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**NEW GAO REPORT INDICATES U.S. TRADE POLICY
NEGLECTS PUBLIC HEALTH ISSUES**

WASHINGTON, DC — Today Rep. Henry A. Waxman and Sen. Edward M. Kennedy released a GAO report which finds that U.S. trade policy under the Bush Administration has paid little to no attention to public health and access to medicines. This represents a lack of commitment to the Doha Declaration, which affirms the right of World Trade Organization (WTO) members to “promote access to medicines for all.”

“Regrettably, the U.S. trade strategy has prioritized patents over public health,” said Rep. Waxman. “The Democratic leadership in Congress has pushed the White House to make significant changes in the Peru and other recent free trade agreements. I support these important first steps to achieve a more balanced policy. But as today’s report demonstrates, we have a long way to go in improving the public health aspects of U.S. trade policy as a whole.”

“The Bush Administration must stop putting the financial interest of the pharmaceutical industry ahead of the needs of the poor and sick in developing countries,” said Sen. Kennedy.

The GAO report, *“Intellectual property: U.S. Trade Policy Guidance on WTO Declaration on Access to Medicines May Need Clarification,”* assesses how the office of the U.S. Trade Representative (U.S.T.R.), along with other agencies, has interpreted and implemented the 2002 Trade Promotion Authority (TPA) Act, which affirmed the United States’ commitment to the Doha Declaration. The report indicates that until the current congressional leadership negotiated public health modifications to pending free trade agreements, U.S.T.R. made virtually no changes in its trade strategy to advance the goals of the Doha Declaration. It further finds that the Bush Administration entered into a series of free trade negotiations with developing countries demanding provisions that threaten the ability of our trade partners to take necessary public health measures. These provisions, found in CAFTA and other FTAs already in effect, could significantly delay the availability of lower-cost generic medicines. As GAO notes, unaffordable prices are among the primary challenges in expanding access to medicine globally.

The 1994 WTO agreement on Trade Related Aspects of Intellectual Property (TRIPS) set down minimum standards for intellectual property regulation across multiple sectors. In 2001, the WTO sought to clarify the scope of TRIPS with regard to public health with the Doha Declaration. Adopted by 141 countries, including the U.S., the Doha Declaration states that TRIPS “can and should be interpreted and implemented in a manner supportive of WTO Members’ rights to protect public health and, in particular, to promote access to medicines for all.” When Congress passed the 2002 Trade Promotion Authority (TPA) Act, it included an amendment offered by Sen. Kennedy directing the Administration to respect the Doha Declaration as a “principal negotiating objective” in the area of intellectual property.

The key findings in the new GAO report include:

- **U.S.T.R. has only modified two intellectual property demands in trade negotiations.** GAO found that in negotiating free trade agreements, the U.S. has demanded that our trading partners adopt more extensive intellectual property protections than required under TRIPS. Many public health groups and experts have said that these provisions conflict with the Doha Declaration's affirmation that TRIPS "can and should" be implemented in the way that best serves public health. Until the recent improvements urged by Congress, the Administration had made only two limited changes to conform to the Doha Declaration.
- **The U.S. has a narrow interpretation of Doha.** GAO found that the U.S. has sought to limit the application of TRIPS flexibilities to situations involving HIV/AIDS, TB, malaria and other "epidemics," rather than permitting countries to assess their own public health priorities.
- **Federal health agencies are not asked to provide input regarding the potential public health impacts of FTA negotiating positions.** GAO found that U.S. health agencies are not asked to provide input to U.S.T.R. regarding the health impact of our trade policies. Interviews with U.S.T.R. officials revealed that "there is little evidence that U.S.T.R. consulted with HHS or OGHA [the HHS Office of Global Health Affairs] about the potential impact on public health of specific pharmaceutical provisions in FTAs... although the HHS OGHA's mission includes promoting the health of the world's population."
- **Formal public health input into trade policy from the public health community has been limited.** As GAO describes, U.S.T.R. receives counsel on specific sectors and issues from fourteen "trade advisory committees." Most of the committees have no public health representation; the committees on intellectual property and chemicals each have just one member appointed to represent public health interests, while the intellectual property committee has five representatives from the brand pharmaceutical industry, and the chemicals committee has ten.

The complete GAO report is available online at www.oversight.house.gov and www.kennedy.senate.gov.