

Subject to Legal Review for Accuracy, Clarity, and Consistency
Subject to Authentication of English and Spanish Versions
Draft 8 May 2006

[Date]

The Honorable Jorge Humberto Botero
Ministro de Comercio, Industria y Turismo
Ministerio de Comercio, Industria y Turismo
Bogotá, Colombia

Dear Minister Botero:

In connection with the signing on this date of the United States – Colombia Trade Promotion Agreement (the “Agreement”), I have the honor to confirm the following understandings reached by the Governments of the United States of America and Colombia during the course of the negotiation of Chapter Sixteen (Intellectual Property Rights) of the Agreement:

- 1) Colombia shall take measures to expeditiously process patent applications that have been pending for a significant period of time (backlog applications), such that the number of backlog applications will be significantly reduced as of December 31, 2008. Colombia shall accomplish this by, among other measures, significantly increasing the number of patent examiners and enhancing examination training for patent examiners.

- 2) For greater certainty, each Party recognizes that there may be a variety of ways to implement the obligations of Article 16.10.3 of the Agreement and that the measures implementing Article 16.10.3 (a) and (b) will operate together in such a manner as to prevent approval of a pharmaceutical product to enter the market during the term of a patent in the territory of that Party as set out in that Article. In particular, the Parties recognize that nothing in Article 16.10.3 (b) specifically sets out an obligation as to when a patent should be identified to the approving authority, who should identify the patent to the approving authority, or how the patent owner should be informed of the identity of persons requesting marketing approval during the term of the patent.

I would be grateful if you would confirm that your Government shares this understanding.

Sincerely,

Robert J. Portman

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The Honorable Robert J. Portman
United States Trade Representative
Washington, DC

Dear Ambassador Portman:

I have the honor to acknowledge receipt of your letter of this date, which reads as follows:

In connection with the signing on this date of the United States – Colombia Trade Promotion Agreement (the “Agreement”), I have the honor to confirm the following understandings reached by the Governments of the United States of America and Colombia during the course of the negotiation of Chapter Sixteen (Intellectual Property Rights) of the Agreement:

- 1) Colombia shall take measures to expeditiously process patent applications that have been pending for a significant period of time (backlog applications), such that the number of backlog applications will be significantly reduced as of December 31, 2008. Colombia shall accomplish this by, among other measures, significantly increasing the number of patent examiners and enhancing examination training for patent examiners.
- 2) For greater certainty, each Party recognizes that there may be a variety of ways to implement the obligations of Article 16.10.3 of the Agreement and that the measures implementing Article 16.10.3 (a) and (b) will operate together in such a manner as to prevent approval of a pharmaceutical product to enter the market during the term of a patent in the territory of that Party as set out in that Article. In particular, the Parties recognize that nothing in Article 16.10.3 (b) specifically sets out an obligation as to when a patent should be identified to the approving authority, who should identify the patent to the approving authority, or how the patent owner should be informed of the identity of persons requesting marketing approval during the term of the patent.

I would be grateful if you would confirm that your Government shares this understanding.

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I have the honor to confirm that my Government shares the understanding expressed in your letter.

Sincerely,

Jorge Humberto Botero