

Congress of the United States
Washington, DC 20515

January 10, 2007

The Honorable Susan C. Schwab
United States Trade Representative
600 17th Street, NW
Washington, DC 20508

Dear Ambassador Schwab:

We are writing to urge that the United States respect the decision of the Thai government to issue a compulsory license on the AIDS drug efavirenz.

Thailand's HIV/AIDS treatment initiative has been recognized as among the most successful in the developing world. By producing generic first-line antiretroviral (ARV) therapies since before the medicines were patented in the country, Thailand's Government Pharmaceutical Organization (GPO) has made treatment widely accessible to tens of thousands of patients in government clinics and hospitals.

However, increasing numbers of Thai HIV/AIDS patients need access to newer, second-line treatment options because they have developed resistance to, or severe side effects from, the first-line regimens. Because second-line drugs, including efavirenz, are under patent in Thailand, they are currently only available from their brand name producers. The high price of these medicines has created a significant obstacle to the expansion and sustainability of the Thai program.

Thailand's November 29 announcement of its intent to issue a government-use compulsory license on efavirenz is a demonstration of its commitment to improve treatment options for the nearly 600,000 Thai citizens living with HIV.¹ As has been demonstrated in many other contexts, the availability of generics greatly lowers the price of HIV drugs over time and increases access to these life-savings medications.

Further, Thailand's action is entirely consistent with international trade rules. The World Trade Organization's 1994 Agreement on Trade Related Aspects of Intellectual Property (TRIPS) specifically permits compulsory licensing, and the 2001 Doha Declaration reaffirmed each country's "freedom to determine the grounds upon which such licenses are granted."² Under TRIPS, Thailand is not required to negotiate in advance with the patent holder because the drug will be produced in the near-term future by the GPO and distributed for non-commercial public use by Thailand's national program.³

¹ Bureau of AIDS, TB, and STI, Department of Disease Control, Thailand Ministry of Public Health, www.aidsthai.org.

² Paragraph 5(b), 'Declaration on the TRIPS Agreement and Public Health', WTO Ministerial Conference – Fourth Session, WT/MIN(01)/DEC/2, 20 November (2001).

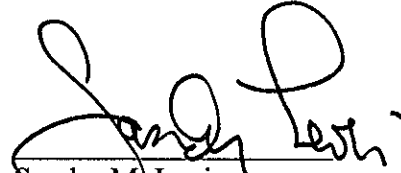
³ World Trade Organization, *Agreement on Trade-Related Aspects of Intellectual Property Rights* (1994), Article 31.

Unfortunately, it is our understanding that the United States government may be attempting to intervene in the Thai government's decision to issue and implement the compulsory license for efavirenz. As you are aware, the Trade Promotion Authority Act of 2002 mandates that United States trade policy respect other nations' public health initiatives under Doha.⁴ We therefore call on you to respect the rights of Thailand and other nations to implement important and permitted public health safeguards.

Sincerely,



Tom Allen
Member of Congress



Sander M. Levin
Member of Congress



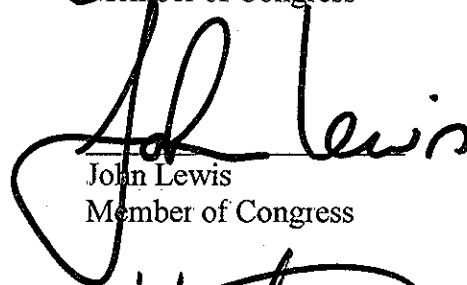
Henry A. Waxman
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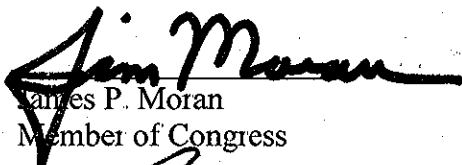
Jim McDermott
Member of Congress



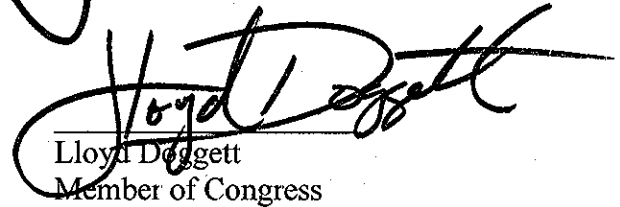
Fortney Pete Stark
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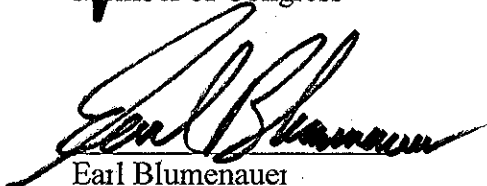
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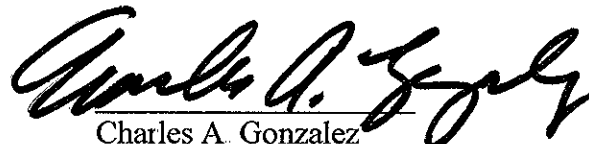
James P. Moran
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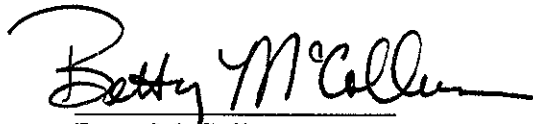



Earl Blumenauer
Member of Congress

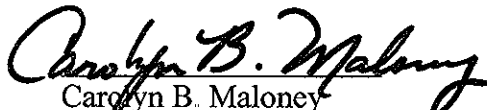



Charles A. Gonzalez
Member of Congress

⁴ U.S. Trade Promotion Authority Act (P.L. 107-210), August 6, 2002 § 2102(b)(4)(C)

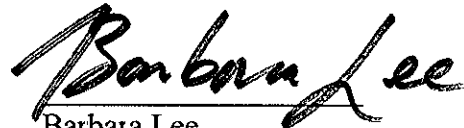

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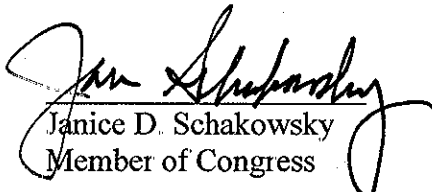

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Member of Congress



Dennis J. Kucinich
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Member of Congress

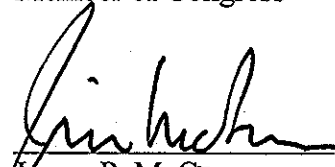

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