

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
WASHINGTON, D.C. 20508

February 9, 2006

Mr. James Love  
Consumer Project on Technology  
1621 Connecticut Avenue, N.W.  
Suite 500  
Washington, D.C. 20009

Dear Mr. Love:

Thank you for your letter concerning the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the TRIPS public health solution (TRIPS/health solution).

The TRIPS/health solution was an extraordinary measure, intended to assist countries that lack the capacity to manufacture drugs. The solution permits countries to override patent rights when necessary to export life-saving drugs to developing countries that face public health crises, but cannot produce drugs for themselves. The TRIPS/health solution is a demonstration of how the World Trade Organization (WTO) can work to address the needs of poor countries.

In the negotiations leading up to this solution, developed nations as a whole recognized that it was not appropriate for us to import pharmaceuticals under this system devised to assist poor countries and agreed not to divert attention and resources away from countries the system was intended to benefit. It was also apparent that the United States was not a country that lacked manufacturing capacity, given our robust pharmaceutical manufacturing base and the prevalence of thriving U.S. innovative and generic pharmaceutical industries.

We supported the August 2003 TRIPS/health solution, under which the developed world as a group, decided to "opt-out" and not risk diverting resources from the countries in need. Additionally, we supported the effort to make the TRIPS/health agreement reached in August 2003 a permanent part of the WTO TRIPS Agreement.

On December 6, 2005, the WTO General Council agreed on an amendment to make the August 2003 solution a permanent part of the WTO TRIPS Agreement. Our efforts in working with Africa and other developing countries were instrumental to reaching this agreement.

WTO Members now have until December 1, 2007 to accept the amendment. The amendment will go into effect, for those Members that adopt it, once two-thirds of the membership has adopted it. The August 2003 waiver will remain in place until the amendment is in force.

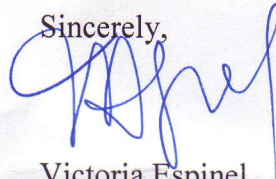


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On December 17, 2005, the United States became the first country to formally notify the WTO that it had accepted the amendment.

Thank you for your letter, and I look forward to working with you.

Sincerely,



Victoria Espinel  
Acting Assistant United States Trade  
Representative for Intellectual Property