


February 6, 2003

POLITICS AND POLICY

Campaign Funds Help Steer U.S. Stance on Drug Patents

After Aiding Republicans, Drug Companies Prevail on Limiting Drugs to Poor Nations

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WASHINGTON -- Pharmaceutical companies shelled out more than \$50 million to help Republicans win control of Congress last November. Days after the election, when international trade talks threatened their profitable drug patents, the companies sought help from Republicans.

And they got it. More than two dozen Republican lawmakers signed letters opposing efforts to dilute the industry's international patent rights in order to make less costly drugs available to patients in poor countries. Sen. Bill Frist of Tennessee, a top election strategist who since has become Senate majority leader, phoned U.S. Trade Representative Robert Zoellick with the same message. Top White House aides phoned Mr. Zoellick's office to express concern as well.

On Dec. 20, the industry celebrated a victory when the U.S., alone among the 144-member World Trade Organization, blocked a proposal for distributing patented medicines to less-developed nations. Foreign diplomats and international relief workers say lobbyists' pressure led Mr. Zoellick to backtrack on an earlier U.S. commitment. U.S. trade officials deny that, insisting the administration merely prevented the WTO from expanding the scope of that commitment.

Powerful Friends

But the episode makes one fact of American political life undeniably clear: After spending millions of dollars on campaign help in recent years, the pharmaceutical industry has accumulated powerful friends it can turn to in a pinch.

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Drug-company lobbyists began feeling squeezed in mid-November by unfavorable developments in follow-on negotiations to a 2001 agreement signed by WTO members in Doha, Qatar. The Doha agreement declared that poor countries could override patent protections and

permit use of less costly generic copies of drugs to tackle acute health problems.

The agreement, however, contained ambiguities. It didn't spell out rules for the export of generic drugs to needy countries that couldn't manufacture them on their own. And it didn't specify precisely which diseases would be covered by the deal.

DRUGS FOR THE POOR

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- U.S. Retreats From Earlier Move to Keep Drugs From Poor Nations⁵
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- WTO Meeting Fails to Resolve Major Issues on Generic Drugs⁶
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The Bush administration had believed the patent exception would apply only to epidemics such as AIDS, tuberculosis and malaria, according to a senior trade official. Representatives from other countries pressed the broader view that any "public-health problem" might justify overriding patents. A meeting was scheduled for December in Geneva to resolve the differences.

Specific Language

So the drug companies turned to their allies in Washington to help squelch the broader interpretation, which they said would set a dangerous precedent and erode the value of their patents world-wide. Their lobbyists asked lawmakers to contact Mr. Zoellick's office, even suggesting specific language delineating the diseases and countries that would be affected.

"It should be clear that only truly disadvantaged countries, such as those in sub-Saharan Africa, be the beneficiaries of changed rules," the letter suggested.

CHANGE OF HEART

How the U.S. became wary of the Doha agreement:

November 2001: U.S. Trade Representative Robert Zoellick signs Doha agreement allowing countries to override drug patents to address health crises, such as AIDS and tuberculosis.

Summer 2002: In discussions over final language for the agreement, Mr. Zoellick learns many countries want to use Doha provisions to treat non-epidemics, "maybe even to provide Viagra" at low cost.

November: Nervous about the broader interpretation, U.S. drug companies begin lobbying the White House and Congress to oppose Doha if it isn't limited to specific epidemics.

Late November-early December: Top White House aides and Sen. Bill Frist call Mr. Zoellick, urging him to protect patents in a narrowly targeted Doha deal. Mr. Zoellick receives letters from two dozen drug-company CEOs and 36 members of Congress.

Dec. 20: Mr. Zoellick becomes the only representative among 144 WTO nations to oppose the final Doha agreement. Instead, he proposes a temporary moratorium on patent enforcement for countries facing certain epidemics.

As it happened, those were precisely the words that appeared in individual and group letters that 34 lawmakers signed and sent to Mr. Zoellick. One signatory was Republican Rep. Nancy Johnson of Connecticut, who survived a pivotal House race last November with help from more than \$204,817 of drug-industry spending, according to the Center for Responsive Politics.

Another senior Republican lending a hand was Senate Judiciary Committee Chairman Orrin Hatch of Utah, who received \$387,824 for his re-election campaign in the year 2000. So did Senate Finance Committee Chairman Charles Grassley of Iowa, who received nearly \$100,000 of pharmaceutical-industry donations in 2000.

Democratic Allies

To be sure, some prominent Democrats sprang to the industry's aid as well. Outgoing Senate Finance Committee Chairman Max Baucus of Montana, who received \$124,372 of industry-related contributions in his successful 2002 re-election bid, endorsed the industry's interpretation of Doha. Five members of the Congressional Black Caucus signed letters containing the language suggested by the industry.

Yet the industry has provided roughly three-fourths of its largess in recent campaigns to Republicans, who now control both Congress and the White House. Alan

Holmer, a trade-office veteran from the Reagan administration who now heads the Pharmaceutical Research and Manufacturers of America, wrote a letter to Mr. Zoellick that he signed along with 19 drug company chief executives. As the Geneva meeting approached, Trade officials also heard from top White House aides about the issue.

"As is always the case, when there is an administration official negotiating on behalf of the U.S., the White House and other agencies keep in very close contact with the negotiator," said White

House spokeswoman Claire Buchan.

To the delight of drug companies -- and the chagrin of some other WTO members -- the position Mr. Zoellick eventually took backed the industry's interpretation of the Doha accord. A pact that was supposed to serve "a small needy category," Mr. Zoellick explained during a trade forum in South Africa last month, had been in danger of being twisted to embrace more-affluent countries and less-ominous ailments, such as obesity and sexual dysfunction.

"If you undermine the intellectual-property rights system," Mr. Zoellick added, "you aren't going to have people developing these drugs."

Enforcement Moratorium

Mr. Zoellick, whose boss in the White House espouses a "compassionate conservative" approach to governing, moved to counter international critics by announcing a temporary moratorium on enforcing drug patents for poor nations facing epidemics. Separately, the president himself announced a \$10 billion initiative to combat AIDS world-wide in his State of the Union Address last month.

But critics insist the patent-enforcement moratorium is a smoke screen for the administration's failure to agree to a long-term solution on the issue. "The U.S. is backtracking," says Faizel Ismail, who heads the South African delegation to the WTO. Nor has the AIDS funding quelled criticism of Mr. Zoellick by international health activists. "Doha was not just about AIDS, but about access for the poor to a range of life-saving medicines in the future," says James Love, who monitors WTO talks for the Consumer Project on Technology.

"The U.S. had agreed to find a solution to the problem the poorest countries have accessing affordable medicines," adds Jennifer Brant, trade-policy adviser for the international antipoverty organization Oxfam. "Now, at the behest of powerful lobbyists, the U.S. has become the obstructionist."

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Updated February 6, 2003

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