ASSOCIATION CANADIENNE
DES VICTIMES DE LA
Thalidomide
VICTIMS ASSOCIATION OF CANADA

THALIDOMIDE
THE DRUG THAT REQUIRES EXCLUSIVE CONTROLS

Position Paper

Prepared by Mercedes Benegbi,
Executive Director and Survivor of the Thalidomide Tragedy
For the Thalidomide Victims Association of Canada
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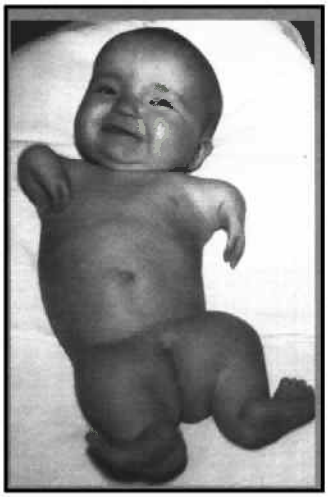
A Generic of Thalidomide... Why duplicate such a danger to unborn children?

It is only with the heart that one can see clearly
what is essential is invisible to the eye .
(Antoine de Saint-Exupéry's The Little Prince)

To the attention of the:
Food and Drug Administration – USA

A Generic of Thalidomide …

Why duplicate such a Danger to unborn children?



A REMINDER

THALIDOMIDE

The victims of a medical disaster

Between 1958 and 1963

It is estimated that more than 50,000 children around the world died or were severely deformed by Thalidomide;

One single tablet is enough to cause major birth defects;

QUICK LIST OF BIRTH DEFECTS CAUSED BY THALIDOMIDE

1. UPPER AND/OR LOWER LIMB PHOCOMELIA
2. UPPER AND/OR LOWER LIMB AMELIA
3. ABSENCE OF EARS OR DEAFNESS
4. TOTAL OR PARTIAL BLINDNESS
5. MISSING OR EXTRA FINGERS OR TOES
6. MALFORMATION OF THE HEART, KIDNEYS OR OTHER INTERNAL ORGANS
7. ANAL AND/OR GENITAL MALFORMATION
8. HAIR LIP (OR CLEFT PALATE)
9. FLATTENED BRIDGE OF THE NOSE

The Thalidomide Victims Association of Canada (TVAC), the only organization in North America working for the victims of this infamous medication, wishes to emphasize, first, that our sole objective today is to provide input into the discussion surrounding the possible marketing of a generic of Thalidomide in the United States; this is prompted by an overriding concern for the protection of your citizens and future generations. We are submitting this brief on what we consider to be an *urgent* matter, as we are convinced that our experience can be useful to the medical community and the pharmaceutical industry, not to mention to all of North America.

Since the congenital malformations among the members of our organization are the direct result of the negligence of an American pharmaceutical company that marketed Thalidomide in Canada from late 1959 to March 2nd, 1962, making us what we are today, you will agree that we are Thalidomide's North-American victims. As such, we view ourselves as directly concerned in everything to do with Thalidomide use, especially on this continent.

Before we begin, we would like to mention that, at this very moment, many Thalidomide victims around the world are closely watching the United States, and we will again have an opportunity to see whether our experience of living in mutilated bodies has helped, or not, to raise public awareness of how vulnerable the human condition is. We reiterate the critical need for the tightest possible controls in marketing all drugs, and more specifically, medications that are teratogenic, that cause severe birth defects.

We would remind you that the USA was sheltered from the full extent of the Thalidomide tragedy solely because of the obstinacy of a woman by the name of Frances Kelsey, a physician and FDA employee (see page 6), and that in spite of her efforts, some Americans also unfortunately paid the price with their lives and maimed bodies…, *but you cannot assume that you will always be protected against all such risks. After all, we hear that Brazil is currently on its third generation of Thalidomide victims…*

INTRODUCTION

The idea of a generic version of Thalidomide being marketed has, in our hearts, revived all the horror of what this drug has done in the past, because the issue seems once again to be simply a matter of profit and risks at the cost of future generations. As Executive Director of the Thalidomide Victims Association of Canada (TVAC) and as a Thalidomide survivor, I have been mandated by our board of directors to place before you both our fears and our position concerning this plan to create a Thalidomide generic.

Let us be very clear on one point: Thalidomide is readily available today for particular medical conditions and, in light of its devastating properties in utero, its distribution is tightly controlled by an unprecedented program, known as the ***"System for Thalidomide Education and Prescribing Safety"*** **(S.T.E.P.S.)**. The program monitors the tablets in circulation from prescription through to treatment end, and registers all

professionals prescribing as well as their patients. Its ultimate objective: to prevent any fetal exposure as far as is humanly possible today.

This restrictive distribution safety program was viewed by the FDA as an *integral part* of the New Drug Application (NDA) approval process for Thalomid (Thalidomide) to permit its distribution in the United States. An excerpt of the FDA approval letter of July 16th, 1998 reads as follows:

> *" Please note that the June 8, 1998* ***S.T.E.P.S. restricted distribution program is an integral part of the approved NDA for this product and is an essential component of the terms of this NDA's approval by FDA for marketing this product in the United States.*** *As such, any proposed change(s) in the S.T.E.P.S. program must be submitted to the FDA as a supplement to this NDA and any proposed change(s) must have FDA prior approval before implementation. Changing the S.T.E.P.S. program without prior FDA approval may render the product misbranded and an unapproved new drug."*

Why now, at this juncture, deliberately produce a generic of such a dangerous drug and thereby weaken the controls on its distribution? Could this just be due to a drug company's desire to rack up market share and profits by disseminating throughout the public a carbon copy of a drug notorious for creating severe birth defects, jeopardizing the distribution controls that were deliberately made restrictive and highly complex? How many human lives will be forfeited through the drug industry's dangerous audacity?
(Because it is clearly a question of price here..., of course ..., but what kind and how big a price?)

DISCUSSION

Even though TVAC is regularly called upon to detail the history of this marketing disaster of the late 50's and early 60's and its consequences for thousands of people around the world, not to mention all the deaths that occurred, that will not be the purpose of our presentation here. We will instead give a brief overview of the caveats and controversy surrounding its reintroduction in the late 90's, and express our legitimate fears about a generic of Thalidomide being manufactured, a move that, in our opinion:

- will only encourage Thalidomide use for dubiously defined medical indications (and for a drug that should be considered a "last resort");

- will attempt to duplicate, unevenly at best, a distribution system that is unique, unprecedented and rigourous;

- will weaken strict distribution monitoring; and

- ultimately increase the risk of spawning a new generation of victims.

In the 1990's, the Thalidomide Victims Association of Canada (TVAC) did its necessary homework prior to taking a clear stand on the use of Thalidomide for specific medical conditions. We were compelled to do this research after hearing from American journalists that Thalidomide was still being used in various countries around the world and that a second generation of victims had just been identified in Brazil. This information left us utterly astonished, aghast really, and with a feeling of profound solidarity with our fellow victims in Brazil.

TVAC was officially invited by representatives of the FDA's Center for Drug Evaluation and Research to attend the 47th meeting of the "Dermatologic and Ophthalmic Drugs Advisory Committee", in Bethesda, Maryland, on September 5th, 1997. We were invited to present our position on the remarketing of Thalidomide in the United States, our very close neighbour. At the time, we publicly stated what we still feel - that we want a world without thalidomide, but until an analogue without its devastating effects on the unborn is discovered, we agreed that out of human compassion and to prevent any black-market distribution, Thalidomide had to be distributed through official and closely regulated channels. We would remind you at this point that, despite Thalidomide's actually having officially been put back on the market, there was no consensus on the issue among the different participants at the time.

In this context, at the specific request of Celgene Corporation and out of our concern for the protection of unborn children, TVAC presented various recommendations for preventing fetal exposure to the drug in the light of the new S.T.E.P.S. program, the initiative and exclusive property of Celgene.

From its inception, our organization has pursued an unflagging commitment to this issue to the best of our ability and out of a firm sense of responsibility both as citizens and as a group of individuals uniquely concerned in the matter.

At present, or more precisely since December 2006, information coming from a wide variety of sources is now pointing to the possibility of a Thalidomide generic being marketed. In our opinion, this in no way arises out of any motive of human compassion, but is purely a matter of industry competition, one that could be severely detrimental to future generations.

With all due respect to the benefits of generics, we view the move to put a teratogenic weapon such as Thalidomide in circulation as utterly inappropriate and highly dangerous. Carbon copies of this weapon will only create more danger for the public. Trivializing the complex issue of putting Thalidomide back on the market, as has occurred, would be a serious mistake.

Thalidomide is certainly a double-edged sword; it can help or it can mutilate and kill. For that reason we believe that it is the sacred duty of the governments of all civilized countries to exercise a high degree of vigilance in:

- *controlling its manufacture and distribution by means of an exclusive and restrictive safety program to ensure that only persons specifically requiring the drug for their particular medical condition receive it; and*
- *ensuring that unborn children - future generations - are protected.*

We wanted to emphasize that as a public institution with a public mandate, it is ***your duty*** to limit the risks associated with medication use and protect the health of your citizens against the commercial pressures of businesses whose primary goal is to make money.

What single good reason could there be to justify manufacturing replicas of a drug with such devastating potential? What risks does this represent for the public and ***who*** will assume the consequences?

Is this perhaps a matter of creating or fostering competition for the purpose of lowering the cost of this "loaded weapon", as we term it, to make it more affordable while neglecting one's sacred duty to protect the public?

Could this affordability issue not be resolved more legitimately and safely through a co-operative effort between a responsible and conscientious government and the pharmaceutical industry ***to provide for wider access to a reasonable level of financial assistance?*** Isn't the option of assistance to economically disadvantaged individuals whose health depends on the use of this particular drug much safer than the risks of authorizing marketing of a multitude of copies of this weapon that will be scatter-shot throughout the public domain with the possible consequences we all know of?

How could we allow ourselves to perpetrate such risks on the miracle of life, or feel such detachment toward the vulnerability of our unborn children and our duty to protect them? Is it because this miracle is invisible to the eye? *We are probably too quick to forget that the **very essence** of who we are comes from the fetus we once were...*

Would it really be so difficult to prohibit the manufacture of a generic version of a drug with Thalidomide's infamous potential, exhibiting integrity and a willingness to protect your public from all ***unnecessary risks***, as you managed to do in the early 60's?

Center for Drug Evaluation and Research

During the Kefauver hearings, FDA received an NDA for Kevadon, the brand of thalidomide that the William Merrell Company hoped to market in the U.S. Despite ongoing pressure from the firm, medical officer **Frances Kelsey** refused to allow the NDA to become effective because of insufficient safety data. By 1962 thalidomide's horrifying effects on newborns became known. Even though Kevadon was never approved for marketing, Merrell had distributed over two million tablets for investigational use, use which the law and regulations left mostly unchecked. Once thalidomide's deleterious effects became known, the agency moved quickly to recover the supply from physicians, pharmacists, and patients. For her efforts, Kelsey received the President's Distinguished Federal Civilian Service Award in 1962, the highest civilian honour available to government employees.

Kelsey receiving the award from President John F. Kennedy in 1962.

A new awareness of environmental issues has dawned around the world. Even major corporations are adopting a necessary environmental consciousness in their production and waste-management processes, even in spite of the additional costs that that implies over the shorter term. A drug company cannot, citing the greater good of humankind, market a generic of a drug known to have horrifying effects on the unborn and simultaneously expand distribution of the selfsame drug. ***No human being, in a quest for market share and millions in profits, should ever forget for what and for whom his efforts are ultimately intended and that an infant's life needs to be protected.***

In movies and documentaries we are constantly being admonished not to forget the catastrophes of the two great wars of the last century. ***It is our duty now to state, in no uncertain terms, that neither must we forget the catastrophes that pharmaceuticals have rained down on the world, with the marketing of Thalidomide.***

CONCLUSION

We have reached a point in society today where vision, social conscience, a sense of ethics, personal responsibility and unclouded judgment must come before negligence, a

spirit of easy accommodation and an unbridled quest for market share. We must demonstrate that we have learned from experience.

In the hope that all parties concerned in this issue understand the reasons for our position, we wish here to launch an appeal: that this facile and dangerous momentum toward the greater proliferation of Thalidomide be firmly brought to a halt. The parties concerned, that is, the American Government, the FDA, and the pharmaceutical industry in general, must make a public commitment to their duty to safeguard public health and arrive at the safest possible solution for regulating Thalidomide use and distribution in the interest of their citizens and future generations.

The FDA has before it today a golden opportunity to send a clear message to the pharmaceutical industry: that it should devote more funds to developing new, safe and effective drugs, rather than holding the public hostage by multiplying cheaper versions of the old molecules, supremely teratogenic molecules at that!

Today, the United States has an opportunity to set an example:

- either to maintain its world-renowned rigour and vigilance regarding the risks associated with Thalidomide use and thereby safeguard the health of its citizens and unborn children;

- or to knowingly initiate and authorize a competition among drug companies that could wreak havoc among untold generations to come;

We remind you, again, that the United States is being closely watched today by thousands of Thalidomide victims around the world, victims who hope to see evidence of your humanitarian conscience, strict professionalism and the courage of your convictions regarding the vital need for exclusive regulatory authority over Thalidomide, rather than being unwilling spectators to deliberate action to create unnecessary risks fraught with disastrous consequences for humanity.

TVAC fervently hopes that the United States will maintain its strict controls and watch-dog role overseeing the imminent dangers associated with marketing a Thalidomide generic and, in so doing, protect the life, well-being and dignity of its unborn children.

Position

THALIDOMIDE: The drug that requires exclusive controls

The advent of a generic of Thalidomide, a drug historically notorious for its horrifying teratogenic effects (one single tablet can cause major birth defects), in multiplying the drug's manufacture and distribution, would cripple its present restrictive distribution system, S.T.E.P.S. (System for Thalidomide Education and Safety). This unprecedented distribution program was incorporated as an integral part of the July 16th, 1998 Food and Drug Administration (FDA) authorization allowing the remarketing of Thalidomide in the United States.

Since that time, no infant victim of Thalidomide has been reported in the United States; that being so, the 1998 FDA authorized distribution controls on this drug must be maintained in their entirety. We are of the firm opinion that replicating this loaded, teratogenic weapon could give rise to a second generation of Thalidomide victims in North America.

While awaiting the discovery of a Thalidomide analogue without its teratogenic effects, TVAC feels that Thalidomide must remain a last-resort medication that demands exclusive distribution controls to prevent, as best as is humanly possible today, exposure of a single fetus.

Thalidomide must however, for now and until the advent of an analogue without its catastrophic effects, remain accessible to any individual whose health status requires its specific use. For that reason, any responsible government, in co-operation with the drug manufacturer, must offer the necessary financial assistance to ensure equitable access to it.

If, however, the American government chooses to run the risk of approving a generic of Thalidomide, TVAC demands that the same tight distribution controls be applied as are now in force for "Thalomid". TVAC also wants to be again consulted on the distribution controls to help ensure **zero-tolerance for Thalidomide fetal exposure** . Last but not least, the American government must publicly assume responsibility for any and all possible consequences associated with the distribution of Thalidomide.

The FDA must remember that its highest duty is to minimize risks associated with drug use and to protect the health of its citizens and unborn children.

It is your duty that we are reminding you of – no more and no less!

LIST OF ORGANIZATIONS SUPPORTING TVAC's POSITION

WORLDWIDE THALIDOMIDE ORGANIZATIONS :

1. INTERESSENVERBAND CONTERGANGESCHÄDIGTER NORDRHEIN-WESTFALEN e.V. **(THALIDOMIDE ASSOCIATION FROM GERMANY)**
2. INTERESSENVERBAND CONTERGANGESCHÄDIGTER UND DEREN ANGEHÖRIGE **(THALIDOMIDE ASSOCIATION FROM GERMANY)**
3. ISHIZUE FOUNDATION **(THALIDOMIDE FOUNDATION FROM JAPAN)**
4. DYSMELIA A.S.B.L. **(THALIDOMIDE ASSOCIATION FROM BELGIUM)**
5. FÖRENINGEN FÖR NEUROSEDYNSKADADE **(THE SWEDISH THALIDOMIDE SOCIETY)**
6. **THE THALIDOMIDE SOCIETY FROM UNITED KINGDOM**
7. **THE NATIONAL ADVISORY COUNCIL** to The Thalidomide Trust **UNITED KINGDOM**
8. **LA FONDATION QUÉBÉCOISE DE LA THALIDOMIDE – QUÉBEC REGION CANADA**

OTHERS :

9. Société Logique (Québec)
10. Polio Québec
11. Association de Spina-bifida et d'hydrocéphalie du Québec
12. Association Québécoise des personnes de petites tailles
13. Promotion Handicap Estrie inc. (Québec)
14. Dawn Canada
15. Association des TCC & ACV de la Gaspésie et des Îles de la Madeleine (Québec)
16. Centre Émilie-Gamelin, Chandler (Québec)
17. Regroupement des Associations des Personnes Handicapées de la Gaspésie (Québec)
18. Centre Québécois de la Déficience Auditive
19. Centre pour personnes handicapées – La joie de vivre – MRC Rocher Percé (Québec)
20. Centre de ressources à la vie autonome du Montréal Métropolitain/Metropolitan Montreal Independant Living Resource Centre

21. Association des personnes handicapées visuelles de la Gaspésie et des Îles de la Madeleine (Québec)
22. Association la Croisée (Québec)
23. Réseau International du processus de production du handicap – RIPPH (Québec)
24. Confédération des organismes de personnes handicapées du Québec – COPHAN
25. Association des paraplégiques du Québec
26. Regroupement des organismes de personnes handicapées de la région 03 (Québec)
27. L'Association de la Neurofibromatose du Québec
28. L'Association multi-ethnique pour l'intégration des personnes handicapées (Québec)
29. Regroupement des associations des personnes aphasiques du Québec
30. Comité provincial des adultes fibro-kystiques (Québec)
31. Accès aux produits et services adaptés – ASPA (Québec)
32. Société canadienne de la sclérose en plaques (Division Québec)
33. Centre Au PUITS (Québec)
34. Council of Canadians with Disabilities (Canada)
35. Corporation l'Espoir (Québec)
36. Comité régional des associations pour la défense intellectuelle – *CRADI* (Québec)
37. Manitoba League of Persons with Disabilities (Manitoba)
38. Alliance for Equality of Blind Canadians (Canada)
39. Nova Scotia League for Equal Opportunities (Nova Scotia)
40. BC Coalition of People with Disabilities (British Columbia)
41. Regroupement des aveugles et amblyopes du Québec – *RAAQ* (Québec)
42. Regroupement des Organismes de Promotion du Montréal Métropolitain (Québec)
43. People First of Canada / Personnes D'Abord du Canada

44. Carrefour des femmes d'Anjou (Québec) *More to come……*