

The Montreal Gazette
August 17, 2001

Drug company offensive

Firm threatens trade-law suit to fight Canadian ban on pig drug

By LYLE STEWART

The federal government finally took steps to take a potentially cancer-causing animal drug off the market last week, but if past experience is any guide, international trade law will force Canadians to continue to be at risk of consuming it.

Carbadox is fed to pigs to prevent and treat disease, and to maintain weight gain. It's already banned in much of the developed world as a carcinogen. Last Friday, Health Canada put a stop-sale order on the drug, saying its use cannot be justified in light of the potential for misuse and unintentional contamination of other products. Legislation to ban it will follow, it said. Also known by the trade name Mecadox, it is distributed by the New Jersey-based multinational Phibro Animal Health Ltd. and is the same drug that caused a large-scale recall of pork products in Quebec last summer.

But in a letter dated June 22 to Health Canada assistant deputy minister Diane Gorman, Phibro's legal firm says it will fight the stop-sale order and any future ban with a Chapter 11 challenge at a North American Free Trade Agreement tribunal.

Leaked to the Canadian Health Coalition, the letter by Ogilvy Renault lawyer Penny Bonner says Health Canada's action is "a violation of principles of international trade law, insofar as it amounts to treatment inconsistent with the minimum standard of treatment owed to investments of foreign investors and to expropriation of our client's business, as well as a breach of Canada's international trade obligations under the WTO."

Bonner, in fact, points to Canada's past statements to the World Trade Organization over the European Union's displeasure with our use of hormones in meat animals. "Canada's about-face in its treatment of carbadox, without any scientific justification, is not likely to go unnoticed by the international community. Canada's position ... where it condemned the

European Union for banning meat treated with hormones on the ground that they were no more dangerous than carbadox, which it did not ban, is likely to come back to haunt the government should a case be brought against Canada in the WTO."

The threat recalls Canada's ill-fated ban of the dangerous gasoline additive MMT in 1998. U.S.-based Ethyl Corporation used NAFTA to force the government to repeal the ban and pay off Ethyl with \$20 million to drop the lawsuit. It also goes to the heart of our new food-safety regime that appears more designed to help drug corporations run roughshod over concerns of government scientists. Indeed, in the June 22 letter,

Bonner demands the government "recuse" any Health Canada official involved in the carbadox ban.

That would mean eliminating anyone with a scientific background, since there is unanimity among Health Canada scientists over the need to stop using carbadox.

One of those, Shiv Chopra, points to another food-animal drug - dimitridazole - which is banned in the U.S. but continues to be sold here. The U.S. Food and Drug Administration ruled in 1986 that a single molecule of dimitridazole can cause cancer, and thus they could not determine any safe level of use. In the case of carbadox, he says, only one-billionth of a gram contains 12 billion molecules - any one of which could trigger cancer.

"The problem is just immense," says Chopra. "We're saying you cannot have any safe level of use for any carcinogenic drugs. Carbadox has been banned in Britain and Australia since 1986 and in the EU since 1999. In Canada, we have both those drugs and the hormones on top of it. We are the dumping ground for all these drugs."

It's interesting to note that the patent for carbadox was acquired by Phibro last year from the drug's original developer, Pfizer Inc. That follows big pharma's practice of dumping drugs that have become "dirty" on companies who specialize in buying suspect drugs cheaply and selling them in countries that have yet to ban them.

In any case, Chopra says the stop-sale order is full of loopholes. It means government has ordered the company not to sell it, but if a farmer or veterinarian has it stockpiled, they can continue using it. And they can still obtain the drug from the U.S. for "personal use," he adds.

Chopra also notes that Phibro has been heavily lobbying Health Canada managers to amend the stop-sale order, and demanding officials sign confidentiality agreements over the carbadox issue.

Chopra and other scientists sent a letter to Health Minister Allan Rock last month complaining about pressure and harassment to approve unsafe drugs for use in food animals. They say the interests of pharmaceutical companies are given precedence over human health. Rock referred the letter back to the managers the scientists were complaining about.

"This is corruption," he charges. "I am not using this word lightly. This is corruption of our sovereignty, of our science, of what is expected of public-service employees through the misused authority of Health Canada managers. We don't know who else to go to."