

## Congress of the United States

Washington, DC 20515

### Trade and Access to Medicines: Rangel bill superior to Thomas bill

November 30, 2001

Dear Colleague:

The relationship between intellectual property and access to essential medicines emerged as a contentious issue at the WTO Ministerial at Doha. Fortunately, agreement was reached when U.S. negotiators agreed to a proposal by developing countries to make clear that the WTO/TRIPs agreement (prescribing international patent rules) "does not and should not prevent Members from taking measures to protect public health" or "in particular, to promote access to medicines for all."

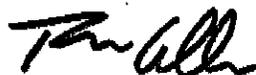
The Rangel fast track bill is consistent with the agreement. The Thomas TPA bill is not. It could call into question VA and Medicaid drug discount programs. The chart below highlights the differences between the two bills on access to essential medicines.

<u>Rangel bill</u> negotiating objective	<u>Thomas bill</u> negotiating objective	Explanation
"To ensure that trade rules take into account the special needs of least-developed countries."	No mention of least- developed countries	<u>Rangel</u> bill makes clear that special need of poor countries should not be disregarded by trade negotiators
"To clarify that under Article 31 of the TRIPs Agreement WTO members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including by taking actions that have the effect of increasing access to essential medicines and medical technologies."	No mention of public health needs	<u>Rangel</u> bill affirms the flexibility built into WTO/TRIPs for countries to address health needs (like HHS considered to gain a lower price on Cipro). <u>Thomas</u> bill fails to provide direction to counteract pharmaceutical industry requests to USTR to restrict flexibility for developing countries.
"To prevent misuse of reference pricing classification systems by developed countries as a way to discriminate against innovative pharmaceutical products and innovative medical devices, without challenging legitimate reference pricing systems not used as a disguised restriction on trade."	"To achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products."	By failing to distinguish between legitimate and illegitimate systems (as <u>Rangel</u> bill does), <u>Thomas</u> bill licenses trade negotiators to seek to dismantle our trading partners' health policies that make drugs affordable for their populations, and threatens U.S. price controls that veterans, Medicaid recipients and others depend on for drug discounts.

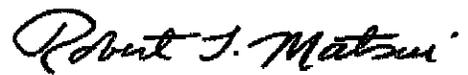


Sandy Levin  
Member of Congress

Sincerely,



Tom Allen  
Member of Congress



Bob Matsui  
Member of Congress