

San Antonio, Texas
July 16, 2004

The Honorable James S. Peterson
Minister of International Trade
International Trade Canada
125 Sussex Drive
Ottawa, Ontario
Canada K1A 0G2

Dear Minister Peterson:

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

I have the honour to refer to recent discussions between the Governments of Canada and the United States of America (the "Parties") regarding the implementation of the Decision of the WTO General Council of August 30, 2003 on "Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health", as interpreted by the accompanying Statement of the Chairman of the General Council of the same date (the "WTO Decision").

The purpose of this letter is to record the understanding reached between the Parties regarding the implementation, in the territory of either of these Parties to the *North American Free Trade Agreement* (the "NAFTA"), of the WTO Decision.

The Parties, consistent with the *Vienna Convention on the Law of Treaties*, consent to the suspension of Article 1709(10)(f) of the NAFTA, as between themselves, with respect to compulsory licenses issued in accordance with the terms of the WTO Decision. Where a compulsory license is granted by a Party in accordance with such terms, the Parties agree that, as between themselves, adequate remuneration pursuant to Article 1709(10)(h) of the NAFTA will be paid in the exporting Party taking into account the economic value to the importing country of the use that has been authorized in the exporting Party.

The Parties share the understanding that this does not affect in any way the enjoyment by the Government of the United Mexican States of its existing rights, nor the performance of its obligations, as set out in the NAFTA. The Parties intend to notify the Government of the United Mexican States of this understanding.

The Parties agree that, as between them, any provision of the NAFTA containing a direct or indirect cross-reference to Article 1709(10) will be interpreted in accordance with this understanding.

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This understanding will remain in effect between the Parties for as long as the WTO Decision remains in effect. In the event an amendment of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (1994) that reflects the WTO Decision enters into force with respect to the Parties, the Parties will consult in order to adapt this understanding as appropriate in light of the amendment.

I have the further honour to propose that the understanding set out in this letter, and your reply confirming that the foregoing is acceptable to the Government of the United States, will constitute an understanding between the Parties.

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 understanding between the Parties.

Sincerely,

Robert B. Zoellick