

Trade deal could fail, US warns

By Roy Eccleston and Steve Lewis

October 15, 2004

WASHINGTON is pressing the Howard Government to revisit laws governing the free trade agreement, warning the deal could otherwise be delayed indefinitely.

US Trade Representative Robert Zoellick has echoed the concerns of the powerful pharmaceuticals sector, which claims amendments forced by Labor in the Senate to protect the supply of generic drugs are in breach of international trading rules.

As observers suggest the US presidential election is a factor in the hardening of America's position, the Howard Government is standing firm and remains confident the breakthrough deal will still come into force from January 1.

A US trade official said US copyright and pharmaceutical industries had "raised concerns about certain aspects of Australia's enabling legislation". "And we share some of those concerns," the official, from Mr Zoellick's office, told The Australian.

The US had not decided yet how far to dig in over the issue, which was prompted by changes required by Labor in the Senate to legislation that will enable the FTA to proceed.

"We are not prepared at this point to take a position on its consistency with Australia's international obligations," the US official said, of the amendments forced by Mark Latham.

The pharmaceutical lobby has obtained legal advice, which it claims shows these FTA amendments breach international rules under the World Trade Organisation.

These concerns centre on amendments to the enabling legislation that aim to stop drug companies using patents to prevent the release of cheaper generic medicines.

However, the concerns of the US pharmaceutical lobby go much wider. An election commitment by the Government to cut the price of generic medicines by 12.5 per cent, saving \$830 million, has sent alarm bells ringing across the Pacific.

Just days after winning the election, John Howard is keeping a watching brief on the FTA debate. Government figures believe much of the US concern can be dealt with by adequately explaining the proposed changes. Trade Minister Mark Vaile remains optimistic the two countries can exchange letters by the end of this month, and meet the January 1 timeframe for the FTA to come into effect. "The Australian Government believes there is no reason why these issues can't be resolved in the weeks ahead and the FTA can come into force in January," a spokesman for Mr Vaile said.

US ambassador to Australia Tom Schieffer turned up the pressure on the Howard Government this week, claiming the deal faces delay because of the Labor amendments. "Our concern in that regard is, if you can do that for pharmaceuticals then you could do it for software packages, auto

parts or any number of other things, and in that way actually set up an artificial trade barrier, which is what the free trade agreement is trying to get away from," Mr Schieffer said, during a speech in Melbourne.

Mr Zoellick and senior Australian officials in Washington, including ambassador Michael Thawley, have been meeting to discuss how to satisfy the US concerns. But a senior Australian official said there would be no renegotiation of the deal.

The aim is to secure an exchange of diplomatic letters by October 31 which would allow the FTA to come into force 60 days later at the start of 2005. "It's too early to say whether it will be necessary to delay the exchange of notes in this case," the US official said.

The US called talks with Australia "constructive" - "we believe they are taking our concerns seriously and are hopeful that we will resolve our differences".

But a delay would not necessarily derail the FTA - the exchange of letters was also postponed with America's FTAs with Chile and Singapore. Lobby group, Pharmaceutical Research and Manufacturers of America, PhRMA, did not respond to The Australian's request for an interview.

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