

August 9, 2007

**Addendum to the Report of the  
Industry Trade Advisory Committee on Intellectual Property  
Rights (ITAC 15)  
on the  
The U.S. – Korea Free Trade Agreement (FTA)  
The Intellectual Property Provisions  
Submitted April 27, 2007**

Following a closed meeting of ITAC 15 members on August 9, 2007, ITAC 15 approved the submission of an Addendum to the Korea FTA report representing the views of five of its members. This addendum addresses revisions to the text of the Agreement that were made subsequent to the deadline for the submission of the previous ITAC 15 report.

The KORUS FTA contains strong and important protections for the intellectual property rights of American companies. The undersigned do not believe that the changes to the intellectual property provisions that were included in this Agreement after its initial conclusion are warranted, especially given Korea's advanced stage of development. We thus oppose the changes. The substance of the language found in new Article 18.11 of the KORUS FTA had heretofore been only included in side-letters of FTAs with developing countries, while the language found in new Article 18.9.3 is primarily drawn from the provisions of the WTO Declaration on the TRIPS Agreement and Public Health, which was intended to deal with public health crises that may occur in developing countries.

It is particularly important that the United States remain vigilant to ensure that these new provisions are not abused or misinterpreted. We note that Korea is obligated to implement all of the KORUS FTA provisions on patents and certain regulated products upon entry into force of the Agreement. We consequently urge US negotiators, in particular, to ensure that the "peace clause" side letter, in which the United States has agreed not to bring dispute settlement proceedings regarding the linkage obligation for eighteen months after the KORUS FTA has been in force, not become an excuse for Korea to delay full implementation of all of its intellectual property obligations.

Notwithstanding these concerns, however, and in light of the broad and important benefits that the KORUS FTA promises for U.S. companies and workers, the undersigned continue to support this Agreement.

Jacques J. Gorlin  
President, The Gorlin Group

J. Anthony Imler  
Director, Public Policy, Latin America,  
Merck & Co., Inc.

Herbert C. Wamsley  
Executive Director, Intellectual Property  
Owners Association

Jeffrey P. Kushan  
Sidley, Austin, Brown & Wood LLP  
Representing Biotechnology Industry  
Organizations

Douglas T. Nelson  
Executive Vice President, General Counsel,  
CropLife America