Minister of Industry,
Science and Technology and
Minister for International Trade

Ministre de l'Industrie, des
Sciences et de la Technologie et
ministre du Commerce extérieur

Statement Déclaration

93/2

CHECK AGAINST DELIVERY

NOTES FOR A SPEECH BY

THE HONOURABLE MICHAEL WILSON,

MINISTER OF INDUSTRY, SCIENCE AND TECHNOLOGY

AND MINISTER FOR INTERNATIONAL TRADE,

ON BILL-C-91

TO THE SENATE COMMITTEE

OTTAWA, Ontario
January 21, 1993

Let me begin my comments this afternoon by congratulating all of the members of this committee for the thoughtful work you have done on this Bill. You have heard from a great number of witnesses, many of them passionate on one side or the other of the issue; you have worked long hours, and have taken the time to explore in great depth the substantive issues relating to this important legislation.

Your task has not been easy. Much misinformation and conflicting arguments have been presented. What I would like to do today is to go back to basics. Let's look at the fundamental logic behind this legislation and the reasons why it is good public policy for Canada.

The fundamental purpose of Bill C-91 is to restore the incentive for innovation that is provided in all developed nations through intellectual property protection. However, this cannot and is not being done at the expense of consumers.

My colleague, Pierre Vincent, has already described the provisions of Bill C-91 which ensure that prices of patented medicines will remain reasonable for all Canadians.

Since 1987, when Bill C-22 was passed, the international community has moved significantly in the direction of stronger patent protection. Canada, the only developed nation with compulsory licensing of medicines, was becoming more and more isolated on this issue. We were rapidly becoming less attractive for investment in pharmaceuticals than our major trading partners.

In December of 1991, this growing global consensus was reflected in the intellectual property provisions of the draft text that everyone hoped would resolve the deadlock in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT). It provided for a regime for intellectual property protection which made compulsory licensing for pharmaceuticals unacceptable. Following on the GATT, the North American Free Trade Agreement (NAFTA), signed by Canada, the U.S. and Mexico on December 17, 1992, contains the same provisions.

Meeting international trade obligations is one important reason for moving forward with this legislation, but there are others. We are doing this at this time because it is in our own best interests -- it is good for Canada and it is good for Canadians.

The pharmaceutical industry is in the process of restructuring globally. It is reorienting its operations to serve global markets more efficiently, and it selects the most competitive business environment it can find for investment in new facilities. The degree of patent protection provided for

innovations is the most critical factor. With our current system of compulsory licensing, we could not hope to attract these investments. Nor, frankly, could we hope to preserve the 22,000 jobs in this sector.

Bill C-91 moves us closer to the international competition. In fact, as you know, the innovative drug companies have already announced over $650 million in new investments for Canadian locations. This means quality jobs, new plants, more basic research, more clinical work in hospitals and important new partnerships of industry with hospitals, research institutes, universities and private labs across the entire country.

In the past, such partnerships have led to discovery and/or development of at least 32 significant medicines in Canada. These include insulin, a rabies vaccine and the BCG vaccine for tuberculosis. And, contrary to some of the allegations around this table this week, since 1987 alone, 15 new drugs have been discovered here in Canada, including, for example, drugs for the treatment of the HIV virus, asthma and diabetes.

Bill C-91 will provide the necessary climate to allow the Canadian industry to continue to build on this impressive track record, ensuring that some of Canada's key discoveries in the field of medicine are commercialized in Canada, for sale to markets around the world.

This Bill is about seniors. This Bill is about children. This Bill is about developing medicines and treatments that will give all Canadians the quality of life they deserve. You have heard the powerful message of the pediatricians. They understand that creating economic prosperity in the pharmaceutical sector is part and parcel of a strong scientific foundation for the delivery of excellent medical care for our children and all citizens of Canada.

Some opponents of the Bill have expressed concern that this policy and the legislation disallow compulsory licences applied for but not issued before December 21, 1991, as well as those applied for since that date.

I want to set the record straight on this.

There was a public announcement on January 14, 1992 of the government's intention to eliminate compulsory licensing effective December 20, 1991, in line with the Dunkel Report of that date, effectively disallowing compulsory licensing for pharmaceutical products issued after that date. This was clearly indicated to all parties involved in this issue, including the generic manufacturers.

Furthermore, all compulsory licences issued since that date clearly contained written notices that the licences will be revoked once the implementing legislation has passed and becomes law.

There can be no real claim of surprise on the part of the generic manufacturers. The generics have known about this since the day the decision was formally announced on January 14, 1992.

As to claims of the unfairness of the retroactive nature of the legislation, that is, revoking all compulsory licences awarded after December 20, 1991, let us put this question into proper context. In 1991, generic firms applied for 57 licences. In 1992, clearly after the policy had been announced that compulsory licensing would be abolished, the generic firms continued to apply for 291 compulsory licences.

An announcement of a policy, such as our announcement of January 14, 1992, must not give the opportunity for any stakeholder to take advantage of the knowledge of the change in policy to advance his or her position relative to others before its implementation.

A common thread in the concerns of a number of people you have heard from this week is the issue of costs. Some charge that Bill C-91 will be the beginning of the end of our medicare system. Some provinces have voiced concern that the Bill will cause huge additional costs to their drug plans. Allegations have been made that the federal government is passing the buck to provinces. There is a concern that the working poor will bear the brunt. I understand these concerns. I understand the rising pressures on the health care system as a whole. Unfortunately, however, there has been a gross misrepresentation of the facts regarding Bill C-91 and drug costs.

From the beginning, the government has acknowledged that this legislation could result in some cost increases. What we must keep in perspective in the present debate is that this legislation affects patented medicines only. And patented medicines account for just 20 per cent of all drugs consumed in Canada and only 3 per cent of total Canadian health care costs overall.

Any cost increases that might occur will be a result of the average three-year delay of the entry of lower-priced generic products onto the market. This cost increase has nothing whatsoever to do with the price of individual patented medicines. These will continue to be under the close control of the Patented Medicines Prices Review Board.

Our estimates of potential cost were developed on a precise product-by-product basis, using assumptions designed to arrive at a worst-case scenario. Our analysis demonstrates that the total cost under the worst-case scenario will be $129 million over the first five years of the policy. This is less than $1 per Canadian per year.

We stand by our estimates. Our results have been consistent from the beginning of this debate. You have heard from Dr. Heinz Redwood, an international expert in the field. He has confirmed that our assumptions are reasonable and, indeed, he predicts that the total cost to Canada may well turn out to be lower than we forecast.

I have every reason to believe Dr. Redwood's predictions. In the case of Bill C-22, there were doom and gloom cost estimates of up to $1.5 billion over the first five years. But did the provinces, the labour unions or any of the other witnesses before you this week tell you what actually happened? How many of them explained to you the real impact of Bill C-22?

Well, I will tell you, in case they did not. Bill C-22 resulted in a net saving to drug purchasers of Canada of $424 million over the first five years, 50 per cent of which was savings to the provincial drug plans. Yes, we have indeed passed the buck to the provinces -- over $200 million in savings.

Critics were wrong about Bill C-22, and they will be proven wrong about Bill C-91. Let's stop the scaremongering. Let's get back to reality. Let's get back to what this Bill is all about. Bill C-91 will:

- stimulate the emergence of a world-class pharmaceutical industry in Canada;
- create an environment that attracts the best and the brightest researchers;
- move Canada into the mainstream of international developments in the pharmaceutical industry, linking Canadian researchers to leading-edge research around the world;
- position Canada among the world's leaders in the discovery of new medicines and new cures;
- protect the interests of consumers; and

- set an environment in which companies can win research and development mandates and export mandates and capture international markets from a Canadian base for the next generation of medicines.

I spoke at the outset about some of the passionate witnesses you had before you this week. Let me quote from one of them, Mrs. Lillian Morgenthau, President of the Canadian Association of Retired Persons:

> The bottom line is: give the Board the right powers, keep the prices down, keep the medication going and keep the research in Canada, if at all possible.

I couldn't have said it better myself.