

## US pressured Chile on meds

Date: 31 August 2011

Source: Health GAP

The U.S. can continue to push Chile on patent/registration linkage because Chile does not benefit from the 2007 Free Trade Policy which no longer required mandatory patent/registration linkage and is instead bound by the terms of its 2004 FTA with the U.S. Nonetheless, Chile is wisely using interpretive flexibilities to make legalistic arguments that sanitary permits are different from marketing approval and that private enforcement enforcement opportunities satisfy linkage requirement.

We can expect the US TPPA proposal on data exclusivity and linkage to be Chile-plus, with language closing the loopholes that Chile has tried to use. For example, US proposals on data exclusivity have morphed over time to challenge reliance on that fact of approval as well as on the data itself, to cover disclosed as well as undisclosed data, and to apply to new pharmaceutical products not just new chemical entities.

Unfortunately, it is also likely that some of the public-health exceptions in the 2007 Policy will not be offered in the TPPA.

Data exclusivity and patent/registration linkage still create an entirely different and dangerous regime of monopoly rights which must be opposed at every turn.

Keywords: U.S. / Chile / Medicines