

New Zealand measures to prevent parallel trade in medicine from NZ to US

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Link: <http://keionline.org/node/1232>

Wikileaks has published 28 cables, dated July 13, 2004 to February 9, 2010, from the US Embassy in Wellington, New Zealand that mention pharmaceuticals (See list here: <http://keionline.org/node/1231>)

One of the cables discusses in detail the efforts of the New Zealand government to prevent pharmaceutical products that are sold in New Zealand from being parallel traded into the U.S. market. There are several interesting points made in the cable. Here are a few highlights:

- PHARMAC's prescription drug prices are roughly 40 percent less than those in the United States.
- The perception that New Zealand maintains high safety standards for medications makes its more affordable drugs even more attractive to U.S. consumers.
- So far, however, only a trickle of U.S.-made drugs is brought to New Zealand and then re-imported back to the United States, according to PHARMAC and the industry. That amount is expected to remain insignificant.
- PHARMAC is concerned that if the industry were to discover large flows of its products being re-imported back to the United States, it would restrict pharmaceutical supplies in New Zealand and raise their prices.
- The NZ Ministry of Health is working to change the law to restrict doctors to prescribing medications only for patients who are physically present in New Zealand or for New Zealand residents who are temporarily traveling overseas.

The full cable follows:

UNCLAS SECTION 01 OF 02 WELLINGTON 000577

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DEPARTMENT FOR EAP/ANP-TRAMSEY, EB/TPP/IPE-BSOILA AND EB/TPP/BTA/ANA-RARMSTRONG STATE
PASS TO USTR FOR LCOEN COMMERCE FOR 4530/ITA/MAC/AP/OSAO/ABENAISSA

SENSITIVE

E.O. 12958: N/A

TAGS: ETRD[Foreign Trade], ECON[Economic Conditions], KIPR[Intellectual Property Rights], NZ[New Zealand; Antipodes Islands; Auckland Islands; Bounty Islands; Chatham Islands; Kermadec Islands]

SUBJECT: NEW ZEALAND AIMING TO STEM SALE OF PRESCRIPTION DRUGS BACK TO U.S.

REF: (A) WELLINGTON 119; (B) 04 WELLINGTON 1037

1. (SBU) Summary: With selected medicines much cheaper in New Zealand than in the United States, efforts are under way to impede the ability of Americans to purchase prescription drugs from New Zealand. The New Zealand Ministry of Health is tightening the law to prevent doctors from prescribing medicines to non-New Zealanders. Both the New Zealand agency that decides which medicines are publicly funded and its usual nemesis, the pharmaceutical industry, are working on other plans to counter any flow of prescription drugs back to the United States. End summary.

Affordable and safe

2. (U) Hard bargaining with pharmaceutical companies by New Zealand's national health care system ensures that its pharmaceutical prices are among the lowest in the OECD. Under that system, the Pharmaceutical Management Agency (PHARMAC) decides which medicines will be subsidized by the government and how much reimbursement will be paid for each pharmaceutical (ref B). The agency's bulk drug purchases account for 73 percent of prescription drug expenditures in New Zealand. PHARMAC's practices result in prescription drug prices that are roughly 40 percent less than those in the United States. The perception that New Zealand maintains high safety standards for medications makes its more affordable drugs even more attractive to U.S. consumers.

3. (U) So far, however, only a trickle of U.S.-made drugs is brought to New Zealand and then re-imported back to the United States, according to PHARMAC and the industry. That amount is expected to remain insignificant. In fact, until recently, the New Zealand government assumed that it would be nearly impossible for U.S. consumers to make retail purchases of prescription medicines from New Zealand. The Medicines Act 1981 allows doctors to prescribe medications only to patients under their care, and regulations that took effect in November 2000 forbid

pharmacists from selling drugs overseas to any individual who does not have a prescription from a New Zealand doctor. (Previously, only the sale of prescription drugs to New Zealanders without a prescription was illegal.) The regulations also extend the Medicines Act restrictions to drug sales over the Internet.

4. (SBU) However, in a recent case against a doctor who wrote bulk prescriptions over the Internet, the court broadly interpreted whether the patients were "under his or her care" and acquitted him of breaching the Medicines Act, according to Kevin Moar of the Ministry of Health's Sector Policy Directorate. The government has appealed the decision to the High Court. (The government has successfully prosecuted three Internet-based operations under the Medicines Act for retail sales of prescription medicines to overseas buyers without a prescription. One pharmacy's overseas sales accounted for 70 percent of New Zealand's Viagra allotment in 2002.)

5. (SBU) Moar said the Ministry of Health is working to change the law to restrict doctors to prescribing medications only for patients who are physically present in New Zealand or for New Zealand residents who are temporarily traveling overseas. The amended law is expected to prevent retail sales of prescription medicines at subsidized prices to overseas consumers. The government has set a deadline of July 2006 for the law to be changed, as part of an amendment that also would allow the startup of a joint Australia-New Zealand agency to regulate therapeutic products in both countries (ref A).

6. (U) Meanwhile, the amended law would not prevent re- importation of over-the-counter medicines or of prescription drugs sold wholesale, or at non-subsidized prices. Wholesale prices for newer drugs are generally not that different in New Zealand and the United States. However, wholesale prices for older drugs -- especially those older than 10 years -- and for over-the-counter medicines are much lower in New Zealand, according to PHARMAC's chief executive officer, Wayne McNee. New Zealand pharmacies with wholesale licenses can sell medicines directly to the United States.

A watchful eye

7. (SBU) To counter such sales at the wholesale level, pharmaceutical companies in New Zealand have been modifying their contracts with wholesalers, restricting their onward sales only to New Zealand. Pfizer, for example, altered its wholesalers' contracts after detecting substantial quantities of its drugs being sold from New Zealand to Asia. If the industry were to discover large flows of its products being re-imported back to the United States,

McNee fears it would restrict pharmaceutical supplies in New Zealand and raise their prices. The drug companies certainly are monitoring pharmaceutical exports out of the country and "will move to protect themselves" if the problem becomes significant, said Lesley Clarke, chief executive officer of the industry association Researched Medicines Industry of New Zealand. Meanwhile, she said, the industry considers a change in the law as the best way to prevent re-importation.

8. (SBU) McNee said PHARMAC stands ready to respond if re- importation causes pharmaceutical companies to cut the supply or boost their prices of prescription medicines in New Zealand. In contracts with pharmaceutical companies, PHARMAC would increase the use of rebate arrangements. Such contracts would stipulate that a drug would be sold at New Zealand pharmacies at what effectively is the international price, but that the drug company would reimburse PHARMAC for a set portion of that price. This arrangement would preserve the agency's cost-savings, while also discouraging exports of the drug since its retail price in New Zealand would match that in the United States. PHARMAC's use of rebates has increased dramatically in recent years, according to Stuart Bruce, communications and external relations manager for PHARMAC. For example, rebates rose 29 percent over the past year, from NZ \$80 million (US \$54.5 million) to NZ \$103 million (\$70 million).

9. (U) The Medical Council of New Zealand, which registers doctors to practice medicine in New Zealand and monitors their standards and conduct, also is hoping to strengthen its guidelines for the prescribing of medications. Its current guidelines mirror the Medicines Act in specifying that a doctor should prescribe medicines only to patients "under his or her care" and only to patients with which the doctor has had at least one face-to-face consultation. Tania Turfrey, the council's registrar, said that although several doctors have violated those guidelines, no doctor has been disciplined under them. She said the council plans to rewrite the guidelines later this year to include a stronger statement on the ethical dispensing of medicines.

10. (U) Comment: Normally, the government and the pharmaceutical industry are at odds, disputing pharmaceutical pricing policies that the government touts as reducing its citizens' health-care costs and that the industry says are denying it adequate return on its investment. In this case, however, both agree on the need to prevent the re-importation of pharmaceuticals from New Zealand back to the United States. While the government does not consider this issue to be significant yet, it is poised to act if its pharmaceutical supplies and prices are affected.

BURNETT

Keywords: New Zealand / Measures / Prevent / Medicine / US