AMENDMENT TO RULES COMM. PRINT 115–23
OFFERED BY MS. PLASKETT OF VIRGIN ISLANDS

At the end of subtitle B of title VII, add the following new section:

SEC. 7___. REASONABLE PRICE AGREEMENT RELATING TO ZIKA VIRUS.

(a) IN GENERAL.—If the Department of Defense or any nonprofit entity using funding provided by the Department undertakes health care research and development and is to convey or provide a patent for a drug, biologic, or other health care technology, relating to Zika virus, the Department or entity shall not make such conveyance or provide such patent until the entity (including a nonprofit entity) that will receive such patent first agrees to a reasonable pricing agreement with the Secretary of Defense (referred to in this section as the ''Secretary'') or the Secretary makes a determination that the public interest is served by a waiver of the reasonable pricing agreement provided in accordance with subsection (c).

(b) EXCLUSIVE RIGHTS TO RESEARCH.—

(1) IN GENERAL.—In cases where the Department of Defense (or a nonprofit entity described in subsection (a)) conveys or licenses exclusive rights to

a drug, biologic, or other health care technology, relating to Zika virus developed through federally funded research under subsection (a), the Secretary may—

(A) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on a drug, biologic, or other health care technology resulting from such research in which the Federal Government owns a right, title, or interest;

(B) grant nonexclusive, exclusive, or partially exclusive licenses under a drug, biologic, or other health care technology resulting from such research, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of title 35, United States Code, as determined appropriate in the public interest;

(C) undertake all other suitable and necessary steps to protect and administer rights to a drug, biologic, or other health care technology resulting from such research on behalf of the Federal Government either directly or through

contract, including acquiring rights for and administering royalties to the Federal Government for any such drug, biologic, or technology, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of such drug, biologic, or technology; and

(D) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any drug, biologic, or other health care technology resulting from such research.

(2) PROHIBITION OF DISCRIMINATION.—

(A) IN GENERAL.—For purposes of paragraph (1), any cost based reasonable pricing formula that is utilized shall not result in discriminatory pricing for the drug, biologic, or other health care technology, relating to Zika virus involved. In carrying out this subparagraph, the Secretary shall ensure that the Department of Defense, with respect to the drug, biologic, or other health care technology involved, is charged an amount that is not more than the lowest amount charged to countries in the Organization for Economic Co-Operation

and Development for the same drug, biologic, or technology, that have the largest gross domestic product with a per capita income that is not less than half the per capita income of the United States.

(B) DISCRIMINATORY PRICING.—For the purposes of subparagraph (A), a cost based reasonable pricing formula that is utilized shall be considered to result in discriminatory pricing if the contract for sale of the drug, biologic, or other health care technology, relating to Zika virus places a limit on supply, or employs any other measure, that has the effect of—

(i) providing access to such drug, biologic, or technology on terms or conditions that are less favorable than the terms or conditions provided to a foreign purchaser (other than a charitable or humanitarian organization) of the drug, biologic, or technology; or

(ii) restricting access to the drug, biologic, or technology under this section.

(c) WAIVER.—No waiver shall take effect under subsection (a) before the public is given notice of the proposed waiver and provided a reasonable opportunity to comment

on the proposed waiver. A decision to grant a waiver shall set out the Secretary's finding that such a waiver is in the public interest.

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