Timeline for US-Thailand Compulsory License Dispute

Version 3, April 2009

This timeline is a project carried out by various PIJIP Deans Fellows. The first version was completed June 15, 2007 by Jennryn Wetzler. It was then updated by MihirMankad on March 28, 2008, and by Adam Burrowbridge on April 2, 2009. Please send suggestions or corrections to Mike Palmedo: mpalmedo@wcl.american.edu.

1991. Merck Thailand, an expansion of Merck Group, was established.[1]

1997. Thailand's Department of Disease Control attempted to negotiate a reduced price for Fluconazole, an anti-fungal medicine for AIDS patients. The DDC was unsuccessful; yet once Thailand's Safety Monitoring Program's period of market exclusivity ended, generic versions of Fluconazole were available for fifty times less the original price.[2]

1997-2001. The National Plan for Prevention and Alleviation of HIV/AIDS was implemented. The initiative was continued from 2002-2006.[3]

1997-1999. Thailand's TB budget declined by 14%, from 360.1 million to 310 million baht. Congruently, cases of TB infection, which were associated with HIV infection, dramatically increased.[4]

1999. The AIDS Division in Thailand's Ministry of Public Health allocated 87.5 million baht to 465 projects from 373 organizations. The funding per project averaged 188,200 baht ($4,704).[5]

1999. The World Bank published a study entitled "Thailand's Response to AIDS: Building on Success, Confronting the Future," which evaluated the costs of providing antiretrovirals to all HIV/AIDS positive Thais. The study claimed, "At current prices, it would cost 32 billion baht ($810 million), or narly half the overall health budget and 2000% of the AIDS program budget, to provide drugs for a single year of ART to all 100,000 people who might benefit."[6]

2000. According to a Thai Working Group statement, around 12,500 of adult HIV infections are spread between spouses annually. Therefore, prevention of spousal infection became a new focus for HIV/AIDS efforts.

2000. The World Bank's Chun hospital study estimated: "if the 55,000 people who develop AIDS each year live two years and have 10 inpatient days and 12 outpatient visits annually, half of each in district hospitals had half in provincial/regional/university hospitals, then current spending on AIDS treatment

within the health system would be roughly 1.776 billion baht, or 2.7% of the FY 2000 health sector budget."[7]

2000. Thailand's AIDS budget allocated 60 million baht to almost 300 NGOs operating in the country.[8]

2000, 2001. World Bank loaned Thailand Social Investment Project Loan, which had an AIDS component of $2.6 million. The loan was disbursed in 27 million baht in 2000, and 45 million baht in 2001.[9]

October 2001. Thailand implemented a Universal Coverage Scheme of Health Insurance, which expanded coverage to 18 million additional Thais. The Universal Health Insurance came from general tax revenue, and covered around 48.5 million people through public and private hospitals.[10]

March 12, 2001. The USTR ranked Thailand on the Watch List of its "Special 301" Report, criticizing Thailand for not passing a Trade Secrets Act and Geographic Indications Act. Both pieces of TRIPS-related legislation, and Thailand's data protection standards concerned the USTR.[11]

May, 2001. Two HIV-positive Thai citizens filed a lawsuit against Bristol-Myers Squibb at the Thai Central Intellectual Property and International Trade Court. The lawsuit alleged that Bristol-Myers Squibb and the Thai Department of Intellectual Property had unlawfully "conspired to intentionally delete" the dose restriction to the didanosine patent, which would extend the patent protection beyond its initial range.

May 22, 2001. The World Health Organization's 108th Session made provisions to increase the WHO's global response to HIV/AIDS in paragraphs 5-8.[12]

September 14, 2001. The Interparlimentary Union adopted a resolution entitled: "Urgent Action to Combat HIV/AIDS and other Pandemics which Seriously Endanger Public Health, and Economic, Social, and Political Development and even Threaten the Survival of Many Nations."[13]

2002. The US and Thailand signed a Trade and Investment Framework Agreement, which proceeded FTA negotiations.[14]

March 28, 2002. The WHO held the "WHO medicines strategy: Expanding access to essential drugs" meeting. The meeting established the need for differential pricing to improve access to essential drugs. The WHO also affirmed that developing countries' pharmaceutical expenditure constitutes twenty-five to sixty-five percent of total health expenditure. It constitutes sixty to ninety percent of "out of pocket" household expense on health.[15]

May 1, 2002. The USTR maintained Thailand on its "Special 301" Report Watch List, but did not mention IP rights of pharmaceutical companies.[16]

November 2002. Thailand's Parliament passed the National Health Security System Act, which enabled the civil service and social security health care schemes to potentially merge for future universalized access.[17]

October, 2002. Two HIV-positive Thai's won the didanosine patent case against Bristol-Myers Squibb and the Thai Department of Intellectual Property for omitting the dose range in a patent amendment.

The Thai Central Intellectual Property and International Trade Court ruling of that case confirmed that patients whose lives and health depend on affordable medicines can be considered as damaged parties and have the legal standing to sue pharmaceuticals limiting the access and affordability of medicines. Bristol-Myers Squibb appealed the case, but withdrew its appeal by January 2004.

May 1, 2003. The USTR maintained Thailand on its "Special 301" Report Watch List, but did not cite IP problems with pharmaceutical companies.[18]

June 11, 2003. A White House press release stated: "President Bush and Prime Minister Thaksin celebrated the long U.S. -Thai partnership on a wide variety of tropical and infectious diseases, including HIV/AIDs, and agreed to strengthen that cooperation to combat new threats, such as Severe Acute Respiratory Syndrome (SARS)."[19]

August 30, 2003. The WHO decided on regulations pertaining to the export of essential medicines to countries that lack manufacturing capabilities.

October 2003. The Thai government established a policy enabling AIDS patients' universal access of antiretrovirals.[20]

October 20, 2003. President Bush announced that the US would negotiate a Free Trade Agreement with Thailand, eliminating many tariff and non-tariff barriers and increasing US exports.[21]

October 20, 2003. The White House released a Factsheet on the APEC Summit, which affirmed that President Bush's and Prime Minister Thaksin's intent to launch negotiations on a U.S.-Thailand Free Trade Agreement. [22]

May 3, 2004. The USTR ranked Thailand on its "Special 301" Report's Watch List. The USTR urged the Thai government to "take swift action to implement specific elements of the IPR Action Plan," but did not cite Thailand's relationship with US pharmaceutical companies.[23]

2004-2005. Thailand's Department of Disease Control officially requested reduced prices for antiretrovirals through official communication and several private meeting with patent holders. They failed to reduce patent prices beyond twenty percent for a few patent holders (not much higher than the level of Thailand's currency appreciation).[24]

April 4, 2005. Thailand established an Ad Hoc Working Group to negotiate price reductions on patented drugs. The Working Group was composed of members of Thailand's Ministry of Public health, Ministry of Commerce, as well as the Secretary General of the FDA. By 2006, the Working group concluded its failure to reduce patented drug prices, due to a lack of patent-holder cooperation. [25]

April 29, 2005. The USTR maintains Thailand on its "Special 301" Report Watch List.[26]

October 19, 2005. The WTO issues a Frequently Asked Questions list to clarify the rights to compulsory license pharmaceuticals within the TRIPS Agreement.[27]

2006. Merck Thailand issued its 2006 Report. While the NGO initiated three assistance programs such as tsunami relief, it also claimed to have raised over 13 million Baht since 2002 (around US $ 400,000)

through customers, employees and Merck KGaA, a German company, while not revealing for what or how the funds were allocated in total.[28]

2006. The USTR maintains Thailand on its "Special 301" Report Watch List, citing their concern for: "the weak protection against unfair commercial use of undisclosed test and other data submitted by pharmaceutical and agricultural chemical companies seeking marketing approval for their patents, as well as delays in pharmaceutical patent approvals by the Thai Department of Intellectual Property."[29]

January 1, 2006. The World Bank issued a report entitled: "The economics of effective AIDS treatment : evaluating policy options for Thailand," which estimated that without Thailand's efforts to combat HIV/AIDS, the country would have had "850,000 AIDS cases in 2005, roughly 14 times more… than exist[ed] in reality."[30]

April 17, 2006. Thailand's National Health Security Board established a subcommittee to implement compulsory licenses for government use. The subcommittee's criteria for licensing drugs and medical supplies maintains that the drugs and supplies must be: priced too high for the government to afford its citizens with universal access to essential medicines, listed in the National Essential Drug list, or be necessary in emergency or a situation of extreme urgency, or solve important public health problems, or help prevent and control of outbreaks, epidemics, or pandemics, or necessary to save lives.[31]

August 2006. Abbott announced a price for the new heat-stable formulation of US$500 per patient per year for least-developed countries and US$2,200 per patient per year for low-income and low-middle income countries, such as Thailand.[32]

September 19, 2006. Thai Prime Minister Thaksin Shinawatra was deposed by a bloodless military coup.

November 29, 2006. Thailand's Department of Disease Control and the Ministry of Public Health announced that the Thai government would issue a compulsory license for Merck's Stocrin (brand name Efavirenze) to the Government Pharmaceutical Organization of Thailand.[33] The terms of the compulsory license are valid through December 31, 2011, and state that only 200,000 people will be allowed the generic per year. The terms also necessitate that the Government Pharmaceutical Organization will pay Merck 0.5 percent of the generic's total sale value in royalty fees.[34]

Upon hearing the Thai government's plan, MSD offered to reduce their drug price by more than half: According to Intellectual Property Watch, "MSD proposed to reduce the price to 550 Baht/m, [from] 1,400 previously. Our GPO [Government Pharmaceutical Organization] can provide at 560/m." Thailand then requested the offer in writing.[35]

November 29, 2006. Official and informal discussions over intellectual property rights and universal access to essential drugs began with Merck Sharp and Dohme, Sanofi-Aventis, and with Abbott Laboratories.[36]

November 29, 2006. The Thai Network of People Living with HIV/AIDS sent a press release announcing Thailand's decision to issue a compulsory license for Efavirenz (after the organization's tireless lobbying), as setting a president for future compulsory licenses for other chronic diseases.[37]

December 11, 2006. James Love, Director of the Consumer Project on Technology, wrote a letter to USTR Susan Schwab, stating: "We ask that the United States government not interfere with the Thai government decision to issue a government-use license on patents covering the AIDS drug efavirenz…There is a concern the USTR may have suggested to the Thai government that the WTO TRIPS agreement requires prior negotiations with patent owners before a compulsory license is issued. If so, the assertion is wrong." [38]

December 18, 2006. Sean Flynn, Associate Director of the Program on Information Justice and Intellectual Property, issued "Thai Law on Government Use Licenses," an explanation of Thailand's authority to issue a government-use compulsory license for Efavirenz according to Thai Patent Law.[39]

December 21, 2006. Over 140 organisations and individuals sent a letter to US Secretary of State Condoleezza Rice, and USTR Susan Schwab, asking the US to stop any interference with the Thai compulsory licensing efforts.[40]

December 22, 2006. Professor Brook K. Baker of Northeastern University School of Law and Health GAP,Inc posted an article opposing the US opposition to Thailand's compulsory licenses and pursuit of TRIPS-plus intellectual property rights for. The article cites how such opposition undermines the US Global AIDS initiative, and threatens to increase the cost of medicines.[41]

December 26, 2006. Dr Peter Piot, Executive Director of UNAIDS sent a letter of support to Thailand's Public Health Minister concerning the decision to compulsory license Efavirenz.[42]

December 27, 2006. Nicolas de Torrente, Executive Director of Doctors Without Borders, wrote a letter to Condoleezza Rice, US Secretary of State, and Susan Schwab, US Trade Representative expressing concern about US intervention in Thailand's decision to issue compulsory licenses. Torrente cited the US asking the Thai government to negotiate with patent owners prior to issuing compulsory licenses and urged the US government to not oppose or intervene with Thai efforts.[43]

2007. Supported by the Global Fund, Thailand's budget for access to antiretrovirals increased to more than $100 million, which is more than ten times the budget from 2001.[44]

2007. The Coalition Against Counterfeiting and Piracy (CACP), organized by the US Chamber of Commerce, posted a public comment on the "Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY'07." The comment highlighted Thailand among countries with increasing counterfeit problems, and AIDS medicines as a main product being counterfeited.[45]

January 2007. Abbott was charging more than 11,500 baht per month (almost 4,000 USD per year) for Kaletra.[46]

January 5, 2007. Thailand's GPO signed a contract to import 66,000 bottles of Efavirenz from Ranbaxy, an Indian drug firm producing generic antiretrovirals, which allows the ministry to provide an additional 20,000 AIDS patients with Efavirenz. Ranbaxy's generic version costs 650 Baht per bottle, while brand name prices were around 1,400 Baht per bottle. [47]

January 10, 2007. Twenty-two members of US congress sent a letter to Susan Schwab, the US Trade Representative, urging her to respect Thailand's compulsory license of Efavirenz.[48]

January 17, 2007. Susan Schwab, the US Trade Representative sent a response letter to Sander M. Levin of the US House of Representatives which detailed the US Administration's respect for Thailand's issuance of compulsory licenses.[49]

January 24, 2007. Thailand's Department of Disease Control and Ministry of Public Health notified the Government Pharmaceutical Organization and general public they would issue a compulsory license for Kaletra.[50]

January 25, 2007. Thailand's government issued compulsory licenses for Kaletra (generic: Lopinavir+Ritonavir), and a heart medication Plavix (generic: Clopidogrel)[51] Under the term of the license, which is valid through January 31, 2012, distribution of Kaletra's generic version is limited to 250,000 patients per year, who are entitled under the National Health Security System Act. The Government Pharmaceutical Organization must pay royalties equal to 0.5 percent of their total sale values to Abbott Laboratories, its patent holder.[52] The Government Pharmaceutical Organization must pay the same percentage in royalties to Sanofi-Aventis and Bristol-Myers Squibb Co for Clopidogrel. However, Clopidogrel is unlimited to patients covered under the National Health Security Act B.E 2545, Social Security Act B.E. 2533 and Civil Servants and Government Employee Medical Benefit Scheme.[53]

January 25, 2007. Teera Chakajnarodom, president of Thailand's Pharmaceutical Research and Manufacturers' Association asserted: "The law allows such actions with pharmaceutical products only in cases of extreme national emergencies, or during wartime, and only after negotiation with the companies concerned… It is a provision in the law that has to be used judiciously and with extreme caution if one is not to undermine the confidence of the investment community"[54]

January 25, 2007—present. News articles from supportive and oppositional sources target Thailand's issuance of compulsory licenses on a weekly basis. Those sources include but are not limited to: Bridges Weekly Trade News Digest, Financial Times, Bangkok Post, Wall Street Journal, Chemical and Engineering News, Reuters Health, International Herald Tribune, BBC News, Chicago Tribune, and Congress Daily. For an up to date list, visit: http://www.cptech.org/ip/health/c/thailand/.

January 26, 2007. Thailand's Department of Disease Control and Ministry of Public Health notified Abbott Laboratories about Thailand's decision to issue a compulsory license for Kaletra via letter.[55] United States Trade Representative and the US Department of State then asked Thailand to reconsider its recent decision to issue a compulsory license on patents on the AIDS drug Efavirenze. After Thailand would not reconsider its decision, Ambassador Karan Bhatia, the Deputy USTR, called the Thai Embassy in Washington, DC, delivering a message described as "bullying" by Thai government officials.[56]

January 27, 2007. Douglas Cheung, Managing Director of Merck's subsidiary in Thailand sent a letter to Thailand's Department of Disease Control, asserting that Merck maintains no profit prices of Stocrin in developing countries.[57]

January 31, 2007. Robert Weisman of Essential Action, issues an article titled, "Clarifications on Thai Compulsory Licensing" which defends the legality of Thailand's compulsory licensing decisions.[58]

February 6, 2007. Merck Sharp and Dohme proposed a global reduction for Efavirenz, and a price drop for Thailand to 780 Baht per bottle, or 72 cents per 600mg tablet. However, the generic versions of Efavirenze remained lower: at 650 Baht per bottle.[59]

February 7, 2007. Dr. Margaret Chan, the Director-General of the WHO, sent a letter to the Thai Ministry of Public Health in support of the ministry's universal health care and decision to issue compulsory licenses. Dr. Chan reaffirmed that Thailand did not need prior negotiation with drug companies for their licenses issued. [60]

February 12, 2007. Thailand's Ministry of Public Health notified Sanofi-Synthe'labo patent owners of Thailand's compulsory license for Clopidogrel.[61]

February 14, 2007. Merck & Co sent a press release concerning their second price reduction for Efavirenz for patients in least developed countries and countries facing HIV/AIDS pandemics. Merck's price for Efavirenz dropped 14.5 percent to US$0.65 per 600mg tablet. The Pharmaceutical company cited an improved manufacturing process as enabling their price reduction.[62]

February 16, 2007. Thailand's Ministry of Public Health and National Health Security Office issued an eighty page brief providing evidence to support its recent compulsory licenses.[63]

February 16, 2007. The Minister of Public Health signed a ministerial order creating a new Committee for negotiation of patented drug prices.[64]

February 16, 2007. Ita Magaziner, Chairman of the Clinton Foundation HIV/AIDS Initiative, wrote a letter of support to Thailand's Minister of Public Health concerning Thailand's compulsory licenses.[65]

February 21, 2008. European Commissioner, Peter Mandelson writes letter to Thailand's new Minister of Commerce Mingkwan Saengsuwan to raise concerns regarding how EU investors and the pharmaceutical industry will react to Thailand's issuance of further compulsory licenses. Commissioner Mandelson asks Thai officials to review their policy.[66]

February 23, 2007. Martin Khor, Director of the Third World Network wrote a letter of support to Thailand's Minister of Health, Dr. Mongkol Na Songkhla, concerning its issuance of 3 compulsory licenses. [67]

February 2007. Thailand's government concluded: "Prior negotiation with the patent holders is not an effective measure and only delays the improvement of access to essential medicines… It is only after the threat or the decision to use and implement Compulsory Licensing or Government Use of Patent that the negotiation will be more successful and effective." [68]

February 2007. According to a National Statistical Office public poll, The Ministry of Public Health was voted as the most appreciated ministry of Thailand's new government because of its compulsory licensing decision. This superlative was further supported by local newspapers articles and editorials.[69]

March, 2007. Abbott Laboratories withdrew registration of seven different drugs, including a new heat-stable form of Kaletra from Thailand in retaliation. Those drugs included: Brufen, Abbotic, Clivarine, Humura, Tarka, Zemplar, and Aluvia.[70]

March 4, 2007. The Thai Fund Foundation, Merck Thailand, and Raks Thai Foundation organized the Corporate Social Responsibility (CSR) awareness event, entitled: "CSR Knowledge Sharing: Learning from Merck Thailand." The event involved information about Merck Thailand's corporate social responsibility efforts with academics, NGOs and other companies.[71]

March 6, 2007. The English translation of Thailand's eighty page brief, entitled: "Facts and Evidences on the 10 Burning Issues Related to the Government Use of Patents on Three Patented Essential Drugs in Thailand" was published.[72]

March 15, 2007. Twelve US Congressmen wrote a letter to Susan Schwab, US Trade Representative, opposing Thailand's compulsory licenses, citing the need to protect intellectual property for further drug innovations.[73]

March 20, 2007. Senator Joe Lieberman and four democrats (Menendez D-NJ, Lautenberg D-NJ, Carper D-Del, Feinsten D-CA) in the Senate sent a letter to USTR Susan Schwab opposing the Thai government's compulsory license proposals for non-AIDS-related drugs. The letter cited such proposals as "government polic[ies] to expropriate patents on all manner of innovative medicines not used to address urgent public health needs."[74]

March 20, 2007. US Chamber of Commerce released the results of its survey of 234 business executives to demonstrate that Thailand's recent coup d'etat and issuance of compulsory licenses may jeopardize international investments.[75]

March 30, 2007. The USTR elevated Thailand to its "Special 301" Report Priority Watch List. The USTR cited: "In addition to these longstanding concerns with deficient IPR protection in Thailand, in late 2006 and early 2007, there were further indications of a weakening respect for patents, as the Thai Government announced decisions to issue compulsory licenses for several patented pharmaceutical products. While the United States acknowledges a country's ability to issue such licenses in accordance with WTO rules, the lack of transparency and due process exhibited in Thailand represents a serious concern."[76]

March 30, 2007. Pharmaceutical Research and Manufacturers of America (PhRMA) responded to the USTR's 2007 Report, supporting the report's decision to elevate Thailand to the Priority Watch List. PhRMA CEO, Billy Tauzin, cites: "The recent actions in Thailand to override existing patents remain of deep concern…"[77]

April 10, 2007. Abbott reduced its pricing of Kaletra and Aluvia, its new heat stabilized version, to $1,000 per year for NGOs and governments of 40 countries agreeing not to issue compulsory licenses. The price cut made Abbott's brands competitive with Indian generic equivalents, however, the lower prices will not be automatically available for everyone. [78] Abbott's press release claimed:

> Abbott will immediately begin discussions with individual countries where Abbott's patents are respected to maximize the number of patients that can be provided Kaletra/Aluvia capsules and tablets at this new price…Specifically, with regard to Thailand, Abbott appreciates and fully respects the suggestion of Director-General Chan that more work needs to be done with the government of Thailand to achieve a positive outcome. Meanwhile, Kaletra capsules remain available in Thailand and will be eligible for the new price.[79]

April 16, 2007. Several NGOs and members of civil society wrote a letter of concern to Miles D. White, Abbott Laboratories CEO, concerning the unresolved issues of access and price reductions for Kaletra.[80]

April 23—30, 2007. USA for Innovation issues as series of press releases, Youtube video, and letter to US Cabinate members and article opposing Thailand's compulsory licensing decisions.

April 24, 2007. Ten NGOs and Activist groups issue a joint press release concerning their upcoming demonstrations against Abbott Laboratories' efforts to restrict Thailand's access to essential medicines.[81] The demonstrations and a protest events were scheduled for April 26 and 27 in Chicago, IL, New York, NY, Wochester, MA, and Austin, TX, Salem OR, and Chapel Hill NC.

April 23, 2007. Peerapan Tungsuwan, a Baker and McKenzie partner, published an article in the Bangkok Post detailing the global law firm's opposition to Thailand's compulsory licensing decisions.[82]

April 25, 2007. Professor Brook Baker, from Northeastern University School of Law and Health Gap, Professor Sean Flynn of American University, and Judit Rius Sanjuan from KEI issue a rebuttal argument to Tungsuwan's article, citing its mischaracterization of international law.[83]

April 26, 2007. Korean NGOs issue a statement opposing pharmaceutical companies' efforts in Thailand to restrict access to essential medicines. The NGOs request:

- Abbott to stop its attempts to block compulsory license on medicine.
- Abbott to lower the price of Kaletra in every country.
- Abbott to supply Kaletra to every country where there are HIV/AIDS patients.
- Abbott and other Big Pharmas to stop their attempt to change laws and systems of countries in favor of their profit.
- Korean Government to break KORUS FTA that ensures the profit of Big Pharmas. [84]

April 26, 2007. "Thai treatment activists filed a compliant with the Competition Commission, alleging that Abbott's withholding of its products violates Thailand's Competition Act. The law prohibits dominant companies doing commerce in the country from withholding provision of products without adequate pro-competitive justification."[85]

April 26, 2007. Abbott Laboratories threatened to sue Act Up-Paris for their netstrike, which caused interruptions to Abbott's website service. The activist group's netstrike was in protest of Abbott limiting access to medications in Thailand.[86]

April 27, 2007. Thai AIDS activists and members of both the Student Global AIDS Campaign (SGAC) and American Medical Student Association (AMSA) rallied against Abbott's Annual Shareholders' Meeting in Chicago, protesting Abbott Laboratories' withdrawal of Kaletra and six other drugs from Thailand.[87]

April 30, 2007. Thai Prime Minister Surayud Chulanont agreed on the Foreign Ministry plan to spend $600,000 on a three-month public relations campaign to improve the Thailand's government's image post-coup, and after the beginning of USA for Innovation's advertizing campaign against compulsory licensing.[88]

May 8, 2007. USA for Innovation presented a press release urging US congress to fight against Thailand and Brazil's intellectual property "theft."[89] The lobby group has indirect ties to big Pharma, according to their website.[90]

May 8, 2007. USA for Innovation debuted its project ThaiMyths.com, meant to "draw attention to the deceit in Thailand's decision to steal American and European innovation." The lobby group argues against compulsory licensing, arguing that based on its GDP, Thailand can afford Western medicines.[91]

May 9, 2007. USA for Innovation's Executive Director wrote a letter to US congress critiquing Thailand and Brazil's compulsory licensing practices claiming: "In attacking intellectual property rights of American and European companies, Brazil and Thailand threaten innovation."[92]

May 9, 2007. Printed in a full-page add in "The Nation" magazine, USA for Innovation lobbyists accused the Thai government of "stealing" American assets for military benefit, at the expense of the poor and sick. Further, the lobby group claimed that Thailand's compulsory licenses violate treaty obligations under World Trade Organization.[93] One week earlier, USA for Innovation posted an ad in "The Nation" drawing similarities between Thai compulsory licensing and the Burmese junta.[94]

May 10, 2007. Fifteen NGOs sign a joint statement calling on Pharmaceutical companies and lobbyists to stop hindering access to essential medicines in Thailand and Brazil. Those NGO's are: Thai Network of People Living With HIV/AIDS (TNP+), Thai NGO Coalition on AIDS, AIDS Access Foundation, Drug Study Group, Rural Pharmacist Foundation, Confederation of Consumer Organization, Foundation for Consumers, Biodiversity and Community Rights Action Thailand, Alternative Agriculture Network, FTA Watch, Corporate Watch, Thailand, Focus on the Global South (Thailand), The Strategic Policy on Natural Resources Base, Project, National Human Right Commission, The Rural Reconstruction Alumni and Friends Association, Medecins Sans Frontiers-Belgium (Thailand).[95] Initially, Merck maintained that its prices in developing countries produced no profit, and could not be reduced. However, Merck recently issued a discounted price of 14.5% for Efavirenze.[96]

May 17, 2007. Jerramiah Norris, of Center for Science in Public Policy, wrote an open letter of support to Dr Margaret Chan, WHO Director General, regarding the WHO's disapproval of generic antiretroviral GPO-Vir, which failed its prequalification program in Thailand. While GPO-Vir cost $24 (USD) per month, patients developed an accelerated drug resistance to it and had to switch to a second line therapy costing $239 month; the high pricing necessitated the recent compulsory license of Kaletra.[97]

May 23, 2007. Thai Health Minister Mongkol na Songkhla chooses to press ahead for compulsory licenses on drugs produced by U.S.-based Abbott Laboratories, Merck & Co Inc, Sanofi-Aventis upon returning from a meeting in Washington with U.S. Commerce Secretary Carlos Guitierrez. The meeting had taken place because Thailand had been put on USTR's priority watch list.[98]

May 23, 2007. In an interview with United Press International, PhRMA CEO Billy Tauzin states that it is important for health officials to continue to have discussions concerning TRIPS flexibilities. The main concern, Tauzin claims, is the precedent that Thailand's actions set for other countries seeking to lower the cost of medicines through compulsory licenses. This comes after a series of meeting by Tauzin with Thai Health officials over the issuance of compulsory licenses.[99] After these meetings, Tauzin responded to a number of additional queries by Marcia Carroll of the Multinational Monitor via teleconference.[100]

May 24, 2007. PIJIP produces a document on the need for compulsory licenses and generic competition to achieve access to second generation AIDS drugs.[101]

May 25, 2007. Thai Health Minister Mongkol na Songkhla issues a statement which said that he was willing to negotiate with U.S. drug companies on the prices of drugs, but at the same time would consider more compulsory licenses including on for a cancer drug produced by Novartis.[102]

May 29, 2007. Pro-CL Op-ed appears in the Herald Tribune. The article states that it is a legitimate right of any member of the WTO to issue a compulsory license.[103]

June 2007. Student campaigns in UK are essential to changing the government's position on Thailand's compulsory licenses.[104] A letter from the UK's Stop AIDS Campaign was also sent to te Thai Ambassador to the UK expressing the UK's solidarity with Thailand.

June 2, 2007. Merck offers to meet the generic price for efavirenz, plus 5% (equivalent to a royalty), and in addition has offered access to a pediatric formulation and assistance in diagnosing HIV+ children.[105] This comes as a response to pressure put on the company by the Thai government's issuance of compulsory licenses.

June 7, 2007. The Economist publishes an article on compulsory licenses in which Thailand's actions are mentioned.[106] In that same article, John Pender of GSK makes the claim that compulsory licenses can be used in limited circumstances, a statement Ellen 't Hoen of MSF refutes on the IP-Health listserve.[107]

June 20, 2007. In response to Abbott Pharmaceuticals legal action against Act-Up Paris, the Thai Network of People Living with HIV/AIDS both express their solidarity with Act-Up Paris and state that it would be willing to serve as a witness in the possible legal fight.[108]

June 20, 2007. Representative Henry Waxman (D-CA) and 34 colleagues sent a letter to USTR urging it to reexamine its decision to place Thailand on the Section 301 Priority Watch List because of Thailand's decision to issue compulsory licenses in aid of its public health problems.[109] The letter suggests the action was possibly a retaliatory measure.

June 21, 2007. Congress considers changes to trade law that specifically address issues surrounding patents and access to medicines for developing nations. The new language would bring current trade law closer to the exceptions provided for by the Doha Declaration.[110]

June 22, 2007. Thailand plans to buy more generic AIDS and heart drugs from India after negotiations between Thailand and U.S. companies were unacceptable.[111]

June 22, 2007. Thailand establishes two exploratory committees to examine the possibility of issuing compulsory licenses on breast and cancer medications.[112]

June 24, 2007. The National Health Security Office of Thailand began reviewing the distribution system of the top 100-listed essential medicines, including high-priced cancer drugs needed for treating patients under the universal healthcare scheme. This steps comes after two committees were established to explore compulsory licenses on cancer drugs.[113]

July 9, 2007. The European Commission issues a warning to Thailand on its broad use of compulsory licenses. Peter Mandelson, the trade commissioner, sends a letter to Bangkok to this effect. [114]

July 13, 2007. Thai Network of People living with HIV/AIDS and Act Up-Paris invite Abbott Laboratories CEO Miles White to Conciliation meeting with a representative of the Thai government, during the International AIDS Conference in Sydney, on July 23 2007.[115] This meeting is intended to

assist Abbott in removing itself from the public relations quagmire resulting from its actions over the past year.

July 20, 2007. The US Ambassador to Thailand, Ralph Boyce, issues a letter similar to the one sent by Peter Mandelson, critical of the Thai government's decision to issue compulsory licenses.[116]

July 24, 2007. At the International AIDS Conference, Thai activists demand that Abbott drop its ban on the distribution of its AIDS drugs in Thailand.[117]

August 9, 2007. Mandelson's letter on behalf of the EC to Thailand is discussed in an article in the Financial Times.[118]

August 14, 2007. Professor Brook Baker issues a response to the Mandelson's letter, refuting its core claims.[119]

August 20, 2007. JVR Prasada Rao, Director of India's Regional Support Team for UNAIDS calls for countries to follow Thailand's example in issuing compulsory licenses.[120]

August 22, 2007. Numerous Thai civil society groups gather together at press conference to denounce both the EU Trade Commissioner and the U.S. Ambassador to Thailand for their issuing letters interfering with Thailand's decision to grant compulsory licenses for select drugs.[121]

September 3, 2007. Mandelson issues an answer to the Thai government's response to his earlier letter.[122]

September 4, 2007. Sanofi Aventis threatens to sue an Indian firm Emcure if it exports a generic version of the heart drug Plavix to Thailand.[123]

September 7, 2007. An internal dispute erupts within the EC regarding treatment of Thailand over its use of compulsory licenses. While Trade Commissioner Peter Mandelson has been pressing Thailand over its use of compulsory licenses, the European Parliament has taken exception to these measures.[124]

September 24, 2007. Four more drugs are marked for voluntary licensing by the Thai government.[125] The four drugs are Imanitib, Docetaxel, Erlotinib and Letrozole. The Public Health Ministry will begin to negotiate with the patent holders to see if an agreement for lower prices can be reached.

October 3, 2007. An editorial by Universities Allied for Essential Medicines (UAEM) appears in the Boston Globe. The piece specifically calls for research universities to act on the situation in Thailand and states that it is critical that the Thai people are allowed access to life-saving medicines.[126]

October 18, 2007. An Op-Ed by Sally Pipes calls the Brown/Allen resolution a "criminally naïve" statement.[127] The Brown/Allen resolution praised Thailand for its efforts and called for the United States to have a flexible approach in dealing with the conflict between intellectual property and access to medicines.

October 24, 2007. The Thai Competition Commission meets to decide whether to address AIDS activists complaint that Abbott's removal of registration applications for several drugs, including heat stabilized Kaletra, violates Thailand's Competition Act.[128]

November 2, 2007. Thailand may have 20 more drugs that are candidates for compulsory licensing, though ultimately no more than ten may be acted upon.[129] The government believes that these are life-saving drugs, and unless a price cut can be agreed upon there may be compulsory licenses issued.

November 5, 2007. The most recent round of pricing negotiation between Thailand and pharmaceutical companies seem to be showing positive results with many companies agreeing to lower their prices on cancer drugs.[130]

November 21, 2007. Novartis tells Thailand that it will give the country Imatinib, a cancer drug, for free if Thailand stops its drive for generic drugs.[131]

November 23, 2007. Robert Weissman publishes an Op-Ed in the Bangkok Post while attending the International Conference on Compulsory Licensing: Innovation and Access for All. It calls for pharmaceutical companies to stop fear-mongering regarding compulsory licenses amongst the general public.[132]

November 23, 2007. The Asia Sentinel runs an article describing the conflict between foreign pharmaceutical companies and the Thai government over the past year.[133]

December 10, 2007. Secretary-General of the UN, Ban Ki-Moon, praised Thailand for its handling of the HIV/AIDS crisis and singles out the issuing of compulsory licenses as essential for equitable access to medicines.[134]

December 18, 2007. The Thai government's negotiations with pharmaceutical companies for lower priced breast and lung cancer drugs seems ready to collapse. The use of compulsory licenses to acquire lower priced versions of these drugs now seems eminent.[135]

December 27, 2007. Thailand's Competition Commission rejects HIV/AIDS activists complaint regarding Abbott Pharmaceutical's anti-competitive behavior.[136]

January 9, 2008. BIO's Jim Greenwood, in an interview with Ed Silverman, states that Thailand's patent fight will "absolutely not succeed."[137]

January 17, 2008. Sean Flynn issues a note arguing why the recent order rejecting the competition complaint raised by various Thai activists should be overturned on appeal.[138]

January 22, 2008. Thai HIV/AIDS activists ask for an administrative court to review the Competition Commissions rejection of their previous complaint.[139] The advocates claim that Abbott violated the Thai Competition Act by refusing to register its antiretroviral, Aluvia, when Thailand issued a compulsory license on another of its drugs, Kaletra.

January 25, 2008. After a series of failed negotiations with patent holders, Thailand decides to issue compulsory licenses for four cancer drugs.[140] The names of the drugs were not disclosed.

January 31, 2008. Thailand decides not to use a compulsory license for a cancer drug produced by Novartis because the company has agreed to provide the drug for free to the country.[141] However, the status of three other drugs remains very much undecided.

January 31, 2008. The Bangkok Post reports that American pharmaceutical companies have been pushing USTR to move Thailand down to Priority Foreign Country (PFC) status. PFC status is the most severe trade category and could possibly lead to sanctions. U.S. authorities, however, did not comment on this latest development.[142]

January 31, 2008. In an interview with Reuters, outgoing Thai Health Minister Mongkol na Songkhla defends his actions on compulsory licensing. He also states that there are four more drugs in consideration for compulsory licenses.[143]

February 7, 2008. New Thai Health Minister, Chaiya Sasomsab, tells the Bangkok Post that he is going to review the right decision was made on breaking patents for four patent drugs.[144]

February 19, 2008. During the first day of policy debate, Thai Health Minister Chaiya Sasomsab comes under attack from the opposition Democrats and the National Legislative Assembly (NLA). Democrat leader Abhisit Vejjajiva states "These are the patients' right of access to medicines; the country's right to apply measures in line with international trade laws and agreements to protect the public's health; and prompt negotiations with trade partners who have trouble with Thailand's bypassing of drug patents."[145]

February 19, 2008. Oxfam issues a statement urging Thailand not to give up its compulsory licensing efforts.[146]

February 19, 2008. A WHO-sponsored mission declares Thailand's compulsory licensing program to be legal. The group, including WTO representative and UNDP officials, spent a week in the country speaking to various Thai officials.[147]

February 20, 2008. The Thai government publishes its second white paper on its compulsory licenses for essential drugs: "Ten Burning Questions on the Government Use of Patents on the Four Anti-Cancer Drugs in Thailand." It describes the justification for the government's second four compulsory licenses, the negotiations with patent owners, and the processes followed to issue the licenses.[148]

February 20, 2008. A coalition of HIV/AIDS activist issue a letter to Thai Health Minister Chaiya Sasomsab asking him to resist pressure from the United States and pharmaceutical companies on issuing compulsory licenses on cancer medications.[149]

February 20, 2008. The Thai media reports that the United States is considering reporting Thailand to the WTO over its actions over compulsory licensing. The U.S. is claiming that Thailand did not negotiate with patent holders before announcing the licenses. Thai officials denied this claim, saying it had evidence of attempts at negotiation.[150]

February 20, 2008. U.S. Chamber of Commerce Senior Director for Southeast Asia, Murray Hiebert, says that the U.S. is speaking to the Thai government for ways to resolve the compulsory license disputes. He states that there needs to be legitimate dialogue, but not after the appropriation of intellectual property.[151]

February 22, 2008. An Indian pharmaceutical company, Cadila Health Care, decides to stop exporting heart disease drugs to Thailand due to the uncertain government policies in Thailand. However, Dr Wichai Chokewiwat, said after speaking to a high level Cadila official that the first lot of drugs would still be imported in March.[152]

February 25, 2008. A number of Thai civil society groups demanded that the Health Ministry not rescind compulsory licenses issued on drugs for heart disease and HIV/AIDS. The four groups include the Aids Access Foundation, The Thai Network of People Living with HIV/AIDS, the Cancer Club and the Kidney Friend Club.[153]

February 29, 2008. USTR moves to dispel rumors about moving to file a case against Thailand in the WTO over Thailand's use of compulsory licenses. Further, USTR states that any such thing would happen only after through review of Thailand's actions and discussion with the government.[154]

March 3, 2008. The head of Thailand's Food and Drug Administration (FDA), Chatree Banchuen, resigns from his post after serving one week in office. He explained that he was "uncomfortable with the politics" of the situation, without further elaboration. The country's previous FDA chief, Siriwat Thiptharadon, was transferred to an inactive post by the new government. Mr. Thiptharadon alleges this action was taken because of his support for the compulsory licensing program.[155]

March 3, 2008. Health Minister Chaiya Sasomsab says he supports issuing compulsory licenses for important cancer medications. He says that the Commerce Ministry will make its final determination in two weeks.[156]

March 5, 2008. Knowledge Ecology International (KEI) issues a letter to the Thai Prime Minister and Health Minister urging the Thai government to continue its use of TRIPS flexibilities.[157]

March 10, 2008. The Thai press reports that the EU will possibly ask the WTO to review Thailand's use of compulsory licenses to acquire drugs. The Thai government responds by saying it is confident of its compliance with TRIPS.[158]

March 10, 2008. The Wall Street Journal publishes a report suggesting that the Thai Health Minister is advocating ignoring patents.[159]

March 11, 2008. Thailand's Public Health Ministry determines to move on with compulsory licenses on select cancer drugs. The Commerce Ministry will begin to negotiate with patent holders on price. The three drugs are Taxotere by Sanofi Aventis; Tarceva by Roche; and Femara by Novartis.[160]

March 12, 2008. The EU denies threatening action in the WTO against Thailand over the Thai government's use of compulsory licenses. It also says Thai actions are WTO-compliant. It issued the following statement:

> "The Commission has been in constant contact with the Thai authorities and has stressed that compulsory licensing, while allowed by the WTO rules, should be regarded as a last resort option and that negotiations and collaboration with pharmaceutical companies should be sought. The EU is hoping that this will be the line of the new Government. However, it is clear that the Commission has never threatened WTO litigation on compulsory licensing for medicines."[161]

March 12, 2008. The International Federation of Medical Students Associations (IFMSA) issues a statement from its annual meeting in support of Thailand's actions.[162]

March 12, 2008. The American Enterprise Institute Magazine publishes a cover story on compulsory licenses and Thailand.[163]

March 13, 2008. Thailand's National Health Security Office issues a report on the benefits from compulsory licenses issued in the past year. It indicates, amongst other things, that the number of patients using a generic version of efavirenz has tripled.[164]

March 13, 2008. The Government Pharmaceutical Organization of Thailand plans to produce HIV/AIDS and heart drugs that are currently under the compulsory licensing scheme. As of now there is no plan to produce cancer drugs.[165]

March 13, 2008. WSJ Asia publishes two competing letter to the editor debating Thailand's drug patent policies. One letter if from Sarah Ireland, Oxfam Regional Director for East Asia, the other is from Robert Bates, of the American Enterprise Institute.[166]

March 14, 2008. An Asia Times article, while only briefly discussing compulsory licenses, sheds light on the current political situation in Thailand.[167]

March 16, 2008. Sanofi-Aventis threatens Indian drugmaker Cadila Health Care with legal actionif the firm continues to pursue exports of its heart drug clopidogrel to Thailand. At the same time, Sanofi says it will continue to negotiate with the Thai government.[168]

March 17, 2008. USTR is in Thailand to meet with the country's officials. The talks hope to resolve and clear up any matters concerning Thailand's use of compulsory licenses and rumors about Thailand being place on the PFC list.[169]

March 18, 2008. The TransAtlantic Consumer Dialogue (TACD) Working Group on Intellectual Property sends a letter to U.S. and EU trade officials. The letter states TACD's concern with both groups actions as they relate to Thailand and worries that such actions will undermine the Doha Declaration.[170]

March 18, 2008. In an email exchange with a Thai journalist, the Trade Counsellor of the US Embassy in Thailand states,

> "We view the compulsory licensing issue as a very serious matter, and part of a broader set of important concerns about the protection of intellectual property rights in Thailand. We would consider a decision by the new Thai Government to sustain Thailand's recent policies in this area to be unfortunate. We understand that Thailand faces significant public health challenges. We hope that Thailand will pursue policies that achieve public health objectives while also creating an improved environment for innovation, including through enhanced respect for intellectual property rights. Strong intellectual property rights are critical to assure continued investments in life-saving medicines."[171]

March 20, 2008 - In responding to the European Union's request of the newly installed government to reconsider issuing compulsory licenses; Jill Johnstone from the National Consumer Council in Britain stated, "There is simply no way that Thailand will be able to honour its Doha pledge to implement its intellectual property laws in a manner consistent with access to medicine for all, if the U.S. and the European Commission exert pressure every time Thailand issues compulsory licenses."[172]

March 21, 2008. Bridges reports that the U.S. seeks to renew free trade agreement talks with Thailand. Talk of pharmaceuticals and compulsory licenses was left out of the statement.[173]

March 21, 2008. Barbara Weisel, Assistant U.S. Trade Representative for South Asia and the Pacific, meets with Thai government officials to discuss relations between the U.S. and Thailand. While these talks included discussions over Thailand's use of TRIPS flexibilities, they did not involve any possible FTA negotiations.[174]

March 25, 2008. Sally Pipes, of the Pacific Research Institute, writes in an op-ed that Thailand's "misuse" of compulsory licenses has allowed corrupt government officials to steal millions of dollars. This assertion is unaccounted for.[175]

March 26, 2008. It is revealed that on February 25, 2008, Switzerland wrote a letter to the Thai government excoriating it for using compulsory licenses.[176] Meanwhile, Reuters reports that the Swiss firm Roche is asking a Los Angles court for a compulsory license on three Amgen patents. [177]

March 28, 2008. U.S. Trade Representative issues its annual National Trade Estimates report on Barriers to Trade. In the chapter on Thailand, the report states:

> "The United States acknowledges Thailand's ability to issue compulsory licenses to address public health emergencies, subject to Thailand's domestic and international legal obligations as a WTO Member. At the same time, the United States has expressed concern regarding a lack of transparency in the process and about the potentially expansive use of compulsory licenses. The United States has urged Thailand to address judiciously the complexities of the relationship between health and intellectual property policy and to do so in ways that recognize the role of intellectual property in the development of new drugs."[178]

April 1, 2008. Obama campaign advisor and Columbia law professor Tim Wu highlights the U.S. policy of making WTO complaints against compulsory licenses in Thailand as a leading example of international technology policy that the new administration should quickly reverse. Wu advocates innovation prizes and questions, "if we can afford to put a price on the head of Osama Bin Laden, why not one for inventing a malaria vaccine?"[179]

April 2, 2008. Former US president Bill Clinton, speaking in support of Thailand and Brazil in issuing compulsory licenses, stated, "No company will live or die because of high price premiums for Aids drugs in middle-income countries, but patients may."[180]

April 9, 2008. Representative Henry Waxman and twenty-six other Members of Congress write U.S. Trade Representative Schwab. They ask that USTR act upon the United States' commitment to respecting compulsory licenses as approved in the 2001 Doha Declaration in any review of the global state of intellectual property rights. The letter criticizes the ambiguous language used in downgrading Thailand to the "Priority Watch List" shortly after it issued compulsory licenses. The Members of Congress fear that the language "has led some to interpret the Report as condemning the issuance of compulsory licenses as inherently indicative of a weakened respect for patents."[181]

April 9, 2008. India's Dabur Pharma Ltd. announced that it has signed an agreement with Thailand's Government Pharmaceutical Organization to supply it with a generic version of an anti-cancer product, Docetaxel at 'a very special' price.[182]
April 9, 2008 - Thailand's health minister, Chaiya Sasomsup, resigned Wednesday amid a growing corruption scandal over his alleged failure to disclose his wife's shareholdings. Chaiya was already the target of a petition campaign seeking his dismissal for allegedly favoring the interests of multinational pharmaceutical companies over the health of Thai citizens. Chaiya said he would consider reversing a government decision to evoke compulsory licenses on four cancer-fighting drugs, a move that allows cheaper generic versions to be imported and manufactured in Thailand. Chaiya later said he would not change the government's position, but the campaign against him continued.[183]

April 14, 2008 - Essential Action's Global Access to Medicines Bulletin releases a Special In-Depth Issue over viewing how the Thai compulsory licensing experience stands as a model of how to use legal tools to expand access to essential medicines through the use of widespread compulsory licensing focusing on a wide range of diseases.[184]

April 17, 2008 - In a letter sent to the Swiss Government on 17 April 2008, the Berne Declaration (BD) and 20 health Thai and Swiss NGOs denounced the pressure exerted by Switzerland on the Thai Government. Switzerland asked Thailand to restrict its compulsory licenses policy after the Thai Government had granted compulsory licenses on medicines from Roche and Novartis.[185]

April 25, 2008 - USTR its 2008 Special 301 report, again citing Thailand's compulsory licenses as a reason for appearing on the Priority Watch list:

> "While the United States recognizes the importance of Thailand's public health challenges, Thailand's recent policies and actions regarding the compulsory licensing of patented medicines have contributed to continuing concerns regarding the adequate and effective protection of intellectual property rights (IPR) in Thailand. The United States is awaiting further information on the new Thai government's approach in this area and hopes to work constructively on this and other IPR issues in order to strengthen Thailand's IPR regime."[186]

May 8, 2008 - Winai Sawasdiworn Deputy Secretary General of the National Health Security Office, believes that "Access to some HIV drugs is increasing in Thailand because of the country's decision to issue compulsory licenses for certain medicines." According to Winai, the first batch of generic Kaletra was delivered to state hospitals three month ago, and a shipment of generic Efavirenz, a Merck HIV drug for which a compulsory license was also issued, has been imported from India as well.[187]

May 21, 2008 – The European Parliament's International Trade Committee sent a letter to European Commissioner for Trade, Peter Mandelson, requesting he publicly clarify the EC actions related to the use of TRIPS flexibilities towards Thailand.[188]

May 22, 2008 - EU Trade Commissioner, Peter Mandelson, responds to the European Parliament's request for clarification regarding his letter to Thai Government on February 2008 that contradicted the EU commitment to the Doha Declaration and the support of compulsory licenses. He stated that he wrote the letter due to concern about the possible consequences of a systematic recourse to compulsory licenses Specifically he noted:

> "First, it may become an easy excuse for governments not to take their responsibilities in setting up efficient reimbursement mechanisms for

> health expenses, or not to negotiate lower prices with the manufacturers."
>
> "Secondly, it would eventually be detrimental to the innovation and the development of new medicines."[189]

May 23, 2008 – The Bangkok Post reports on Mr Chaiya's shake-up of key health personnel involved with Thailand's compulsory licensing policies. Siriwat Tiptaradol, chairman of the panel responsible for negotiating price cuts with cancer drug firms, was transferred from his position as Food and Drug Administration secretary-general, to an inactive post as inspector at the Health Ministry. Prat Boonyawongvirote, the permanent secretary for health, and Thawat Sundarajan, chief of the Disease Control Department, resigned earlier reportedly under pressure from Mr. Chaiya. Given his present questionable legal status in Cabinet, political etiquette requires that Mr. Chaiya keep his hands off important ministerial affairs. However, Mr Chaiya's success in removing the GPO board indicates just how strongly he is trying to hold on to power at the Health Ministry.[190]

June 16, 2008 - EU Trade Commissioner, Peter Mandelson, releases nine letters (http://lists.essential.org/pipermail/ip-health/2008-June/012819.html) between EC and Thai officials and responds to James Love and Jill Johnstone, TACD Working Group on Intellectual Property, stating:

> "The Commission does not question Thailand's right to issue compulsory licenses . . . but we have doubts, from a policy point of view, on a *systematic* recourse to compulsory licenses that could eventually be detrimental to the overall objective of the patent system, *i.e.* innovation and the development of new medicines." (emphasis in original)[191]

June 18, 2008 – The Deputy Managing Director of the Government Pharmaceutical Organisation (GPO) announces that the first batch of generic heart clopidogrel ordered under the compulsory licensing scheme over a year ago, will soon be available in state hospitals.[192]

July 31, 2008. A group of 50 House democrats led by Reps. Adam Smith and Ron Kind write USTR criticizing the Thai compulsory licenses and urging that USTR "continue to stress that such licenses not be issued lightly." The Representatives stop short of claiming that Thailand was not in compliance with the TRIPS Agreement, but they take issue with the process used to issue the licenses, and warn of negative effects on further innovation.[193]

March 4, 2009 – The Thai Commerce Ministry calls for no more drugs to be listed under the compulsory licensing policy. Health activists seek to meet with Deputy Commerce Minister Alongkorn Ponlaboot to clarify the ruling before he sets off for Washington. Mr. Alongkorn will try to resume the Thai-US free trade agreement stalled after the military coup in 2006 and convince US trade officials to remove Thailand from the Priority Watch List. Nimit Thien-udom, director of the Aids Access Foundation, said, the quality of patients' lives has improved since Thailand imposed compulsory licensing on Aids, heart disease and cancer drugs in 2007 and 2008 - for a cost of about Bt 4 billion.[194]

March 9, 2009 - United States Trade Representative Ron Kirk testified before the Senate Finance Committee. When asked about Senator Hatch (R-UT) questioned Kirk about compulsory license abuse in Thailand, he and stated:

> "If I am confirmed, USTR will carefully monitor the use of compulsory licensing by our trading partners, and will work with Congress to address legitimate concerns while also working with Congress to support and respect the Doha Declaration on the TRIPS Agreement and Public Health, which recognizes the right of WTO members to grant compulsory licenses in accordance with WTO rules."[195]

March 11, 2009 - James Love, Director of Knowledge Ecology International writes in the Huffington Post blog that Thailand should not be listed in the Special 301 Report for issuing compulsory licenses:

> "An early test of the Obama Administration will be the 2009 301 Report, which is due in a few weeks. PhRMA and a significant bi-partisan group of U.S. members of Congress are pushing to punish Thailand, for having in the past exercised the rights guaranteed in WTO agreements and countless World Health Organization resolutions to protect its own population from high drug prices, by issuing a handful of compulsory licenses on drug patents."[196]

March 12th, 2009 - PhRMA submitted concerns for the USTR Special 301 list on Thailand. Thailand is one of three Asian countries (including China and the Philippines) that were singled out by PhRMA for the harshest treatment. The submission on Thailand covers several topics, including: compulsory licenses, patent linkage, data exclusivity, patent delays, government procurement, safety monitoring, the new draft drugs bill and the product liability act.[197]

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[1] Merck Thailand is comprised of the Pharmaceutical Division and the Chemical Division. For more information visit: http://www.merck.co.th.

[2] At that time, Flu was not patented in Thailand. C. Perez, *Price Differences in Fluconazole: Consequences and Conclusions*, Medicins Sans Frontiers, Access to Essential Medicines Project (1999), available at http://www.haiweb.org/campaign/novseminar/perez.html. The Thai government concluded: "It is only after the threat or the decision to use and implement Compulsory Licensing or Government Use of Patent that the negotiation will be more successful and effective." Thailand's Ministry of Public Health and the National Health Security Office. *Facts and Evidences on the 10 Burning Issues Related to the Government Use of Patents on Three Patented Essential Drugs in Thailand*, 5,6 (2007). Available online at http://www.bilaterals.org/article.php3?id_article=7349.

[3] Dr. Anupong Chitwarakorn in collaboration with the Subcommittee Secretariats of the National AIDS Prevention and Control Committee, *National Plan for the Prevention and Alleviation of HIV/AIDS in Thailand, 2002-2006*, 3, AIDS Division, Department of Communicable Disease Control, Ministry of Public Health, (2001), available at http://www.aidsthai.org/download/PlanAIDS02061.doc. B. Tantisak, W. Phoolcharoen, *An analysis the MOPH operational plan for prevention and alleviation of HIV/AIDS 1998-2001*. Dept. of CDC Ministry of Public Health, Int Conf AIDS, (1998) 12: 1075 (abstract no. 60410), Available at http://gateway.nlm.nih.gov/MeetingAbstracts/102232361.html.

4 The World Bank, *Thailand's Response to AIDS: Building on Success, Confronting the Future*. 35, Thailand Social Monitor V, available at http://www.worldbank.or.th/social/pdf/Thailand's%20Response%20to%20AIDS.pdf.

[5] The World Bank, Id, at 35.

[6] The World Bank, Id, at 49.

[7] The World Bank, Id, at 51.

[8] The World Bank, Id, at 35.

[9] The World Bank, Id, at 34-35.

[10] Thailand's Ministry of Public Health and the National Health Security Office. Supra note 2, at 1.

[11] United States Trade Representative, *2001 "Special 301" Report*, USTR Reports and Publications, Watch List, available at http://www.cptech.org/ip/health/ustr/special301.pdf.

[12] World Health Organization, Representatives of the Executive Board, *Outcome of the Fifty Fourth Wold Health Assembly*, 1-3, Executive Board 108th Session Provisional agenda item 3, (2001), available at http://ftp.who.int/gb/pdf_files/EB108/eeb1082.pdf.

[13] Urgent Action to Combat HIV/AIDS and Other Pandemics Which Seriously Endanger Public health, and Economic, Social and Political Development and Even Threaten the Survival of Many Nations, I-P.U106th Conference (2001), available at http://www.ipu.org/conf-e/106-2.htm.

[14] In 2002, the US exported to Thailand totaled $4.9 billion. According to the White House: "Thailand is the United States' 18th largest trading partner, with two-way trade totaling nearly $20 billion in 2002. Thailand is the 16th largest market for U.S. agricultural exports and 23rd largest market for overall U.S. exports. Top U.S. exports to Thailand include machinery, agricultural products, and aircraft." Press Release, The White House, *Fact Sheet on Free Trade and Thailand.* Office of the Press Secretary (October 20, 2003) (online at http://www.whitehouse.gov/news/releases/2003/10/20031020-27.html).

[15] WHO Medicines Strategy, WHO, A55/12,Provisional agenda item 13.8, (2002), available at http://www.who.int/gb/ebwha/pdf_files/WHA55/ea5512.pdf.

[16] USTR, 2002 *Special 301 Report Watch List*, USTR Reports and Publications (2002), Available at http://www.ustr.gov/Document_Library/Reports_Publications/2002/2002_Special_301_Report/2002_Special_301_Report_Watch_List.html.

[17] A. Towse, A. Mills, and V. Tangcharoensathien, *Learning from Thailand's Health Reforms*, 2004,BMJ,338; 103—105, available at http://www.bmj.com/cgi/reprint/328/7431/103.pdf.

[18] USTR, 2003 *Special 301 Report Watch List*, USTR Reports and Publications (2003), Available at http://www.ustr.gov/Document_Library/Reports_Publications/2003/2003_Special_301_Report/Special_301_Watch_List.html.

[19] The White House. *Joint Statement between the United States of American and the Kingdom of Thailand*, Office of the Press Secretary, June 11, 2003, available at http://www.whitehouse.gov/news/releases/2003/06/20030611-1.html.

[20] Thailand's Ministry of Public Health and the National Health Security Office, Supra note 2, at 6.

[21] Press Release, The White House. *Fact Sheet on Free Trade and Thailand.* Office of the Press Secretary (October 20, 2003) (online at http://www.whitehouse.gov/news/releases/2003/10/20031020-27.html).

[22] Press Release, The White House, *Fact Sheet on US Actions at the APEC Summit: Day 1*, Office of the Press Secretary (October 20, 2003) (online at http://www.whitehouse.gov/news/releases/2003/10/20031020-3.html).

[23] USTR. *2004 "Special 301" Report*, USTR Reports and Publications (2004), available at http://www.ustr.gov/Document_Library/Reports_Publications/2004/2004_Special_301/2004_Special_301_Report_Watch_List.html.

[24] Thailand's Ministry of Public Health and the National Health Security Office, Supra note 2, at 6.

[25] Id at documents 16 and 17.

[26] Press Release, USTR, *Special 301 Report Finds Need for Significant Improvements*, USTR Special 301, (2005) (online at http://www.ustr.gov/Document_Library/Press_Releases/2005/April/Special_301_Report_Finds_Progress_Need_for_Significant_Improvements.html).

[27] WTO, *TRIPS and Health, Frequently Asked Questions: Compulsory Licensing and the Price of Pharmaceuticals*, Media Relations Division of the WTO Secretariat (2005), available at http://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm.

[28] Merck Thailand, Corporate Social Responsibility, Annual Report 2006, available online at http://www.merck.co.th/en/about/pdf/CSR%20Report%202005-2006.pdf.

[29] USTR. *2006 "Special 301" Report Executive Summary*, USTR Reports and Publications (2006), available at http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/2006_Special_301_Review/asset_upload_file473_9336.pdf.

[30] S. Thanprasertsuk, V. Tangcharoensathien, J. Gold, W. Peerapatanapokin, E. Masaki, M. Over, Mead, A. Revenga, *The economics of effective AIDS treatment : evaluating policy options for Thailand*, World Bank Publication (2006), available at http://www-wds.worldbank.org/external/default/main?pagePK=64193027&piPK=64187937&theSitePK=523679&menuPK=64187510&searchMenuPK=64187283&theSitePK=523679&entityID=000310607_20060926124315&searchMenuPK=64187283&theSitePK=523679.

[31] Thailand's Ministry of Public Health and the National Health Security Office. Supra note 2, at 11 and 82-83.

[32] Medecins Sans Frontiers, *The second-line AIDS crisis: Condemned to repeat?* Medecins Sans Frontiers Online, April 13, 2007, available at http://www.msf.org/msfinternational/invoke.cfm?objectid=65D58C38-15C5-F00A-25DE21CB571D3E0E&component=toolkit.article&method=full_html.

[33] T.I.S. Gerhadsen, *Thailand's Compulsory License on AIDS Drugs Prompts Policy Debate*. Intellectual Property Watch, 22 December 2006, available at http://www.ipwatch.org/weblog/index.php?p=499&res=1280&print=0.

[34] T. Suntrajarn, *Regarding Exploitation of Patent on Drugs & Medical Supplies by the Government on Combination Drug between Lopinavir & Ritonavir*, Decree of Department of Disease Control, Ministry of Public Health [Thailand] (2007), available at http://www.cptech.org/ip/health/c/thailand/thai-cl-kaletra_en.pdf. Currently, Indian generic Efavirenze would cost Thailand 800 bahts (USD 22), while Merck's Stocrin costs about 1,500 bahts (USD 41). According to The Government Pharmaceutical Organization (GPO)'s managing director Mongkol Jivasantikarn, Thailand plans on producing locally by June 2007, at a price of 700 bahts per month. Until Thailand's domestic production is possible, both China and India make generic antiretrovirals for as little as ten percent of their original price. ICTSD, *Thailand Issues Compulsory License for Patented AIDS Drug*, 10, Bridges Weekly Trade News Digest. 42, Main page (2006), available at www.ictsd.org/weekly/06-12-13/story2.htm.

[35] W-A. Nopporn, *Thailand Issues More Compulsory Drugs License on Abbott's Drug Kaletra*, Reuters, (2007), available at www.fightglobalaids.org/news/?p=137. Referring to a meeting with Merck, a Thai official told Intellectual Property Watch: "We requested [Merck] to re-propose [it] to us in an official letter." T.I.S. Gerhardsen, Supra note 33, at http://www.ipwatch.org/weblog/index.php?p=499&res=1280&print=0.

[36] Thailand's Ministry of Public Health and the National Health Security Office, Supra note 2, at 8-9.

37 CPTech, *Examples of Health Related Compulsory Licenses*, available at http://www.cptech.org/ip/health/cl/recent-examples.html#Thailand.

[38] T. I.S. Gerhardsen, Supra note 33, at http://www.ipwatch.org/weblog/index.php?p=499&res=1280&print=0.

[39] S. Flynn. *Thai Law on Government Use Licenses.* Program on Information Justice and Intellectual Property, American University: Washington College of Law (2006), available at www.cptech.org/ip/health/c/thailand/thaicl4efavirenze.html**.**

[40] T.I.S. Gerhardsen, Supra note 33, at http://www.ipwatch.org/weblog/index.php?p=499&res=1280&print=0..

[41] B.Baker, *[IP-health] TRIPS+ threaten fivefold increase in PEPFAR costs*, posted to Consumer Project on Technology (2007), available at http://lists.essential.org/pipermail/ip-health/2007-January/010470.html.

[42] Thailand's Ministry of Public Health and the National Health Security Office, Supra note 2, at 84.

[43] Id, at 85-86.

[44] Id, at 6.

[45] CACP, *Public Comment on the Report on the Criteria and Methodology for Determining the Eligibility of Candidate Countries for Millennium Challenge Account Assistance in FY'07*, 2007, available at http://mca.gov/selection/reports/fy07-chamberofcommerce-comment.pdf.

[46] J. Love, *Abbott Recently Sought Compulsory License in a US Patent Dispute*, KEI online, (2007), available at http://www.keionline.org/index.php?option=com_content&task=view&id=43&Itemid=1.

[47] Thailand's Ministry of Public Health and the National Health Security Office, Supra note 2, at 8.

[48] Id, at 53—55.

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