

United States Senate  
WASHINGTON, DC 20510

May 26, 2016

Ambassador Michael Froman  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, D.C. 20508

Dear Ambassador Froman:

We write to express our concern that representatives of the U.S. government may have pressured the Colombian government not to issue compulsory licenses for pharmaceutical products. We are alarmed by recent reports that U.S. government representatives may have suggested that funding for Paz Colombia would be rescinded if a compulsory license were issued. As you know, compulsory licenses are expressly permitted under Colombia's international trade obligations and can be an effective means to make medicines available and affordable. We urge you to publicly clarify that issuing a compulsory license for a pharmaceutical product and promoting access to medicines are consistent with Colombia's international trade obligations.

In 2014, in response to high prices for Glivec (imatinib), a drug used to treat leukemia, Colombian advocacy groups petitioned their government to issue a compulsory license to ensure that all individuals who needed the cancer drug could access it. The Colombian government initiated their legal review process, and in February 2016 the committee responsible for reviewing compulsory license petitions recommended to the Colombian Minister of Health that a compulsory license for Glivec was in the public's interest. The Health Minister sought to negotiate with Glivec's manufacturer, Novartis, a Swiss-owned company, in an attempt to reach an agreement for the drug to be sold at a lower price. The drug company rejected the offer to negotiate, and Colombian news sources reported soon after that the government would start the process to issue a compulsory license.

After these reports surfaced, leaked diplomatic letters indicate that Colombian Embassy officials in Washington, D.C. met with congressional staff who conveyed opposition to the issuance of a compulsory license. As a result of these meetings, embassy staff were under the impression that the issuance of a compulsory license for Glivec could threaten both Paz Colombia funding and future membership in the Trans-Pacific Partnership. The embassy letters also reference the United States Trade Representative's (USTR) concerns and note that USTR requested meetings with the Colombian Ambassador to discuss the compulsory license issue.

We object to any efforts to intimidate and discourage Colombia's government from taking measures to protect the public health of Colombians in a way that is appropriate, effective, and consistent with the country's trade and public health obligations. We also find it unconscionable that any representatives of the U.S. government would threaten to rescind funding for Colombia's peace initiative if a compulsory license for Glivec were issued.

Compulsory licenses are consistent with Colombia's international trade obligations and are a legitimate means to ensuring access to medicines. These licenses have been permitted under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement since it was signed in 1995. The public health flexibilities included in the TRIPS Agreement were confirmed in 2001 with the Doha Declaration on the TRIPS agreement and public health, which underscored member countries' "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted" (WT/MIN(01)/DEC/2, Paragraph 5.b). The U.S.-Colombia Free Trade Agreement, which took effect in 2012, reiterates this authority (Article 16.13). For more than 20 years, trade agreements have included these flexibilities to intellectual property protections to ensure governments are able to take measures to protect public health, specifically by promoting access to medicines, and legislation to renew trade promotion authority enacted last year included a mandate to ensure future trade agreements do so as well (19 USC 4201(b)(5)(C)).

Attempts to dissuade Colombia from using these authorities – especially by threatening unrelated streams of financial support – would be inconsistent with the goals of these agreements and would signal that the United States is not committed to living up to the standards of our free trade agreements when it does not suit corporate interests. Moreover, they would give the appearance that the United States is elevating corporate profits over public health priorities.

In light of the potential chilling effect of these reported intimidation efforts, we urge you to immediately and publicly clarify that compulsory licenses are not only permitted under international trade agreements, including the Colombia FTA and the TRIPS Agreement, but also a legitimate means of promoting access to medicines. Second, we urge you to make a public statement underscoring the singular importance of public health and access to medicines and restating the U.S. government's position that nothing in our trade agreements should preclude governments from pursuing those objectives.

With these clarifications, we believe the Colombian government can proceed without undue influence and decide whether a compulsory license for Glivec is in Colombia's public health's interest.

Sincerely,



Sherrod Brown  
United States Senator



Bernard Sanders  
United States Senator