Congress of the United States
House of Representatives
Washington, DC 20515

November 26, 2002

Ambassador Robert Zoellick
US Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ambassador Zoellick:

We understand that the WTO Council for TRIPS is meeting this week to make recommendations on the implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

We call on the Administration to honor the US commitment at Doha and agree to a definitive solution to this problem. It is imperative we safeguard poor countries' access to medicines for public health problems including the current devastating diseases HIV/AIDS, malaria, tuberculosis which are highlighted in the TRIPS agreement on public health.

To that end, we oppose language that would limit the breadth of what can be defined as a public health problem. Certainly, it is well documented that HIV/AIDS, malaria and tuberculosis are causing public health crises around the world today. But, we cannot presume to know which diseases may create public health problems tomorrow. The language implementing the Doha Declaration must remain broad so that sovereign nations are best able to address their own public health needs.

We are similarly concerned with reports that the recommendation may limit which countries are eligible for importing based on their economic status. We do not believe it is possible to determine in such a carte blanche manner whether a nation with a particular level of GDP has the where-with-all to produce pharmaceutical products. There does not appear to us to be any compelling reason to strictly define this parameter. It is not a simple process to develop these arrangements. The recommendation should remain flexible to assure the overall goal of permitting a government to protect the public health of its residents – whether that country be one of the least developed or one of moderate development.

The pharmaceutical industry has done a fine job protecting its patent rights here at home in the U.S. We do not believe it is the proper role of the U.S. Government to promote further the ability of drug companies to put profit over the public health needs of people in all parts of the world.

The barriers to compulsory licensing are tremendous. Even greater is the difficulty of finding a foreign country who can export the product at a price that

the importing country can afford. Given these realities, there is no fear that the pharmaceutical industry will be irreparably harmed by permitting countries to import drugs through compulsory licensing when they face serious public health problems.

Last year the Administration backed the landmark Doha Declaration, which affirmed the primacy of public health over the patent rules enshrined in the TRIPS Agreement. We urge the USTR to support an effective, workable solution at the final TRIPS Council meeting so that the original intent is met by the recommendations. Again, that means a broad interpretation of public health problems and no arbitrary economic parameters restricting the countries' ability to utilize importation.

Sincerely,

Pete Stark
Member of Congress

Tom Allen
Member of Congress

Sherrod Brown
Member of Congress