biopharmaceutical industry has long recognized that a diverse workforce fosters innovation, competitiveness and social equity. Through concerted efforts to attract and retain workers from all walks of life, the industry has made significant strides toward a workforce that more closely reflects the underlying diversity of U.S. citizens. For example:

- **Leading employer of female inventors.** Among scientific fields, the life sciences field is a national leader in gender diversity. Women accounted for nearly half of U.S. science and engineering jobs in the life sciences as of 2017, compared to 27 percent in computer and mathematical sciences, 16 percent in engineering and 29 percent in physical sciences.² Data show that the biopharmaceutical industry in particular is “leading the way” among IP-intensive industries in ensuring that female innovators have equal access to the patenting process.³ Intellectual Asset Management’s (IAM) Diversity 100, which lists the entities with the greatest proportion of female inventors named on U.S. patent grants maintained between 2010 and 2022, includes 19 biopharmaceutical companies.⁴ Similarly, an analysis by the World Intellectual Property Organization (WIPO) found that the women inventor’s share in international patent applications for pharmaceuticals was 28.7 percent in 2021 – significantly higher than the average rate of 16.5 percent across all industries.⁵

This strong representation of women in biopharmaceutical research and development (R&D) occupations is a result of the industry’s deliberate and sustained efforts to improve diversity. IAM concluded that “pharmaceutical outfits dominate the race to attract more women inventors” and that biopharmaceutical companies “are leading the way in ensuring that female innovators receive patents at higher rates, because they have been working to boost diversity for 20 to 30 years,” including through targeted efforts to increase the diversity of students entering STEM fields.⁶ IAM further noted that biopharmaceutical companies have “adopted cultures that retain and nurture female innovators” and engage in “highly focused outreach, education and inventing programmes to ensure that women are included in the patenting process.”⁷ IAM concluded that the biopharmaceutical industry is “going considerably further” than other industries to diversify its innovative workforce.⁸

- **Major employer of female manufacturers.** In addition to being a national leader concerning female inventors, the U.S. biopharmaceutical industry is a leading employer of female manufacturing workers and the second highest employer of women manufacturers within the manufacturing sector more broadly.⁹ Over the past five years alone, the industry created 55,000 U.S. manufacturing jobs

² National Science Board, *The State of U.S. Science & Engineering* (2020), <https://nces.nsf.gov/pubs/nsb20201/u-s-s-e-workforce>.

³ Intellectual Asset Management, *Advancing IP Diversity: Solutions to the IP profession’s diversity problem* (2023) at p. 4, <https://www.iam-media.com/report/special-reports/q1-2023>.

⁴ *Id.* at p. 6.

⁵ World Intellectual Property Organization, “Women’s participation in innovation and international patents – a look at 2021,” March 8, 2022, https://www.wipo.int/women-and-ip/en/news/2022/news_0001.html.

⁶ Intellectual Asset Management, *Advancing IP Diversity: Solutions to the IP profession’s diversity problem* (2023) at pp. 4, 6 and 8, <https://www.iam-media.com/report/special-reports/q1-2023>.

⁷ *Id.* at p. 6.

⁸ *Id.* at p. 2.

⁹ U.S. Bureau of Labor Statistics, Current Population Survey (CPS) Labor Force Statistics, <https://www.bls.gov/cps/home.htm>.

for women, the second highest among all manufacturing industries.¹⁰ Whereas women account for less than 30 percent of all U.S. manufacturing jobs, women accounted for almost 60 percent of the U.S. manufacturing jobs created in the biopharmaceutical industry over the past five years.¹¹ This figure is particularly impactful when considered within the context of the industry’s substantial U.S. manufacturing footprint. The biopharmaceutical industry is among the top five employers of U.S. manufacturing jobs, with more Americans directly employed in pharmaceutical manufacturing than in manufacturing in several other manufacturing industries, including each of the following: iron and steel, aerospace, petroleum and coal, and electric equipment and appliances.¹²

- **Major employer of Black, Asian, Latino manufacturers.** Racial diversity in the U.S. biopharmaceutical manufacturing industry is expanding at a rapid pace, with almost 80 percent of the U.S. manufacturing jobs created in the industry over the past five years going to racial minorities (Black, Asian, Latino).¹³ As is the situation with female manufacturers, the large and growing portion of biopharmaceutical manufacturing jobs held by racial minorities is especially significant given the substantial size of the industry’s manufacturing workforce. Specifically, the industry created 77,000 U.S. manufacturing jobs for racial minorities (Black, Asian, Latino) over the past five years, the second highest figure among all manufacturing industries.¹⁴ Overall, U.S. biopharmaceutical manufacturing is the fifth highest employer of minorities (Black, Asian, Latino) within the U.S. manufacturing sector more broadly.¹⁵
- **Inclusivity for LGBTQI+ employees.** U.S. biopharmaceutical companies have adopted a wide array of policies and initiatives to promote an inclusive working environment for LGBTQI+ employees.¹⁶ The Human Rights Campaign recognized eighteen PhRMA member companies as “Best Places to Work” for LGBTQ employees in its 2020 Corporate Equity Index, with 17 of these companies receiving a perfect score in the index.¹⁷ These scores were based on nine indicators, including prohibiting discrimination based on sexual orientation and gender identity, providing equivalency in health coverage and medical and soft benefits, and providing internal resources such as training, education, employee groups and diversity councils.¹⁸
- **Multiple education levels.** In addition to its substantial STEM workforce, the U.S. biopharmaceutical industry offers significant employment opportunities for persons at a wide range of education and skill levels. In 2020, 37 percent of U.S. biopharmaceutical industry employees were engaged in manufacturing at over 1,500 manufacturing plants across the country, nearly 35 percent were engaged in biopharmaceutical R&D, 25 percent were engaged in distribution and only 3 percent were engaged in corporate administration.¹⁹

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Pharmaceutical Research and Manufacturers of America, “Biopharmaceutical science powered by PRIDE,” June 16, 2023, <https://catalyst.phrma.org/biopharmaceutical-science-powered-by-pride>.

¹⁷ Human Rights Campaign, *Corporate Equality Index (2020)*, <https://assets2.hrc.org/files/assets/resources/CEI-2020.pdf>.

¹⁸ Id.

¹⁹ TEconomy Partners for PhRMA, *The Economic Impact of the U.S. Biopharmaceutical Industry: 2020 National and State Estimates*, Mar. 2022, <https://phrma.org/resource-center/topics/economic-impact/industry-economic-impact>.

- **Broad geographic diversity.** Innovative biopharmaceutical companies and their supply chains play key roles in supporting local economies in diverse communities and creating a wide range of jobs in every state across the country. In fact, nearly every state is involved in the manufacturing of important FDA-approved medicines.²⁰

In short, the U.S. innovative biopharmaceutical sector employs a diverse U.S. workforce in which women, persons of color and LGBTQI+ persons play a major and increasing role, powering economic output and exports for the U.S. economy and driving one of the nation’s most dynamic innovation ecosystems. PhRMA and its member companies believe in the value of workforces that, at all levels, reflect the underlying diversity of U.S. citizens. Through workforces comprised of researchers, inventors and manufacturers that compose the diverse totality of American society, the U.S. innovative biopharmaceutical industry brings extraordinary value to patients, employees and communities throughout the United States.

II. The U.S. Biopharmaceutical Industry is a Key Driver of the U.S. Economy

Owing to the efforts of the U.S. innovative biopharmaceutical industry’s diverse U.S. workforce, the United States leads the world in developing new medicines, with biopharmaceutical companies sponsoring more than 4,500 clinical trials in the United States alone, with trials in all 50 states, the District of Columbia and Puerto Rico. In 2017, these trials involved close to one million participants and accounted for nearly \$43 billion in economic activity.²¹

The men and women of America’s biopharmaceutical sector strive every day to discover, develop and deliver innovative medicines to patients across the country and around the world to ensure that they can benefit from the latest treatments and cures. The industry’s varied occupational base and extensive research, manufacturing and distribution infrastructure generate and support high-wage jobs, significant tax revenues and growing economic output for local communities. The strength and ingenuity of the U.S. biopharmaceutical industry and innovation-based policies have resulted in the United States being the global leader in biopharmaceutical innovation and production. The following economic metrics reflect this global and national leadership position.²²

- **Sizeable and stable employment.** In 2020, the U.S. biopharmaceutical industry directly employed more than 903,000 U.S. workers and, with a substantial employment multiplier of 4.92, supported more than 3.5 million additional U.S. jobs, for a total U.S. employment impact of nearly 4.5 million jobs.
- **Manufacturing powerhouse.** As noted, the U.S. biopharmaceutical industry is among the top five employers of U.S. manufacturing jobs. In addition, the U.S. biopharmaceutical industry has outpaced U.S. manufacturing and the overall U.S. private sector in employment growth over the past ten years

²⁰ PhRMA, Research and Development: Biopharmaceutical Manufacturing, <https://phrma.org/en/policy-issues/Research-and-Development/Manufacturing>.

²¹ TEconomy Partners; for PhRMA. Biopharmaceutical Industry-Sponsored Clinical Trials. April 2019.

²² Unless otherwise indicated, this data is available in a Report prepared by TEconomy Partners for PhRMA, The Economic Impact of the U.S. Biopharmaceutical Industry: 2020 National and State Estimates, Mar. 2022, <https://phrma.org/resource-center/topics/economic-impact/industry-economic-impact>.

(2011-2021), demonstrating a combination of expansion, stability and economic resilience that makes the industry a key driver of the U.S. economy. Whereas direct employment in biopharmaceutical manufacturing increased 42.8 percent over this period, total manufacturing employment increased only 2.7 percent and overall economy-wide employment increased only 9.1 percent over the same period.²³

- **Significant economic driver.** The U.S. biopharmaceutical industry is one of the most research-intensive in America, annually investing an estimated \$122.2 billion in researching and developing new medicines.²⁴ In 2020, the U.S. biopharmaceutical industry's direct output exceeded \$710 billion and supported output totaled an additional \$700 billion, with the ripple effect of this production through suppliers and other sectors of the U.S. economy. Through its research, production and overall operations, value added from the U.S. biopharmaceutical industry directly contributes 1.6 percent of U.S. GDP. This figure increases to 3.4 percent of U.S. GDP when indirect and induced effects, which support more than \$720 billion in value added, are included.

III. The U.S. Biopharmaceutical Industry and its Diverse U.S. Workforce Depend on Robust International Trade and Investment Policies

The industry's large U.S. economic footprint, and the corresponding benefits that accrue to the industry's significant and diverse U.S. workforce, exist precisely *because* the sector is an exceptionally active participant in the rules-based international trading system and a utilizer of longstanding, consistent and – until recently – dependable U.S. trade policies that value innovation, protect IP rights and champion open trade. Over a period of several years, the United States' pro-innovation trade policies, combined with strong domestic policies, have resulted in the United States developing and retaining the position of the world's leader in biopharmaceutical innovation and production. This leadership position, in turn, has been strengthened by the industry's robust trade and investment engagement in the global economy. For example:

- **High domestic benefits from global activity and presence.** The United States reaps an outsized share of the economic benefits of the industry's global trade and investment activities. For example, although less than 60 percent of their revenue is earned from sales inside of the United States, U.S. multinational biopharmaceutical companies locate 90 percent of their R&D expenditures in the United States, pay 80 percent of their wages and salaries to employees in the United States, and invest over 70 percent of their capital expenditures (e.g., plants and equipment) in the United States.²⁵

In addition to its significant contributions to the U.S. economy and patients, the U.S. innovative biopharmaceutical industry seeks to serve patients around the world through local affiliates. Data demonstrates that U.S. multinationals that increase their investments abroad simultaneously increase the size and strength of their manufacturing activities in the United States.²⁶ For example,

²³ U.S. Bureau of Labor Statistics, Current Population Survey (CPS) Labor Force Statistics, available at <https://www.bls.gov/cps/home.htm>.

²⁴ Research!America, U.S. Investments in Medical and Health Research and Development, Jan. 2022.

²⁵ U.S. Bureau of Economic Analysis, Activities of U.S. Multinational Enterprises, <https://www.bea.gov/data/intltrade-investment/activities-us-multinational-enterprises-mnes>.

²⁶ The Petersen Institute for International Economics, The U.S. Manufacturing Base: Four Signs of Strength, June 2014, <https://www.piie.com/publications/policy-briefs/us-manufacturing-base-four-signs-strength>.

creation of jobs by U.S. multinationals abroad and the expansion of sales by U.S. multinational affiliates abroad both lead to more production and employment at home, especially in high wage services such as R&D. On average, a 10 percent increase in U.S. multinational firms' overseas sales by their affiliates correlates with an 8.2 percent increase in U.S. domestic R&D spending; 2.6 percent increase in U.S. exports; and 2.2 percent increase in U.S. employment.²⁷ The preponderance of net job loss in U.S. manufacturing comes from companies that do not invest abroad.

- **Major U.S. exporter.** The biopharmaceutical industry is a major U.S. exporter. In 2022, U.S. biopharmaceutical goods exports exceeded \$89 billion.²⁸ The biopharmaceutical sector was the largest exporter of goods among the most R&D-intensive industries in 2022 – which in addition to biopharmaceuticals included navigational equipment, semiconductors and other electronic components, medical equipment and supplies, and communications equipment.²⁹
- **Significant foreign direct investment.** During the past five years (2017-2022), 90,000 jobs have been created in the U.S. biopharmaceutical industry by new foreign direct investment.³⁰ The biopharmaceutical industry attracts more new foreign direct investment into the United States than any other industry (over \$148 billion over the past five years). In turn, the industry is by far the largest driver of new foreign direct investment in U.S. manufacturing, accounting for more than 25 percent over the past five years. The next-highest industry, computers and electronic products, accounted for only 12 percent over the same period.³¹

IV. Current Administration Trade Policies Harm America's Biopharmaceutical Industry Workers and Fail to Advance an Inclusive, Worker-Centered U.S. Trade Agenda

The U.S. biopharmaceutical industry and its diverse workforce depend on longstanding U.S. trade policies that value innovation, protect IP and champion open trade. Such policies incentivize the invention and production of lifesaving medicines and enable U.S. biopharmaceutical innovators to export those medicines to patients around the world. Unfortunately, the Administration has demonstrated limited ambition in further advancing, or even maintaining, these important policies internationally. Instead, USTR has departed from longstanding and bipartisan U.S. trade objectives by deprioritizing, and in certain instances proactively opposing, the very trade policies that best promote U.S. workers, including female, racial minority and LGBTQI+ workers. Most notably:

- **Refusal to negotiate new and meaningful trade agreements.** The Administration has declined to negotiate new comprehensive and high-standard trade agreements with well-positioned and willing partners. Remarkably, USTR has elected not to pursue a world-leading and precedent-setting agreement even with the United Kingdom, a like-minded partner, one of America's greatest allies

²⁷ Id.

²⁸ U.S. Bureau of Economic Analysis, International Accounts Products for Detailed Goods Trade Data at <https://www.bea.gov/international/detailed-trade-data>.

²⁹ U.S. Census. USA Trade Online: Foreign Trade Data; U.S. Census. Annual Survey of Manufactures. National Science Foundation Business Research and Development Survey (BRDIS); ndp | analytics.

³⁰ Financial Times Ltd, fDi Markets, <https://www.fdimarkets.com/>. Note: new foreign direct investment includes "greenfield projects" only and not acquisitions.

³¹ U.S. Bureau of Economic Analysis, New Foreign Direct Investment in the United States, <https://www.bea.gov/data/intl-trade-investment/new-foreign-direct-investment-united-states/supplemental-data>. Note: New foreign direct investment includes both "greenfield projects" and acquisitions.

and a country with very high labor and other standards. This decision is a major and incomprehensible error that imposes great costs on America's workforce, including the diverse researchers, inventors and manufacturers that compose the U.S. innovative biopharmaceutical industry and that would benefit from the increased U.S.-UK scientific and economic collaboration that would result from an ambitious bilateral trade agreement.

- **Unambitious economic dialogues.** Those dialogues in which the Administration has engaged are unambitious, limited by design and disappointing. These include the U.S.-EU Trade and Technology Council (TTC), the Indo-Pacific Economic Framework (IPEF) and multiple bilateral dialogues. These dialogues exclude ambitions to deliver strong market access, IP and regulatory commitments that advance scientific research, incentivize invention and production of medicines, and improve the ability of U.S. biopharmaceutical manufacturers to export medicines to patients throughout the world. In other words, the Administration's trade aspirations exclude achieving the very trade commitments that would be of greatest benefit to America's diverse biopharmaceutical workers, including women, racial minorities and LGBTQI+ individuals. Despite the constant chorus of concerns expressed by Congress, the business community and other stakeholders, the Administration has not corrected its trade policies to benefit the full spectrum of U.S. workers, even as the United States' major economic competitors are actively advancing trade negotiations to promote their domestic industries and workers.

The success of even certain issues that IPEF and other U.S. dialogues purport to prioritize is severely limited by the Administration's decision to exclude fundamental trade policies that are necessary preconditions to the advancement of those issues. For example, meaningfully strengthening biopharmaceutical supply chains with trusted trading partners necessarily *requires* that those partners increase the level of IP protection that they provide. Unfortunately, the Administration does not appear to appreciate this fact. The Administration recently announced "substantial conclusion" of a "first-of-its-kind" IPEF Supply Chain Agreement and yet IP is not even included among the negotiation objectives of the initiative's trade pillar.³²

- **Unwillingness to engage meaningfully at the WTO to dismantle trade barriers.** The Administration has exhibited a clear and disappointing lack of commitment to World Trade Organization (WTO) discussions concerning trade and health. Throughout the COVID-19 pandemic, our industry encouraged the United States and other WTO members to formalize and pursue a robust trade and health agenda to address and resolve the multiple trade barriers that impeded, and continue to impede, access to COVID-19 medicines, including tariffs, export restrictions and customs barriers.³³ Multiple WTO members, including geographically diverse countries at various levels of economic development, advanced constructive proposals along these lines, including proposals to eliminate tariffs, discipline export restrictions, enhance regulatory cooperation and improve trade facilitation

³² U.S. Department of Commerce, Press Statement on the Substantial Conclusion of IPEF Supply Chain Agreement Negotiations, <https://www.commerce.gov/news/press-releases/2023/05/press-statement-substantial-conclusion-ipef-supply-chain-agreement>; Office of the United States Trade Representative, United States and Indo-Pacific Economic Framework Partners Announce Negotiation Objectives, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/september/united-states-and-indo-pacific-economic-framework-partners-announce-negotiation-objectives>.

³³ See, e.g., ABPI, EFPIA, IFPMA, PhRMA, WTO Twelfth Ministerial Conference: A Critical Opportunity to Strengthen the Global Trade and Health Agenda, <https://phrma.org/-/media/Project/PhRMA/PhRMA-Org/PhRMA-Org/PDF/V-Z/WTO-Twelfth-Ministerial-Conference---A-Critical-Opportunity-to-Strengthen-the-Global-Trade-and-Health-Agenda.pdf>.

measures.³⁴ Additional support for such initiatives was voiced in other international fora – including the G7 and the G20 – well in advance of the WTO’s decision to waive certain commitments to protect IP on COVID-19 vaccines under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement.³⁵ The U.S. Administration unfortunately failed to meaningfully support these initiatives and, absent U.S. leadership in these areas, the WTO’s Twelfth Ministerial Conference produced no concrete commitments to reduce or eliminate any of these trade barriers, while adopting the TRIPS waiver on COVID-19 vaccines. For example, the most topical deliverable, the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics, includes a variety of recognitions, recollections and reiterations but does not require any new meaningful actions or commitments by Member States.³⁶ Rather than seek to resolve these longstanding and serious trade barriers, the Administration aligned itself with foreign governments that purported to seek a TRIPS waiver based on concerns about access to medicines but that themselves are prolific users of trade restrictions that limit such access. U.S. biopharmaceutical workers – in addition to global patients – suffered as a result.

- **Failure to adequately protect American IP abroad.** The Administration undermined American innovation by eliminating certain obligations of foreign governments to protect IP on COVID-19 vaccines under the TRIPS waiver. This was a harmful and deeply unnecessary decision that directly harmed the full scale of researchers, inventors and manufacturers that work in the U.S. innovative biopharmaceutical industry. Having produced more than enough doses to vaccinate the world, the innovative biopharmaceutical industry encouraged the Administration to demonstrate leadership at the WTO by opposing the TRIPS waiver and refocusing global attention to resolving international challenges to distributing and administering that global vaccine surplus. Instead, the U.S. Government joined foreign governments in championing the TRIPS waiver, to the detriment of American innovation and global public health. Waiving global obligations to protect American innovation compromises safety, weakens supply chains and fosters the proliferation of counterfeit vaccines.

Furthermore, the Administration’s decision to effectively hand over American innovations to countries looking to undermine U.S. leadership in biomedical discovery runs counter to the Administration’s stated objectives to grow American biotechnology infrastructure, innovation and

³⁴ This includes proposals from the European Union concerning trade facilitation, regulatory cooperation and disciplining export restrictions, and proposals from the “Ottawa Group” to limit export restrictions on medical goods, reduce tariffs and improve trade facilitation, among other proposals. See General Council, Urgent Trade Policy Responses to the COVID-19 Crisis, Communication from the European Union, WT/GC/231 (Jun. 4, 2021) and General Council, COVID-19 and Beyond: Trade and Health, Communication from Australia, Brazil, Canada, Chile, the European Union, Japan, Kenya, Republic of Korea, Mexico, New Zealand, Norway, Singapore and Switzerland, WT/GC/223 (Nov. 24, 2020).

³⁵ This includes the May 2021 G20 “Rome Declaration,” which acknowledged “the central role of the WTO, and the importance of open, resilient, diversified, secure, efficient and reliable global supply chains across the whole value chain related to health emergencies.” Similarly, the September 2021 “Declaration of the G20 Health Ministers” recognized the urgent need “to eliminate WTO-inconsistent barriers that jeopardize the effective operation of the supply chains for essential medical goods.” See Global Health Summit: The Rome Declaration (May 21, 2021), https://www.governo.it/sites/governo.it/files/documenti/documenti/Approfondimenti/GlobalHealthSummit/GlobalHealthSummit_RomeDeclaration.pdf; and Declaration of the G20 Health Ministers (5-6 Sep. 2021), https://reliefweb.int/sites/reliefweb.int/files/resources/G20_Italia_2021_Health_Declaration_final_05092021_OFFICIAL.pdf.

³⁶ WTO Ministerial Conference, Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics, WTO Doc. WT/MIN(22)/31 (Jun. 22, 2022), <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/31.pdf&Open=True>.

employment, and to ensure that trade policy advances the interests of underserved communities in the United States. Specifically, the TRIPS waiver and any additional decision or effort by USTR to eliminate other countries' TRIPS obligations to protect American innovation directly contradict other purported objectives of President Biden.³⁷ Any effort to cede American IP to foreign countries – including by expanding the TRIPS waiver to diagnostics and therapeutics – is an effort to undercut American innovation and the diverse American biotechnology research and manufacturing workforce.

V. A More Inclusive and Worker-Centered U.S. Trade Agenda Must Prioritize Innovation, Protect IP and Champion Open Trade

This Administration's misguided trade policies harm the very workers and communities that are the focus of USTR's request for comments by depriving those workers of opportunities to compete in the global economy, reap the benefits of American innovation and labor without fear of foreign theft of American IP. For example, experts have highlighted the particularly harmful effect a TRIPS waiver will have on women entrepreneurs in the life sciences, including by jeopardizing their ability to raise capital.³⁸ To be clear, a U.S. trade policy that fails to promote – or worse, actively harms – a major U.S. industry necessarily disadvantages the hundreds of thousands of workers employed in that industry, including women, racial minorities and LGBTQI+ persons, their families and their communities.

As the data above demonstrate, the U.S. innovative biopharmaceutical industry provides significant opportunities for women, racial minorities and LGBTQI+ individuals in the United States to compete successfully in the global economy through meaningful contributions in biopharmaceutical research, invention and manufacturing. A truly inclusive, worker-centered trade agenda would be one that benefits these workers through concrete and ambitious trade actions that enhance their U.S. employment opportunities – namely, enforce existing trade rules, reject efforts by foreign governments to weaken international protections for American IP and pursue comprehensive and ambitious trade agreements that promote innovation and dismantle foreign trade barriers and other unfair policies abroad.

Multiple opportunities exist for the Administration to address these barriers and policies through trade policy. Doing so would facilitate American innovation, grow U.S. exports, improve patient access to medicines and expand economic opportunities for American workers, including the many women, racial minorities and LGBTQI+ persons employed in biopharmaceutical research, invention and manufacturing. To maximize opportunities for these workers, the U.S. Government should engage more ambitiously with U.S. trading partners to negotiate and conclude comprehensive trade agreements that eliminate and address the above-referenced foreign barriers and policies. Current opportunities include, but are not limited to, initiating negotiations with the United Kingdom and other well-positioned trading partners

³⁷ See, e.g., Exec. Order No. 14081, Advancing Biotechnology and Biomanufacturing Innovation for a Sustainable, Safe, and Secure American Bioeconomy (Sep. 12, 2022), <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/09/12/executive-order-on-advancing-biotechnology-and-biomanufacturing-innovation-for-a-sustainable-safe-and-secure-american-bioeconomy/>.

³⁸ Natalie-Buford Young, "Women entrepreneurs at risk if IP protections fall," Boston Herald, June 7, 2023, <https://www.bostonherald.com/2023/06/07/buford-young-women-entrepreneurs-at-risk-if-ip-protections-fall/>.

and increasing the ambitions of ongoing initiatives, including the TTC, the IPEF, bilateral dialogues and WTO discussions concerning trade and health.

The U.S. innovative biopharmaceutical industry agrees that the U.S. Government can and should leverage trade policy for the benefit of underserved communities in the United States. The U.S. Government's current approach misses critical opportunities to do so by failing to prioritize trade policies that support the diverse U.S. workforce engaged in the development and production of lifesaving medicines. America's demographically diverse biopharmaceutical workers therefore urgently request that USTR, and the Administration more broadly, reinstate America's longstanding and bipartisan commitment to combatting foreign trade barriers and unfair policies abroad, including inadequate protection of American IP, government pricing policies that undervalue American innovation, discriminatory market access policies, burdensome and nontransparent regulations, and import restrictions on innovative medicines. A more inclusive, worker-centered approach must refocus attention on these critical priorities.

PhRMA appreciates the opportunity to share this information with USTR.

Sincerely,

/s/ Douglas Petersen

Douglas Petersen
Deputy Vice President, International