

UNDERSTANDING REGARDING  
CERTAIN PUBLIC HEALTH MEASURES

May 28, 2004

The Governments of the Republic of Costa Rica, the Republic of El Salvador, the Republic of Guatemala, the Republic of Honduras, the Republic of Nicaragua, and the United States of America have reached the following understandings regarding Chapter Fifteen (Intellectual Property Rights) of the Free Trade Agreement between our Governments signed this day (the "Agreement"):

The obligations of Chapter Fifteen of the Agreement do not affect a Party's ability 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.

FOR THE GOVERNMENT OF COSTA RICA:

FOR THE GOVERNMENT OF EL SALVADOR:

FOR THE GOVERNMENT OF GUATEMALA:

FOR THE GOVERNMENT OF HONDURAS:

FOR THE GOVERNMENT OF NICARAGUA:

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: