

Open Letter to Moderna CEO and Chairperson

For attention: S. Bancel and N. Afeyan

Per email

14 February 2022

Dear Stephan Bancel and Noubar Afeyan

Civil society groups in South Africa call on Moderna to immediately withdraw the mRNA vaccine patents it has filed in South Africa, and to provide technical expertise to the WHO mRNA Hub in South Africa

We write to you as concerned civil society organisations in South Africa, representing affected communities regarding several patents, which have been filed by Moderna and granted in South Africa, without the requisite due examination.

The patents were filed and remain in place despite: the on-going United States Government's National Institutes of Health (USG NIH) and Moderna technology ownership dispute; the refusal by Moderna to issue non-exclusive licences for use in South Africa, and in other African countries; the delay by Moderna to file its regulatory dossier with the medicines regulator in South Africa; the refusal by Moderna to sell its vaccine to several African governments and other poorer countries, as recently reported by the New York Times.¹

It is important to state that these patents pose long term barriers to scaling up the supply of messenger RNA (mRNA) vaccines and to diversifying local production in the continent. Analysis shows that there are a number of capable manufacturers² which meet both the technical requirements and quality standards to manufacture mRNA vaccines. However, Moderna's refusal to share the technology, and opting instead to build its own facility from scratch, further delays access to these life-saving vaccines.

In the COVID-19 pandemic, people in Africa have undeniably been the hardest hit by vaccine inequity, with 3 out of 4 health workers and 9 out of 10 people not yet fully vaccinated, by end 2021.³ At the same time, companies such as Moderna have prioritised supplies to wealthy nations; millions of people in high-income countries (HICs) have already had their third vaccine administered; all while only 11% of people on the African continent are fully vaccinated.

Moderna belatedly allocated a mere 110 million vaccines for a continent with an estimated population of 1.3 billion people and via the few bilateral deals of which we are aware, even

¹<https://www.nytimes.com/2021/10/09/business/moderna-covid-vaccine.html>

²<https://msfaccess.org/sharing-mrna-vaccine-technologies-save-lives>

³<https://www.afro.who.int/news/only-1-4-african-health-workers-fully-vaccinated-against-covid-19>

charging countries such as Botswana twice the price paid by the United States (U.S.) and European Union(EU).

In response to on-going global vaccine inequity and nationalism inherent in this pandemic, South Africa was selected to host the first World Health Organisation (WHO) mRNA Technology Transfer Hub ('Hub') to fast track the supply of vaccines to the rest of the continent, as well as to other low-and-middle income countries (LMICs). However, Moderna's patents in South Africa have created legal risks and uncertainties for any outputs of the Hub.

We note that Moderna has also withdrawn or abandoned equivalent patents in multiple countries, including Canada and Australia⁴, while actively maintaining the equivalent patents and applications in South Africa. The only conclusion we can draw from Moderna's selective patent filings, is that Moderna does indeed intend to enforce these patents, despite public announcements to the contrary. Given that Moderna itself may decide when the 'pandemic is 'over', this is hardly a reassuring pledge and may potentially undermine the Hub's current and future functioning and research, at the expense of all LMICs.

The vaccine was publicly funded and co-developed by the U.S. government. Moderna is reported to have now made over \$10 billion in profits from this vaccine.

We urge Moderna to desist from continuously putting Africa last in line, due in part to Moderna's limited capacity to fulfil production demands. It is time that Moderna act in the interests of people, not profits, and immediately agree to:

- **Withdrawing and abandoning all patents and patent applications in South Africa related to the Moderna Covid-19 mRNA vaccine technology [as already done in several HICs].**
- **Immediately lending technical assistance to the Hub in order to guarantee its success within an expedited period.**
- **Allowing the Hub, the freedom to continue its vital work now, which will help to potentially develop vaccines against other high burden diseases in Africa, such as tuberculosis (TB), Human Immunodeficiency Virus (HIV) and Malaria.**

History will remember which side Moderna stood on in this pandemic, and there is still time to stand on the side of saving lives.

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⁴ <https://msfaccess.org/removing-intellectual-property-barriers-covid-19-vaccines-and-treatments-people-south-africa>

Signatories:

1. Action Against NCDs in Eswatini
2. African Alliance
3. Afya na Haki – Kenya
4. Amnesty International
5. Alternative Information and Development Centre – AIDC – South Africa
6. BMS World Mission
7. Cancer Alliance – South Africa
8. Centre for Health, Human Rights and Development (CEHURD) – Uganda
9. Civil Society SDGs Campaign -GCAP -Zambia
10. Community Working Group On Health – Zimbabwe
11. Council for NGOs in Malawi – CONGOMA
12. Covid-19 People’s Coalition – South Africa
13. Disability Connection
14. Eagle Lead Development Initiative (ELDI)
15. Extinction Rebellion – South Africa
16. Frontline AIDS - South Africa
17. Global Call to Action Against Poverty
18. Global Justice Now
19. Global South Against Xenophobia (GSAX)
20. Good Health Community Programmes
21. Halley Movement – GCAP - Mauritius
22. Health Action International Asia Pacific (HAIAP)
23. Health GAP
24. Health Justice Initiative – South Africa
25. Health Poverty Action
26. ICWK - Institute of Clerks of Work Kenya - ICWK
27. International Labour Research and Information Group – ILRIG - South Africa
28. Institute for Economic Research on Innovation - Tshwane University of Technology, SA
29. Just Treatment
30. Korean Pharmacists for Democratic Society
31. Médecins Sans Frontiers - Southern Africa
32. National Association of NGOs
33. Network of TB Champions
34. Norwegian People’s Aid
35. OXFAM International
36. OXFAM South Africa
37. Patient and Community Welfare Foundation of Malawi
38. People Against Apartheid And Fascism
39. People’s Health Institute, Korea
40. People’s Health Movement - South Africa
41. People’s Health Movement Korea
42. People’s Vaccine Alliance (PVA)
43. People’s Vaccine Alliance (PVA) – Africa
44. Public Eye
45. Public Health Innovations
46. Public Service Accountability Monitor – PSAM – South Africa
47. SA National Labour and Economic Development Institute (NALEDI)
48. Salud por Derecho – Spain
49. Section 27 – South Africa
50. South Africa NCD Alliance
51. South Asia Alliance for Poverty Eradication - SAAPE
52. Southern African Alcohol Policy Alliance – SAAPA
53. The Anti-Repression Working Group (ARWG) – South Africa
54. The Rights Initiative
55. The Yunus Centre
56. Third World Network
57. Treatment Action Group – TAG
58. Umvoti AIDS Centre – South Africa
59. Underprivileged Welfare Support Development Association
60. Universities Allied for Essential Medicines (UAEM) / Free the Vaccine
61. Universities Allied for Essential Medicines, UK
62. Vaccine Advocacy Resource Group – Africa
63. Western Cape Forum for Intellectual Disability (WCFID) – South Africa