Health Canada Santé Canada

NOTICE

November 22, 2007

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Release of Draft Guidance Document - Risk Communications under Canada's Access to Medicines Regime (CAMR)

To: manufacturers, associations and other stakeholders

This Guidance Document is intended to provide direction to Health Canada staff and clarify Health Canada's expectations of manufacturers in the event that there is a requirement for risk communications related to health products exported to developing and least developed countries under *Canada's Access to Medicines Regime (CAMR)*. It outlines the proposed processes used by Health Canada and manufacturers to ensure that relevant risk information is transmitted to appropriate health officials of eligible importing countries.

This document is published as a draft document for comments. Please note that every comment received within 60 days of delivery of this letter will be reviewed and considered for the final version of the document. Please submit your comments in writing by mail or e-mail to:

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Marketed Health Products Directorate
Therapeutic Effectiveness and Policy Bureau
Regulatory Advertising and Risk Communications Section
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Further information on the review of CAMR can be found at www.camr.gc.ca.

Canada

DRAFT GUIDANCE DOCUMENT
Risk Communications under Canada's Access to Medicines Regime (CAMR)

This guidance document is being distributed for comment purposes only.

Published by authority of the
Minister of Health

Draft Date	2007/11/22

Health Products and Food Branch

Canada

Our mission is to help the people of Canada maintain and improve their health. *Health Canada*	HPFB's Mandate is to take an integrated approach to managing the health-related risks and benefits of health related to health products and food by: • minimizing health risk factors to Canadians while maximizing the safety provided by the regulatory system for health products and food; and, • promoting conditions that enable Canadians to make healthy choices and providing information so that they can make informed decisions about their health. *Health Products and Food Branch*

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THE DRAFT GUIDANCE DOCUMENT - Risk Communications under Canada's Access to Medicines Regime (CAMR) can be obtained via the internet from the Web site listed below:
http://camr-rcam.hc-sc.gc.ca/doc/guidance/index_e.html

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FOREWORD

Guidance documents are meant to provide assistance to industry and health care professionals on **how** to comply with governing statutes and regulations. Guidance documents also provide assistance to staff on how Health Canada mandates and objectives should be implemented in a manner that is fair, consistent and effective.

Guidance documents are administrative instruments not having force of law and, as such, allow for flexibility in approach. Alternate approaches to the principles and practices described in this document ***may be*** acceptable provided they are supported by adequate justification. Alternate approaches should be discussed in advance with the relevant program area to avoid the possible finding that applicable statutory or regulatory requirements have not been met.

As a corollary to the above, it is equally important to note that Health Canada reserves the right to request information or material, or define conditions not specifically described in this document, in order to allow the Department to adequately assess the safety, efficacy or quality of a therapeutic product. Health Canada is committed to ensuring that such requests are justifiable and that decisions are clearly documented.

This document should be read in conjunction with the accompanying notice and the relevant sections of other applicable guidance documents.

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1 INTRODUCTION

1.1 Policy Objective

To ensure that the issuance of risk communications related to health products exported under *Canada's Access to Medicines Regime (CAMR)* are handled effectively, efficiently and in accordance with the existing guidelines and operating procedures of the Health Products and Food Branch (HPFB).

1.2 Policy Statement

In issuing risk communications arising out of health products exported under CAMR, Health Canada will follow a balanced approach that will capitalize on the existing procedures and documents[1] that are used in Canada for issuing risk communications, while respecting the jurisdiction of countries in receipt of products exported under CAMR.

1.3 Scope and Application

This Guideline addresses Health Canada's and the manufacturer's responsibilities, and steps to be taken should there be a need for risk communications related to health products for humans exported under *Canada's Access to Medicines Regime* (CAMR).

CAMR was created to facilitate timely access to generic versions of patented drugs and medical devices, especially those needed by developing and least-developed countries to fight HIV/AIDS, malaria, tuberculosis and other diseases. Any risk communications under CAMR should avoid taking on the legitimate role of Canadian agencies involved in foreign aid and technical

[1] See "Guidance for Industry - Issuance of Health Professional Communications and Public Communications by Market Authorization Holders", Health Canada, HPFB, November 2005, and "DRAFT GUIDANCE DOCUMENT - Triggers for Issuance of Risk Communication Documents for Marketed Health Products for Human Use", Health Canada, HPFB, July 2007 http://www.hc-sc.gc.ca/dhp-mps/medeff/report-declaration/guide/index_e.html

assistance[2], or interfering with the government of a recipient country in its obligation towards its citizens for their physical, emotional and social well-being.
Under this Guidance, the steps Health Canada will undertake for risk communications to appropriate health officials will be governed by what is deemed fair and reasonable.

2 BACKGROUND

Canada's Access to Medicines Regime (CAMR) was created to allow for the export of generic versions of patented medicines and medical devices to developing and least-developed countries to treat the diseases that bring suffering to their citizens.[3] The legislation establishing the framework for CAMR amended both the *Patent Act* and the *Food and Drugs Act*, and came into force May 2005. The *Patent Act* components deal with the requirements and circumstances under which the Commissioner of Patents can issue a compulsory licence, thereby allowing for the export of the CAMR health product. The amendments to the *Food and Drugs Act* bring these exported products under Health Canada's regulatory oversight afforded by the *Act* and its regulations, thereby ensuring that health products exported under this regime meet the same safety, efficacy and quality standards as those available to Canadians. It should be emphasized that the exported products cannot come onto the Canadian market because the branded version remains under domestic patent protection.

Health Canada exercises it responsibilities under CAMR by undertaking a review of a pre-market submission and notifies the Commissioner of Patents that a health product, that is the subject of a compulsory licence application, meets the requirements of the *Food and Drugs Act*.[4] Only then can the Commissioner issue the compulsory licence. Should the health product no longer meet the requirements of the *Food and Drugs Act*, it is Health Canada's responsibility to notify the Commissioner of Patents and the compulsory licence would most likely be revoked.

It is also possible that a risk communication may involve a health product that has been exported under CAMR. In such situations, it is Health Canada's expectation that the manufacturer will convey the risk communication to the importing country. Because of the unique nature of

[2]Development aid (also development assistance, international aid, overseas aid or foreign aid) is aid given by developed countries to support the economic, sociological and political development of developing countries. Technical assistance consists of providing experts and technology in specific areas to advise the country in specific development challenges. Canadian government agencies responsible for aid include the Canadian International Development Agency (CIDA) and the International Development Research Centre (IDRC).

[3]See the CAMR web site at http://camr-rcam.hc-sc.gc.ca/index_e.html

[4]Guidance for Industry: Access to Medicines: Application Process for Drugs for Export to Developing and Least-Developed Countries, HPFB, Health Canada, December 2006

CAMR, Health Canada will also take steps to draw the risk communication to its regulatory counterpart in the importing country. In the event that the drug has been listed on the World Health Organization (WHO) Prequalified Programme (PQP) as an Hcdn product[5], indicating that the Health Canada submission review was used to list the product, then Health Canada will bring the risk communication to the attention of the administrators of the WHO PQP.

3 GUIDANCE FOR IMPLEMENTATION

Health Canada will undertake reasonable efforts to ensure that risk communications related to health products exported from Canada under CAMR are transmitted to the importing country's appropriate health official. It is the responsibility of the recipient country's health authority to take that information, and disseminate it in the most appropriate way in keeping with the risk perception and risk tolerance context specific to that country.

3.1 Operating procedures

The procedures below outline proposed processes to communicate relevant risk information related to health products exported under CAMR to manufacturers and appropriate health officials of eligible importing countries.

1. The Office of Patented Medicines and Liaison (OPML) of the Therapeutic Products Directorate (TPD) will notify the Marketed Health Products Directorate (MHPD) once the following events have occurred:
   - The OPML has notified the Commissioner of Patents that the health product met the requirements of the *Food and Drugs Act.*
   - The Commissioner of Patents has issued a compulsory licence to the manufacturer that has made an application under CAMR.

2. Based on the information provided by OPML, the MHPD will update its list of foreign contacts for risk communications listed in the appendix of the internal Standard Operating Procedure on Issuance of Health Professional Communications (HPC) and Public Communications (PC),[6] and clearly identify these countries as CAMR contacts under a separate heading along with the name of the health product.

[5]Hcdn product refers to a health product that has been listed on the WHO Prequalified List based on the Health Canada review of the product. Refer to WHO Prequalification Programme: http://mednet3.who.int/prequal/default.htm

[6]Issuance of Health Professional Communications and Public Communications by Sponsors, Standard Operating Procedures, HPFB, Health Canada, November 2005, section 5.25

3. The Health Products and Food Branch Inspectorate (HPFBI) will notify MHPD, once they receive notification from the manufacturer to start the manufacture of the first lot of health product and request a pre-exportation inspection under CAMR.[7] MHPD will then issue a standard letter (Refer to Appendix C) to:
   - The foreign contact in the recipient country to encourage the appropriate health official to access the *MedEffect* Canada Web site and the *MedEffect e-Notice*, the Canadian two-way domestic safety communication tools for adverse reaction reporting and risk communications.
   - The manufacturer, who is required under the *Patent Act* to establish a Web site for any product for which an authorization under CAMR has been issued, to encourage them to post on their Web site any relevant risk communications and hyperlinks to the *MedEffect* Canada Web site.

4. If a decision is taken to issue a domestic risk communication related to a health product exported under CAMR, the lead directorate in the HPFB assigned to address the safety issue will issue a standard letter to inform the appropriate foreign contacts and the manufacturer as part of the risk communications dissemination strategy. (Refer to Appendix D).

5. The lead directorate assigned to the safety issue will also inform the Interdepartmental Working Group on CAMR, by copy of the letter in Step 4 to the HPFB representative, i.e. the Director of the Bureau of Policy, Science and International Program, TPD. (Refer to Appendix D).

6. The lead directorate will also notify the WHO Prequalification Programme (PQP) representative to inform them of the health risk associated with the product that the WHO has placed on its Prequalified list based on the Health Canada review of the product. (Refer to Appendix D).

7. Parallel to Health Canada's above requirement to communicate risk information for products exported under CAMR, the manufacturer is expected to convey this risk information not only to the health official of the importing country but also to the World Health Organization that listed the product on the PQP List based on the Health Canada review of the product.

8. Health Canada will not create any new risk communication documents, but will use a sub-set of the 13 existing domestic risk communications documents most appropriate for the

[7] Guidance for Pre-manufacturing and Pre-exportation Notifications (C.07.011) under the Canadian Access to Medicines Regime Guide-0072, HPFBI, Health Canada, June 1, 2006

safety issue at hand.[8] Moreover, Health Canada will use the same criteria and follow the same procedures currently used to generate domestic risk communications.[9]

APPENDIX A: DEFINITIONS

Appropriate health official
Term used in the government directive to designate the recipient for risk communications under CAMR. The appropriate health official can be the Minister of Health of a recipient country, or his designate, or the drug regulatory agency, or an international organization with access to health officials, such as the WHO.

CAMR
In May 2004, the Government of Canada passed *An Act to amend the Patent Act and the Food and Drugs Act - The Jean Chrétien Pledge to Africa*. The Act, along with the supporting set of regulations, establishes the legal framework for Canada's Access to Medicines Regime (CAMR). The Regime came into force on May 14, 2005.

Eligible importing country
Countries listed under schedules 2, 3, and 4 of the *Patent Act*, which are eligible to import health products under compulsory licence granted under CAMR. Also referred to in this document as the "recipient" country.

Health Products
Any pharmaceutical drug, biological drug or medical device that is listed on Schedule 1 to the *Patent Act* in, if applicable, the dosage form, the strength and the route of administration specified in that Schedule in relation to the product.

Manufacturer
"Manufacturer" means a person, including an association or partnership, who under their own name, or under a trade, design or word mark, trade name or other name, word or mark controlled by them, sells a food or drug (section A.01.010 of the *Food and Drug Regulations*).

Risk communications

[8] See "Draft Guidance Document - Triggers for Issuance of Risk Communication Documents for Marketed Health Products for Human Use, HPFB, Health Canada, July 2007 http://www.hc-sc.gc.ca/dhp-mps/medeff/report-declaration/guide/triggers-elements_consultation_e.html

[9] See "Guidance for Industry - Issuance of Health Professional Communications and Public Communications by Market Authorization Holders", Health Canada, HPFB, November 2005 http://hc-sc.gc.ca/dhp-mps/medeff/advisories-avis/guide-ld/index_e.html

Refers to a set of 13 documents generated by Health Canada and manufacturers, addressed to health care professionals and the general public. These domestic risk communication documents are generated based on pre-defined triggers, and identify safety concerns as a result of post-market studies, adverse reaction signals, medication incidents or other sources. Risk communications can be of low, medium or high urgency and seriousness.[10]

World Health Organization (WHO)

The World Health Organization (WHO) is the United Nations specialized agency for health. WHO's objective is the attainment by all peoples of the highest possible level of health. Health is defined in WHO's Constitution as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity. WHO is governed by 193 Member States through the World Health Assembly.

World Trade Organization (WTO)

The World Trade Organisation is an organization for liberalizing trade, which provides a forum for governments to negotiate trade agreements, and settle trade disputes. It operates a system of trade rules, one of which is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) which governs the rules for protecting intellectual property including patents. The WTO replaced the General Agreement on Tariffs and Trade or GATT.

[10] See: Draft Guidance Document - Triggers for Issuance of Risk Communication Documents for Marketed Health Products for Human Use, HPFB, Health Canada, July 2007: http://www.hc-sc.gc.ca/dhp-mps/medeff/report-declaration/guide/triggers-elements_consultation_e.html

APPENDIX B: ACRONYMS

BGTD: Biologics and Genetic Therapies Directorate

CAMR: Canada's Access to Medicines Regime

HPC: Health Professional Communications

HPFB: Health Products and Food Branch

HPFBI: Health Products and Food Branch Inspectorate

MHPD: Marketed Health Products Directorate

PC: Public Communications

SOP: Standard Operating Procedure

TPD: Therapeutic Products Directorate

TRIPS: Trade-Related Aspects of Intellectual Property Rights Agreement

WHO: World Health Organization

WTO: World Trade Organization

APPENDIX C
Invitation to Foreign Health Officials to Join MedEffect e-Notice Template

[INSERT HEALTH CANADA ADDRESS]

[INSERT FOREIGN CONTACT ADDRESS]
[INSERT MANUFACTURER ADDRESS]

MECS #
File #

Dear [INSERT NAME OF CONTACT]:

Re: [INSERT PRODUCT NAME] - Product exported under CAMR

Through Canada's Access to Medicines Regime, an agreement between [INSERT MANUFACTURER NAME] and [INSERT RECIPIENT COUNTRY] has been reached to export [INSERT PRODUCT NAME]. Health Canada would like to invite you to join the *MedEffect e-Notice* mailing list. The manufacturer, who is required under the *Patent Act* to establish a Web site, is also encouraged to add a hyperlink to relevant risk communications on the *MedEffect* Canada Web site. By subscribing to *MedEffect e-Notice*, you will receive notices of new safety advisories on health products along with the *Canadian Adverse Reaction Newsletter*. The e-Notices are part of *MedEffect* Canada, the Health Canada Web site dedicated to adverse reaction information and reporting.

Keep Informed:

Subscribe to Health Canada's *MedEffect e-Notice* mailing list at the following address: **www.hc-sc.gc.ca/dhp-mps/medeff/subscribe-abonnement/index_e.html**

You will automatically receive the most recent *Canadian Adverse Reaction Newsletter* and health product advisories free by e-mail.

Go to **www.healthcanada.gc.ca/medeffect** to access the *MedEffect Canada* Web site dedicated to adverse reaction information, including guidelines and forms for reporting suspected adverse reactions.

Health Canada hopes this information is helpful to you.

Director-General
[Marketed Health Products Directorate]

APPENDIX D
Notifying Foreign Regulators Template - CAMR Exported Products

maximum 2 pages in either official language

[INSERT HEALTH CANADA ADDRESS]

[INSERT MANUFACTURER ADDRESS]
[INSERT FOREIGN CONTACT ADDRESS]
[INSERT WHO PQP REPRESENTATIVE ADDRESS]

MECS #
File #

Dear [INSERT NAME OF CONTACT]:

Re: [INSERT SUBJECT LINE]

This letter is intended to provide advanced notification to the appropriate health official in [INSERT RECIPIENT COUNTRY] that Health Canada has decided to issue a risk communication related to a health product that is currently being exported to [INSERT RECIPIENT COUNTRY] under Canada's Access to Medicines Regime. Health Canada has requested [INSERT MANUFACTURER NAME(s)] to issue a health professional communication and public communication regarding the association of [INSERT CAMR PRODUCT NAME] with [INSERT SPECIFIC ADVERSE REACTION]. This information will be posted on Health Canada's Web site.

Health Canada invites you to join the *MedEffect e-Notice* mailing list which electronically disseminates the *Canadian Adverse Reaction Newsletter* and notices of health professional communications or consumer advisories from Health Canada. To receive the Newsletter and Advisories free by e-mail, go to:

http://www.hc-sc.gc.ca/dhp-mps/medeff/subscribe-abonnement/index_e.html

Please be advised that this information should not be disclosed to any party outside of your organization, with the exception of the manufacturer, before the official release of these communications. If you are not the appropriate contact person for this notification, it would be appreciated if you would advise Health Canada to whom in your organization this notice should be directed.

Health Canada hopes this information is helpful to you.

Director-General
[Lead Directorate]

c.c. Director, Bureau of Policy, Science and International Program, TPD