

## Jean Kelly

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**From:** Jennifer Ness  
**Sent:** Monday, December 06, 2010 10:47 PM  
**To:** Jean Kelly  
**Cc:** Cynthia Griffin; Francis Peters; Molly Torsen; Andrea Cornwell  
**Subject:** RE: Thailand: renewal of CLs for two drugs?

These are the two AIDS drugs that were subject to the first CLs—next generation therapies for patients who are having difficulties with GPOvir and other first line ARVs available to them. Both are from American companies, Abbott and MSD. This renewal was done a while ago but got talked up recently because of World AIDS Day. We're not hearing anything from either company. Both companies have previously discussed evidence that these CLs were not successful in increasing access to medicines, but the MOPH is continuing to tout their activism on the world stage and using these CLs as their calling card for international conferences and the like.

Jennie Ness  
Regional Intellectual Property Attaché for Southeast Asia  
U.S. Patent and Trademark Office  
U.S. Embassy Bangkok  
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Tel: +66-2-205-5913  
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**From:** Jean Kelly  
**Sent:** Tuesday, December 07, 2010 5:17 AM  
**To:** Jennifer Ness  
**Cc:** Cynthia Griffin; Francis Peters; Molly Torsen; Andrea Cornwell  
**Subject:** Thailand: renewal of CLs for two drugs?

Jennie-

I'm wondering whether you have any additional information on the Thai Govt's renewal of the CLs for the two HIV/AIDS drugs? Has this renewal been finalized?

Please see PhRMA's information below.

Thanks.

Jean

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**From:** Nancy Adams [<mailto:NAdams@phrma.org>]  
**Sent:** Monday, December 06, 2010 12:34 PM  
**To:** Anthony Cino; Jean Kelly  
**Subject:** RE: Thailand: renewal of CLs for two drugs: request for details

Jean,

The drugs are both HIV/AIDS drugs: Stocrin (Merck/MSD) and Kaletra (Abbott). The original announced CL was 11/29/06 on Stocrin and 1/24/07 for Kaletra. Neither were due to expire for several years (I think five years from date of announcement).

Nancy

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**From:** Anthony Cino  
**Sent:** Monday, December 06, 2010 10:27 AM  
**To:** Jean Kelly  
**Cc:** Nancy Adams  
**Subject:** RE: Thailand: renewal of CLs for two drugs: request for details

Jean,

I'm out on vacation until Wednesday, so I am suggesting you go straight to the source on this. Nancy is cc'ed here and may be able to fill you in. If you can't connect before Wednesday, I would be happy to help get any relevant information to you.

All the best,  
Tony

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**From:** Jean Kelly [<mailto:Jean.Kelly@trade.gov>]  
**Sent:** Mon 12/6/2010 10:12 AM  
**To:** Anthony Cino  
**Subject:** Thailand: renewal of CLs for two drugs: request for details

Tony-

Following up on my voicemail this morning, I would appreciate your help in regard to any details that you may be able to provide regarding actions by the Thai Government to renew the CLs on two drugs.

Nancy Adams mentioned this issue at a Thai IPR roundtable last week, but I would like you to confirm the names of the drugs and the companies involved and the status of the CL renewals.

Thanks very much.

Jean

Jean Kelly  
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Jean Kelly/MAC/ITA/USDOC  
05/07/2009 03:40 PM

To Juliet Bender, Bill Golka/MAC/ITA/USDOC@USDOC, Molly  
Torsen/MAC/ITA/USDOC@USDOC, Emily Arakaki  
cc  
bcc  
Subject Update re Thai CL from Jennie Ness via John Hellmann of  
BrooksBowerAsia

Please see below for the update from Jennie Ness. Despite recent press reports to the contrary, Jennie confirms that the CL policy remains in effect. Thanks.

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----- Forwarded by Jean Kelly/MAC/ITA/USDOC on 05/07/2009 03:37 PM -----



John Hellmann  
<jhellmann@brooksbowerasia.com>  
05/07/2009 03:21 PM

To Jean Kelly <Jean\_Kelly@ita.doc.gov>  
cc Julie Sheetz <jsheetz@brooksbowerasia.com>, Ernie Bower  
<ebower@brooksbowerasia.com>  
Subject RE: Question Regarding Thai CL> John Hellmann>  
BrooksBowerAsia

Hi Jean,

Thank you for getting back to me on this. I'm adding Julie and Ernie to this chain so they keep abreast of the issue as well.

I've reached out to a number of people in govt., including yourself, and have only received one response from Jennie Ness at the US Embassy in BKK. I thought you would find her response interesting.

When you hear from your colleague on the ground, please let us know!

Best wishes,

John Hellmann

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**John Hellmann | Associate Director**  
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Dear John,

There's been quite a bit of press concerning the Special 301 announcement, and I believe this is just one reporter's attempt to look at it from another angle (and rehash a popular story). I have not, myself, heard anything from the Royal Thai Government to lend any credence to this story. I have seen the Deputy Minister of Commerce, all of the leadership of the Department of Intellectual Property, and the Americas team from the Ministry of Foreign Affairs in the last week and know that they would have raised this issue if there had been any policy announcement.

In addition, the Ministry of Public Health is continuing to make announcements that it is considering generic options for a number of drugs under patent. The CL Committee has been in price negotiations with three drug manufacturers (of oncological biologics) over the past two months. Last week, MOPH announced that the negotiations were going poorly and that they were off to visit an Indian generic supplier to see what deals they could get there. We are monitoring this situation and do not believe there's any reason for concern at the moment. The MOPH announcements have only been made in Thai on the MOPH website, and they feel more like sabre rattling than real news.

Please let me know what you're hearing from DC. Thanks.

Best Regards,  
Jennie

Jennie Ness  
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**From:** Jean Kelly [mailto:[Jean\\_Kelly@ita.doc.gov](mailto:Jean_Kelly@ita.doc.gov)]  
**Sent:** Thursday, May 07, 2009 2:44 PM  
**To:** John Hellmann  
**Subject:** Re: Question Regarding Thai CL > John Hellmann > BrooksBowerAsia

Hi John-

I'm sorry to say that I don't know whether or not this press report is accurate, but I've asked my colleague in Bangkok for an update.

I'll let you know when I hear anything.

Thanks.

Jean

Jean Kelly  
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John Hellmann <jhellmann@brooksbowerasia.com>

05/06/2009 04:21 PM

To: Jean\_kelly@ita.doc.gov <jean\_kelly@ita.doc.gov>  
cc  
Subject: Question Regarding Thai CL > John Hellmann > BrooksBowerAsia

Dear Jean:

John Hellmann here at BrooksBowerAsia. I hope this note finds you well.

I just wanted to contact you regarding the article below. To the best of your knowledge is this information accurate? We are wondering because we haven't heard anything from our networks in Bangkok indicating that Abhisit intends to "cave" to US pressure by not extending compulsory licensing due to the PWL.

If you could get back to me with your thoughts/what you've been hearing on this issue at your earliest convenience, it would be greatly appreciated.

Best wishes,

John Hellmann

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**Government Not to Extend Compulsory Licensing Policy**

*BBC Monitoring Asia Pacific, May 2*

Thailand has caved in to US pressure and will not extend the compulsory licensing (CL) policy to cover other badly needed life-saving drugs for the poor.

The government will not extend the policy as the Obama administration has maintained Thailand on the Priority Watch List of countries to be closely monitored for intellectual property rights violations.

Public Health Minister Witthaya Kaewparadai yesterday said he would not extend the CL policy to bypass more drug patents because there had been no such request from civil groups and the impact of the CL policy on trade and other sectors was huge.

"I can assure you that Thai people will continue to have access to cheaper medicines through an alternative policy," he said.

Mr Witthaya said he did not have any plan to revoke the previous CL policy on Aids, cancer and heart drugs announced by the post-coup Surayud government.

The issue needed to be discussed by all the involved sectors and agencies as well as the National Health Security Office.

Mr Witthaya plans to meet representatives of multi-national drug makers to formally explain the government stance on compulsory licences.

Jiraporn Umpabannoni, Foundation for Consumers chairman, urged Deputy Commerce Minister Alongkorn Ponlaboot to reveal the details of the deals that were struck with the United States Trade Representative (USTR) during his trip to Washington in December.

"Any agreements the Thai government has committed to with the US for trade benefits could end up hurting local pharmaceutical development and the public's right to cheaper generic versions of expensive patented medicines," she said.

Under the Special 301 Act, Washington can take trade action or seek dispute settlements against countries on either the Priority Watch List or the Watch List.

Public health and consumer groups have expressed disappointment over the Obama administration's pro-pharma industry policies.

Robert Weissmann, director of the Essential Action's access to medicine project, said USTR action against Thailand's effort to lower drug prices and extend access to life-saving medicines via compulsory licences was "deeply embarrassing".

Brook Baker, a law expert at Northeastern University, said the latest USTR report reflected the strong arm of corporate power, especially the drug industry, over US trade policy. "The Annual Special 301 Report is a cut and paste job from industry's submissions and is virtually indistinguishable from those issued for eight years by the Bush administration. Poor people desperately need access to life-saving and life-enhancing medicines and countries need intellectual property rules that prioritise public health, not just obscene corporate profits," he said.

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Jean Kelly/MAC/ITA/USDOC  
06/19/2009 04:27 PM

To "Bisbee, David F." <David\_Bisbee@ustr.eop.gov>  
cc "Petlock, Benjamin" <Benjamin.Petlock@fas.usda.gov>, "Bill Golike" <Bill.Golike@mail.doc.gov>, "Richelsoph, David N" <RichelsophDN@state.gov>, Shalizeh  
bcc  
Subject Re: Thai update: July 29 meeting: 2008 issue updates, proposed new issues

David-

Please see attached a document with updates on some of the issues discussed in 2008 and another document with a list of proposed new issues for the discussions in July. I have also attached the proposed DOC responses to the Thai questions on the IPR section of the NTE for your reference.

Since I'll be out of the office from June 22-July 7, I have noted ITA contacts for these updated or new issues and you may also contact Bill Golike and Shalizeh Nadjimi if needed.

The Thai Embassy has asked that an ITA official meet with Permanent Secretary Siripol and his delegation, but we are still working on the arrangements for this meeting. I would appreciate it if you could forward any updates from Embassy Bangkok on this Thai visit to Bill and Shalizeh.

Thanks very much.

Jean

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Trade Dialogue issues update 0609.doc Trade Dialogue New Issues 0609.doc



US IP responses to Alongkorn letter Draft May 26 09.doc  
"Bisbee, David F." <David\_Bisbee@ustr.eop.gov>



"Bisbee, David F."  
<David\_Bisbee@ustr.eop.gov>  
>  
06/19/2009 09:03 AM

To "Petlock, Benjamin" <Benjamin.Petlock@fas.usda.gov>, "Jean Kelly" <Jean\_Kelly@ita.doc.gov>, "Bill Golike" <Bill.Golike@mail.doc.gov>, "Richelsoph, David N" <RichelsophDN@state.gov>

cc

Subject Thai update

Ben, Jean, David:

After discussions with the Thai embassy here, it looks like we have dates for a visit to DC by a team of folks from Thai Ministry of Commerce. Del list attached. We are looking to have a meeting with them the morning of Wed July 29 here at USTR. I don't know if they are planning to visit other agencies as well, I'll encourage them to do that, but interagency participation in our meeting is welcomed and encouraged. Unfortunately I will be on leave that whole week, but Barbara is planning to chair the meeting and hopefully we'll have some backup in the office by then. I don't think we'll get into great detail on the issues but it is useful to review key concerns. We plan to make a big push to reengage in some kind of customs dialogue due to the huge problems there, but I think we also have a list of ag issues we might want to flag as well.

I talked to Barry last night and it seems they are willing to engage in a discussion on a range of trade issues, even though they are only MOC folks. Barry is working with them to get a list of the issues they plan to raise and we should have something early next week. We owe Barry our list of issues so he can make sure they have time to get briefed up and do some coordination on their end. I've attached the follow up list from last year as a starting point. Can you please send me any updates you have on these issues, as well as new issues you think we need to raise? A partial list by early next week would be great.

Non-Responsive

Let me know if you have any questions, and please send me key issues so we can combine and get back to post.

Below is Barry's tentative list of Thai issues:

And just an early heads-up on some potential new Thai agenda items (still waiting for more details from the Thais):

- Dairy restriction effects on egg products;
- IUU fishing (not sure what this is in regard to yet);
- Draft carbon credit bill (not sure about this either; will let you know when I hear more);
- And your favorite: catfish;
- It sounds like they'll want to add the JADE Act to this year's agenda, too.

Thanks  
David



David Bisbee  
Deputy Assistant U.S. Trade Representative for  
Southeast Asia and the Pacific  
Office of the U.S. Trade Representative  
202-395-9419



List of Delegates.doc TIFA Follow up list final 0708.pdf

**READOUT: SPECIAL 301 PUBLIC HEARING**  
March 3, 2010

Note: This readout only addresses the introduction and question and answer portions of the hearing. All submissions are available on the QuickPlace Special 301 portal, as well as on Regulations.gov. The full audio of the hearing is currently available on USTR's website at <http://www.ustr.gov/about-us/press-office/multimedia> (about midway down the page). A written transcript will be available on their website shortly.

Non-Responsive



Non-Responsive

Non-Responsive

**Knowledge Ecology International:** Jamie Love's testimony spoke to a number of contentious IP issues, including open source; distinguishing between counterfeits, substandard medicines and generics; and patent policies such as data exclusivity, patent term extensions, and patent linkage. When asked to identify particular countries' IP policies and practices for consideration, Love cited Thailand's move to compulsory license in past years, which landed Thailand on the 301 PWL, despite its transparent and TRIPs-compliant decision to do so. Non-Responsive

Non-Responsive

Non-Responsive

THAILAND

Non-Responsive

Exemption 5

**2009 SPECIAL 301 REVIEW**

**Outcome of First Straw Poll Vote  
March 12, 2009**

Non-Responsive



Non-Responsive





Non-Responsive



**Thailand**

Exemption 5



Non-Responsive



**READOUT: PHRMA SPECIAL 301 BRIEFING**

Monday, March 08, 2010

Non-Responsive



Non-Responsive

THAILAND

Non-Responsive

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- 
- 

- **Compulsory licenses** and threats for compulsory licenses are part of the reason PhRMA recommended PFC, but not the only reason.

Non-Responsive

Non-Responsive

According to PhRMA, new language in the patent act would allow a third party outside of the government to issue compulsory licenses (e.g., NGOs), but when USTR pressed PhRMA for more details on how this would work, they did not seem really clear on what this would exactly allow.

Non-Responsive

INDONESIA

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive

Non-Responsive



Non-Responsive

**READOUT: CONFERENCE CALL W/ THAILAND ON 301 OCR  
JULY 12, 2010**

Non-Responsive

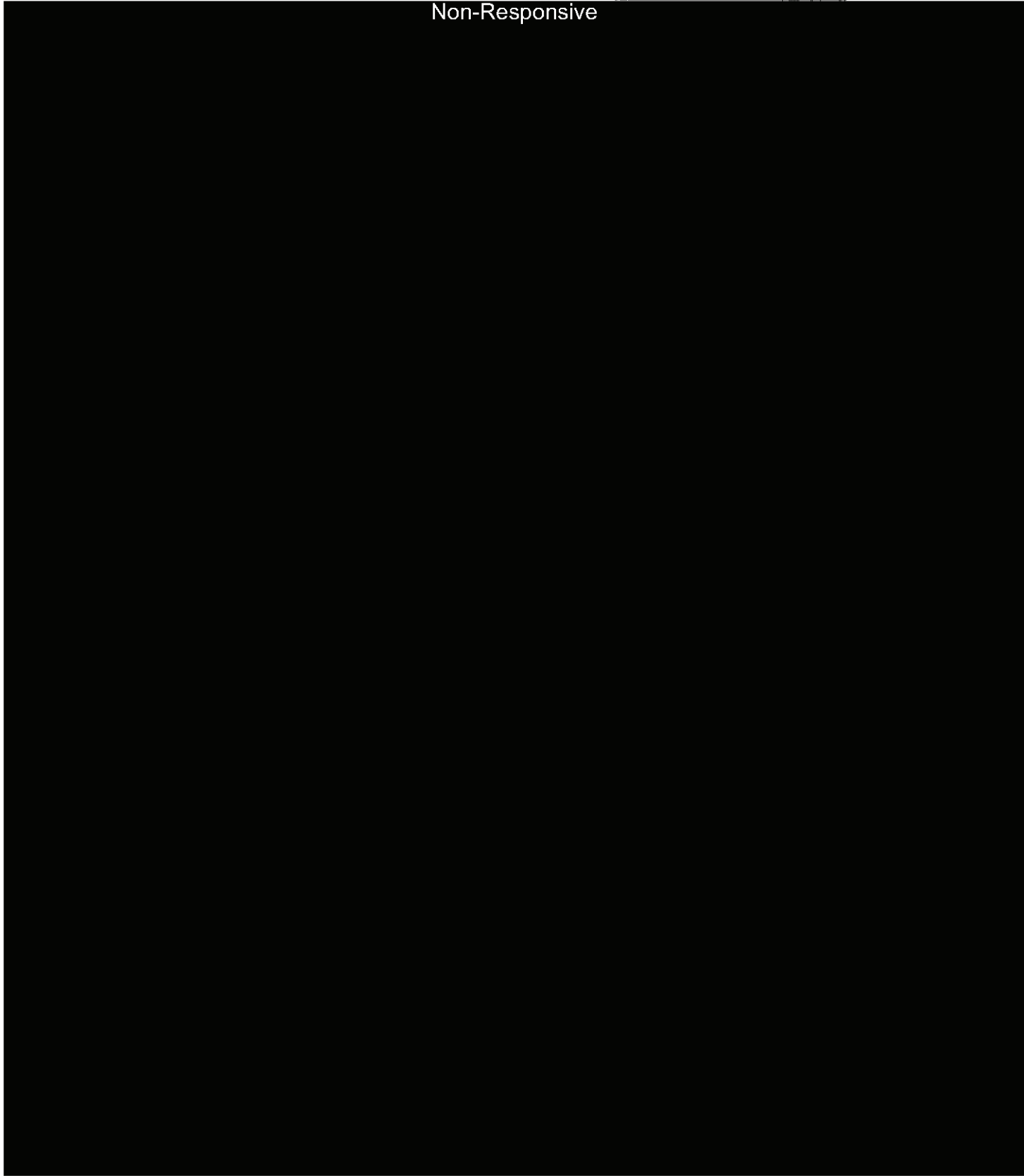


Non-Responsive

- **USTR raised the possible extensions of current compulsory licenses, and GOT offered to send a summary after consulting with the Ministry of Health and others.**

Non-Responsive

Mission Thailand's Intellectual Property Working Group Action Plan  
Non-Responsive



Non-Responsive



Non-Responsive



- |
- |
3. **Seek transparency and due process in any future compulsory licensing;**  
(USPTO/FCS, State/ECON)

Non-Responsive



Non-Responsive



Non-Responsive





Non-Responsive



Non-Responsive



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## Sean Timmins

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**From:** Alain DeSarran  
**Sent:** Wednesday, March 09, 2011 9:01 AM  
**To:** Sean Timmins  
**Subject:** FW: TASK ASSIGNMENT:"FOIA - 11-029 Ann Mira Guha" - Control No:CS-2011-00037  
**Attachments:** ROSENBERG, fall master's thesis; title page, acknowledgements, table of contents.pdf; ROSENBERG masters thesis\_body, 2010.pdf

This is the first of three e-mail messages from Jennifer Ness regarding this FOIA request.

Alain Desarran  
Deputy Director, OIO/EAP  
Room H-3009  
Ph: 202-482-3971  
Fax: 202-501-6165

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**From:** Jennifer Ness  
**Sent:** Tuesday, March 08, 2011 10:29 PM  
**To:** Alain DeSarran  
**Cc:** Francis Peters; Cynthia Griffin  
**Subject:** TASK ASSIGNMENT:"FOIA - 11-029 Ann Mira Guha" - Control No:CS-2011-00037

Non-Responsive

