

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

11 November 2021 POL 40/4969/2021

# DESPITE THE RHETORIC, PFIZER'S FAILURES CONTINUE TO FUEL HUMAN RIGHTS COVID-19 CRISIS

Two years after the emergence of the deadly coronavirus, half the world's population have received at least one dose of the vaccine – a major milestone on the path to global vaccination. Yet a staggering 96% of people in low-income countries remain unvaccinated.<sup>1</sup> Despite the ever-increasing numbers of vaccines produced, both states and pharmaceutical companies are continuing to fail to guarantee fair access to lifesaving medicines for all.

This briefing updates the record of Pfizer – one of the largest and most profitable vaccine developers which has delivered in excess of 1.8 billion doses to date.<sup>2</sup> Despite its many pledges – some misleadingly phrased – Pfizer Inc. (Pfizer) continues to reserve the bulk of its vaccines for higher income countries, is still refusing to participate in technology sharing initiatives, such as the South African-based WHO mRNA technology hub; and has lobbied vigorously against efforts to lift intellectual property restrictions. With projected earnings of US\$36bn from vaccines for 2021, Pfizer is still putting profits before people.<sup>3</sup>

On November 5, Pfizer announced successful trials for Paxlovid, a potential new Covid-19 antiviral treatment candidate, stating that the company was committed to working toward equitable access for all. Pfizer cited its commitment to tiered pricing based on income level, and went on to say that it had already entered into advance purchase agreements with several countries. This was the same approach that Pfizer took to Covid-19 vaccines and that has failed to deliver on fair access for all people to its health products.<sup>4</sup>

## THE CAMPAIGN

In September 2021, Amnesty International launched *The 100 Day Countdown*. The campaign calls on both states and companies to prioritize vaccine deliveries to low and lower-middle income countries in order for the WHO to meet its 40% vaccination target in these countries.<sup>5</sup>

Amnesty International is calling on vaccine developers to deliver at least 50% of vaccines they produce between 21 September and 31 December to low and lower-middle income countries and increase overall supply through knowledge and technology transfer. More than 1.2 billion additional people in low and lower-middle income countries could be vaccinated by the end of the year if rich countries and vaccine makers agreed to redistribute more fairly.

But as we reach the halfway mark, pharmaceutical companies are still falling well short of this goal, and the vast majority of vaccines continue to be delivered to higher income countries, many of which continue to hold onto substantial stockpiles.

## THE ROLE OF PFIZER

As one of the largest vaccine producers, Pfizer, working in partnership with BioNTech, a vaccine developer based in Mainz, Germany, bears particular responsibility for ensuring a fast and fair rollout and removing all obstacles to ramp up production.

<sup>1</sup> Our World in Data: Coronavirus (COVID-19) Vaccinations, as of 4 November 2021, [ourworldindata.org/covid-vaccinations](https://ourworldindata.org/covid-vaccinations)

<sup>2</sup> Airfinity, Vaccine Production, [science.airfinity.com/supply-and-production/production/by-vaccine](https://science.airfinity.com/supply-and-production/production/by-vaccine)

<sup>3</sup> Pfizer, "Pfizer Reports Third-Quarter 2021 Results", 2 November 2021, [s21.q4cdn.com/317678438/files/doc\\_financials/2021/q3/Q3-2021-PFE-Earnings-Release.pdf](https://s21.q4cdn.com/317678438/files/doc_financials/2021/q3/Q3-2021-PFE-Earnings-Release.pdf)

<sup>4</sup> Pfizer, "Pfizer's Novel Covid-19 Oral Antiviral Treatment Candidate Reduced Risk of Hospitalization or death by 89% in interim analysis of phase 2/3 Epic-Hr Study", 5 November 9, 2021 [www.pfizer.com/news/press-release/press-release-detail/pfizers-novel-covid-19-oral-antiviral-treatment-candidate](https://www.pfizer.com/news/press-release/press-release-detail/pfizers-novel-covid-19-oral-antiviral-treatment-candidate)

<sup>5</sup> Amnesty International, 2 Billion Vaccines Now!, [www.amnesty.org/en/latest/campaigns/2021/10/100daycountdown/](https://www.amnesty.org/en/latest/campaigns/2021/10/100daycountdown/)

Both Pfizer and BioNTech have committed to the UN Guiding Principles on Business and Human Rights in their human rights policies (see below). However, Pfizer has strongly lobbied against the proposed TRIPS waiver and both companies have declined to participate in WHO intellectual property and technology sharing mechanisms despite global production of Covid-19 vaccines not meeting global demand. Pfizer and BioNTech have so far delivered the vast majority of their vaccines to high-income countries. They have only belatedly committed significant quantities of doses to the COVAX Facility, which functions as a global procurement and distribution mechanism through which available doses can be allocated to participating countries, regardless of income levels. But most of these doses will not be produced and distributed until 2022.

Pfizer states it has applied a tiered pricing policy, but it has mainly delivered its products to high-income countries, putting economic interest before access to Covid-19 vaccines.<sup>6</sup> In November 2021, Pfizer reported it is set to earn \$36 billion from vaccine sales by the end of the year.<sup>7</sup>

In a letter to Amnesty International in June 2021, Pfizer expressed the aspiration that “the vaccine would be available to every patient, country and community that seeks access,” and said that their priority was “fair and equitable distribution of our COVID-19 vaccine.”<sup>8</sup> But this rhetoric has not been matched by actions, and many statements championing the company’s record on access to vaccines have been misleading.

## FAIR DISTRIBUTION

In the letter to Amnesty, Pfizer also stated that “recently we pledged to provide 2 billion doses of our COVID-19 vaccine to middle- and low-income countries over the next 18 months. We expect to provide 1 billion of these doses to low- and middle-income countries this year. And we pledged to deliver another 1 billion doses to these countries in 2022. Upon finalization of all agreements, we expect 40% of our planned supply to go to low- and middle-income countries.”<sup>9</sup> Pfizer repeated this pledge in media interviews in September.<sup>10</sup>

Similarly, on 1 November, Angela Hwang, Pfizer’s Biopharmaceuticals Group President stated on Twitter that Pfizer had already agreed to supply 1.1 billion doses to low- and middle-income countries this year.<sup>11</sup>

This claim gives the impression that lower income countries are receiving a substantial proportion of Pfizer vaccines, but the language is misleading. The World Bank classifies economies for analytical purposes into four income groups: low, lower-middle, upper-middle, and high income.<sup>12</sup> However, in these statements, Pfizer has amalgamated low, lower-middle, and upper-middle countries – over 84% of the global population - into one group and referred to them as “low and middle-income”. Within this very broad category, the bulk of Pfizer’s doses have in fact been going to “upper-middle” income countries such as Malaysia, Mexico and Thailand.

Pfizer said it had shipped a total of two billion doses by the end of September.<sup>13</sup> But in a [letter to Amnesty International](#) in November, the company admitted that only 154 million doses - less than 8 percent of its total – had in fact reached 42 low- and lower-middle-income countries.<sup>14</sup> Pfizer said it had distributed less than 10 percent of these (i.e. 15.4 million) to low-income countries.

## SHARING OF KNOWLEDGE AND INTELLECTUAL PROPERTY

In a letter to Amnesty International of 15 June 2021, the CEO of Pfizer, Dr Albert Bourla stated: “we have always said that no one company, vaccine or treatment would be enough to combat this pandemic, and that we need to harness the potential of the full biotechnology ecosystem. That is why, in March of last year, we committed to sharing our scientific tools and insights, development expertise, and manufacturing capacity in our 5-Point Plan.”<sup>15</sup>

<sup>6</sup> For a full assessment of Pfizer and BioNTech, see Amnesty International, *A double dose of inequality: Pharma companies and the Covid-19 vaccines crisis*, (Index Number: POL 40/4621/2021), pp.51-56, [www.amnesty.org/en/wp-content/uploads/2021/09/POL4046212021ENGLISH.pdf](http://www.amnesty.org/en/wp-content/uploads/2021/09/POL4046212021ENGLISH.pdf)

<sup>7</sup> Pfizer, “Pfizer Reports Third-Quarter 2021 Results”, 2 November, 2021, [s21.q4cdn.com/317678438/files/doc\\_financials/2021/q3/Q3-2021-PFE-Earnings-Release.pdf](https://s21.q4cdn.com/317678438/files/doc_financials/2021/q3/Q3-2021-PFE-Earnings-Release.pdf)

<sup>8</sup> Pfizer, Letter to Amnesty International, 15 June, 2021, on file.

<sup>9</sup> Pfizer, Letter to Amnesty International, 15 June, 2021, on file.

<sup>10</sup> Newsweek, “Pfizer CEO Says Low-Income Nations Will Receive 1Bn COVID Vaccine Doses by Year’s End”, 26 September, 2021, [www.msn.com/en-us/news/world/pfizer-ceo-says-low-income-nations-will-receive-1bn-covid-vaccine-doses-by-years-end/ar-AAOQQL](https://www.msn.com/en-us/news/world/pfizer-ceo-says-low-income-nations-will-receive-1bn-covid-vaccine-doses-by-years-end/ar-AAOQQL)

<sup>11</sup> Twitter, Pfizer Inc., 1 November 2021, [twitter.com/pfizer/status/1455172857877647363](https://twitter.com/pfizer/status/1455172857877647363)

<sup>12</sup> World Bank, World Bank Country and Lending Groups, [datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups](https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups)

<sup>13</sup> Pfizer, “Pfizer Quarterly Corporate Performance – Third Quarter 2021”, 2 November 2021, [investors.pfizer.com/events-and-presentations/event-details/2021/Pfizer-Quarterly-Corporate-Performance--Third-Quarter-2021/default.aspx](https://investors.pfizer.com/events-and-presentations/event-details/2021/Pfizer-Quarterly-Corporate-Performance--Third-Quarter-2021/default.aspx)

<sup>14</sup> Pfizer, Letter to Amnesty International, 8 November 2021, <https://www.amnesty.org/en/documents/POL40/4970/2021/en/>

<sup>15</sup> Pfizer, Letter to Amnesty International, 15 June, 2021, on file; Pfizer’s Five-Point Plan avoids references to the sharing of intellectual property or the granting of non-exclusive licences to other companies, see Pfizer Outlines Five-Point Plan To Battle COVID-19, March 13 2020, [www.pfizer.com/news/press-release/press-release-detail/pfizer-outlines-five-point-plan-battle-covid-19](https://www.pfizer.com/news/press-release/press-release-detail/pfizer-outlines-five-point-plan-battle-covid-19)

This statement gives the impression that Pfizer is open to the pooling of knowhow and resources to speed up the fair distribution of COVID-19 vaccines. However, Pfizer has opposed sharing of Intellectual Property through the World Health Organization's COVID-19 Technology Access Pool (C-TAP)<sup>16</sup> and has not joined the newly established COVID-19 mRNA vaccine technology transfer hub in South Africa.<sup>17</sup>

According to notes from a site visit in September 2021, WHO officials have reached out to Pfizer/BioNTech, along with Moderna, "to explore their willingness to transfer their technology to the Hub but to no avail."<sup>18</sup> The Hub will attempt to replicate the process used by Moderna because, unlike Pfizer and BioNTech, Moderna has committed not to enforce its intellectual property rights.<sup>19</sup> In this case, Pfizer and BioNTech are refusing to collaborate in an initiative which could ramp up and diversify production, greatly delaying the development of production sites in Africa.

Pfizer has also lobbied the U.S. administration to oppose proposals put forward by India and South Africa to the World Trade Organization Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS) to suspend critical intellectual property provisions of the TRIPS Agreement, which it describes as a disincentive to investment and innovation.<sup>20</sup>

A letter signed by Pfizer CEO, Dr Albert Bourla, along with CEOs from other leading pharmaceutical companies, argued that the sharing of copyrights, industrial designs, patents and trade secrets would not widen distribution of the vaccine.<sup>21</sup> The Pharmaceutical Research and Manufacturers of America, which represents Pfizer among other companies, has actively lobbied the US Congress against the TRIPS waiver.<sup>22</sup>

In reality, given the insufficient capacity to meet global demand of Covid-19 vaccines and the lack of diversification of production, Pfizer is failing to ensure "the vaccine would be available to every patient, country and community that seeks access", as the company claimed in its letter of June 2021. To the contrary, Pfizer is obstructing efforts to make life-saving vaccines available, accessible and affordable for all.

## THE HUMAN RIGHTS RESPONSIBILITIES OF COMPANIES

All businesses have a responsibility to respect human rights wherever they operate in the world. Above all, this responsibility means that companies should "do no harm". If they discover that they are the cause of human rights abuses, then they must immediately stop their harmful actions and provide remedy. This is a widely recognized standard of expected conduct as set out in the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.<sup>23</sup>

The corporate responsibility to respect human rights is independent of a state's own human rights obligations and exists over and above compliance with national laws and regulations protecting human rights. For the vaccine developers, the responsibility to respect human rights means that they should develop and implement policies that aim to make quality Covid-19 vaccines available, accessible and affordable. They should ensure that they are not creating obstacles and refrain from any action that unduly impacts on states' abilities to make Covid-19 vaccines available to all.

For the vaccine developers, the responsibility to respect human rights means that they should develop and implement policies that aim to make quality Covid-19 vaccines available, accessible, and affordable. They should ensure that they are not creating obstacles and refrain from any action that unduly impacts on states' abilities to make Covid-19 vaccines available to all.

<sup>16</sup> Los Angeles Times, "Vaccine companies and the U.S. government snubbed WHO initiative to scale up global manufacturing", 30 April 2021, [www.latimes.com/world-nation/story/2021-04-30/vaccine-companies-and-the-u-s-government-snubbed-who-initiative-to-scale-up-global-manufacturing](http://www.latimes.com/world-nation/story/2021-04-30/vaccine-companies-and-the-u-s-government-snubbed-who-initiative-to-scale-up-global-manufacturing)

<sup>17</sup> WHO, "WHO supporting South African consortium to establish first COVID mRNA vaccine technology transfer hub", 21 June 2021, [www.who.int/news/item/21-06-2021-who-supporting-south-african-consortium-to-establish-first-covid-mrna-vaccine-technology-transfer-hub](http://www.who.int/news/item/21-06-2021-who-supporting-south-african-consortium-to-establish-first-covid-mrna-vaccine-technology-transfer-hub)

<sup>18</sup> WHO, "Site visit to kick-off the South African mRNA vaccine Technology Transfer hub", 6-9 September 2021, Note for the Record, [int.nyt.com/data/documenttools/w-h-o/cb7c87fba82cbd82/full.pdf](http://int.nyt.com/data/documenttools/w-h-o/cb7c87fba82cbd82/full.pdf)

<sup>19</sup> WHO, "Site visit to kick-off the South African mRNA vaccine Technology Transfer hub", 6-9 September 2021, Note for the Record, [int.nyt.com/data/documenttools/w-h-o/cb7c87fba82cbd82/full.pdf](http://int.nyt.com/data/documenttools/w-h-o/cb7c87fba82cbd82/full.pdf)

<sup>20</sup> Reuters, "Top U.S. trade negotiator meets Pfizer, AstraZeneca execs on COVID-19 IP waiver", 5 May, 2021, [www.reuters.com/business/healthcare-pharmaceuticals/top-us-trade-negotiator-meets-pfizer-astrazeneca-exec-covid-19-ip-waiver-2021-04-27/](http://www.reuters.com/business/healthcare-pharmaceuticals/top-us-trade-negotiator-meets-pfizer-astrazeneca-exec-covid-19-ip-waiver-2021-04-27/)

<sup>21</sup> Letter from PhRMA to President Biden, 5 March 2021, [patentdocs.typepad.com/files/2021-03-05-phrma-letter.pdf](http://patentdocs.typepad.com/files/2021-03-05-phrma-letter.pdf)

<sup>22</sup> The Intercept, "Documents reveal pharma plot to stop generic covid-19 vaccine waiver", 14 May 2021, [theintercept.com/2021/05/14/covid-vaccine-waiver-generic-pharma-lobby/](http://theintercept.com/2021/05/14/covid-vaccine-waiver-generic-pharma-lobby/)

<sup>23</sup> This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011 when it endorsed the UN Guiding Principles on Business and Human Rights, and on 25 May 2011 when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the OECD unanimously endorsed a revised version of the OECD Guidelines for Multinational Enterprises. See *Human Rights and Transnational Corporations and other Business Enterprises*, Human Rights Council, Resolution 17/4, UN Doc A/HRC/RES/17/4, 6 July 2011; OECD, *OECD Guidelines for Multinational Enterprises*, OECD, 2011, [dx.doi.org/10.1787/9789264115415-en](http://dx.doi.org/10.1787/9789264115415-en)

Through its skewed vaccine distribution, longstanding refusal to share technology and know-how and vigorous lobbying against efforts to free up intellectual property rights, Pfizer has failed in his human rights responsibilities, ending up causing or contributing to human rights harms suffered by billions of people lacking access to the Covid-19 vaccine.

As Amnesty International's September 2021 report, *A Double Dose of inequality: Pharma companies and the Covid-19 vaccines crisis*, demonstrated, Pfizer is not alone in these failures: BioNTech, Moderna, Johnson & Johnson and AstraZeneca have all similarly blocked technology sharing and lobbied against the proposed TRIPS waiver.<sup>24</sup> According to Airfinity, a science and analytics company, Moderna and Johnson & Johnson also have a poor record on fair vaccine distribution. Approximately 96% of Moderna's vaccines are still going to upper-middle and high-income countries. Over the first half of the 100 day challenge, only 100,000 out of 57 million doses went to low-income countries. Johnson & Johnson's breakdown has been marginally better, but still inadequate. According to Airfinity, Johnson & Johnson, has delivered just 16% of its vaccines to low and lower-middle-income countries with the remaining 84% going to upper-middle and high-income countries.<sup>25</sup>

## PFIZER RESPONSE

In a response to Amnesty International, of 8 November 2021, Pfizer said, in relation to its distribution of doses to low - income countries:

*"It is simply not accurate to say that no doses at all have reached these countries as of today. We recognize and are concerned by the relative lower pace with which vaccines ended up reaching low-income countries, however, it is important to also acknowledge that approximately two thirds of the 1.3 billion people living in poverty are in the middle-income countries. Lower-middle-income and upper-middle-income countries are currently home to 75% of the world's population and 62% of the world's poor. Nonetheless, we anticipate that there will be a substantial increase in dose shipments through the end of the year with a particular focus on low- and lower-middle-income countries that are further from global targets."*<sup>26</sup>

On the issue of intellectual property (IP) rights, Pfizer added: *"the IP framework protects innovation and allows for secure transfer of technical knowledge"* and that the company *"will continue to pursue opportunities to bring new partners into its supply chain network to further accelerate access to the COVID vaccine."*

## RECOMMENDATIONS

In July, a task force led by the World Health Organization (WHO) set a target to ensure 40% of people in every country are vaccinated by the end of 2021. But as of September, less than 10% of people in low and lower-middle income countries are fully vaccinated.<sup>27</sup>

On 22 September Amnesty International launched the 100 Day Countdown, calling on states and pharmaceutical companies to take urgent action to meet that lifesaving target. We calculated that if 2 billion vaccines were delivered to 82 low- and lower-middle income countries, an additional 1.2 billion people could be fully vaccinated by the end of 2021. That's the number of vaccinations needed in for the WHO to meet its 40% target in these countries.

Airfinity estimates that between 100,000 and 225,000 lives can be saved for every 100 million doses delivered – meaning that meeting this target could save at least 2 million lives.

This could be achieved if:

- Pharmaceutical companies deliver 50% of vaccines they produce between 21 September and 31 December to low and lower-middle income countries. More than 2.6 billion vaccines could be provided in this way.

<sup>24</sup> Amnesty International, *A double dose of inequality: Pharma companies and the Covid-19 vaccines crisis*, (Index Number: POL 40/4621/2021), [www.amnesty.org/en/wp-content/uploads/2021/09/POL4046212021ENGLISH.pdf](http://www.amnesty.org/en/wp-content/uploads/2021/09/POL4046212021ENGLISH.pdf)

<sup>25</sup> Data supplied by Airfinity on 8 November 2021, on file.

<sup>26</sup> Pfizer, Letter to Amnesty International, 8 November 2021, <https://www.amnesty.org/en/documents/POL40/4970/2021/en/>

<sup>27</sup> Amnesty International, 2 Billion Vaccines Now!, [www.amnesty.org/en/latest/campaigns/2021/10/100daycountdown/](http://www.amnesty.org/en/latest/campaigns/2021/10/100daycountdown/)

- States redistribute the hundreds of millions of surplus vaccines currently in their stocks. Right now, more than 500 million vaccines could be made available immediately if Australia, Canada, China, the EU, Japan, UK, and US, redistributed their spare vaccines.
- Both states and pharmaceutical companies urgently increase global supply of Covid-19 vaccines through knowledge and technology transfer to local and regional manufacturers by joining initiatives such as the WTO's TRIPS Agreement Waiver, the WHO's mRNA vaccine Technology Transfer Hub and the Covid-19 Technology Access Pool (C-TAP).

Furthermore, in order to ensure fair access to its antiviral Covid-19 treatment, Paxlovid, Pfizer must

- Share its intellectual property, knowledge and technology through C-TAP or similar multilateral sharing initiatives, issuing global, non-exclusive licenses, to allow ramping up and diversification of global production.
- Pursue allocation based on human rights considerations, such as the prevalence of the pandemic in a country, the functioning of a country's health care system, vaccination rate and non-discrimination.
- Carry out human rights due diligence to identify, prevent, mitigate and account for how they address potential and actual adverse human rights impacts in relation to their Covid-19 treatment medication.