

Draft as of February 9, 2007
Subject to legal review for accuracy, clarity, and consistency.

[Date]

The Honorable Susan C. Schwab
United States Trade Representative
Washington, D.C.

Dear Ambassador Schwab:

I have the honor to confirm the following understanding reached between the delegations of Panama and the United States in the course of negotiations regarding Chapter Fifteen (Intellectual Property Rights) of the United States – Panama Trade Promotion Agreement between our Governments signed this day (the “Agreement”):

The obligations of Chapter Fifteen of the Agreement do not affect the ability of either Party to take necessary measures to protect public health by promoting access to medicines for all, in particular concerning cases such as HIV/AIDS, tuberculosis, malaria, and other epidemics as well as circumstances of extreme urgency or national emergency.

In recognition of the commitment to access to medicines that are supplied in accordance with the Decision of the General Council of 30 August 2003 on the Implementation of Paragraph Six of the Doha Declaration on the TRIPS Agreement and public health (WT/L/540) and the WTO General Council Chairman’s statement accompanying the Decision (JOB(03)/177, WT/GC/M/82) (collectively the “TRIPS/health solution”), Chapter Fifteen does not prevent the effective utilization of the TRIPS/health solution.

With respect to the aforementioned matters, if an amendment of a pertinent provision of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (1994) enters into force with respect to the Parties and that amendment is incompatible with Chapter Fifteen, our Governments shall immediately consult in order to adapt Chapter Fifteen as appropriate in the light of the amendment.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our Governments, which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

Alejandro Ferrer

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The Honorable Alejandro Ferrer
Minister of Trade and Industries
Republic of Panama

Dear Minister Ferrer:

I am pleased to receive your letter of today's date, which reads as follows:

“[insert text of incoming letter]”

I have the honor to confirm that the understanding referred to in your letter is shared by my Government, and that your letter and this reply shall constitute an agreement between our Governments, which shall enter into force on the date of entry into force of the Agreement.

Sincerely,

Susan C. Schwab