

a US government cable on its involvement to shape Guatemala legislation on pharmaceutical IPR

Date: 31 August 2011

Source: KEOnline.org

This is important new information. It corroborates our report of the US government's role, in a 2009 article on CAFTA that includes the following information in the citations:

16. A summary of the changes follows. In 2000, Decree 57-2000 authorized brand-name companies to register their products for data exclusivity for fifteen years. A list of twenty-two data-protected drugs was created. In 2002, Decree 76-2002 eliminated data exclusivity for any time period. In 2003, Decree 9-2003 repealed Decree 76-2002 and implemented five years of data exclusivity. The U.S. Department of Commerce's Special 301 Watchlist is a prelude to possible trade sanctions. In 2003 the Special 301 Watchlist noted unfavorably Decree 76-2002 and encouraged the ongoing implementation of Decree 9-2003. Office of the U.S. Trade Representative, '2003 Special 301 Report' (Washington: Executive Office of the President, 2003), 22. Decree 9-2003 also stated that the protected data 'must require considerable effort to produce,' an attempt to limit the frivolous listing of medicines. In 2004, Decree 34-04 repealed Decree 9-2003, again eliminating data exclusivity. As CAFTA was being negotiated in 2005, Decree 30-2005 repealed Decree 34-04 and reinstated a five-year period for data exclusivity. It states that trade agreements will prevail over this law in the event of conflicts.

17. Embassy of the United States, Guatemala, 'CAFTA, Data Protection, and Generic Drugs, Fact Sheet Generics,' 10 January 2005, <http://guatemala.usembassy.gov/factsheetcaftagenerics.html> (accessed 10 August 2009). The document states: 'This law [34-2004] gives the U.S. Congress the impression that Guatemala is not serious about complying with commitments it made in the CAFTA. This could result in CAFTA not being ratified by the U.S. Congress, where a close vote is expected.' See also H.L. Solis, H.A. Waxman, and C.B. Rangel, Letter to the Honorable Robert B. Zoellick, U.S. Congress, 26 January 2005, <http://www.cpath.org/sitebuildercontent/sitebuilderfiles/congressguatemalatest-data-secrecy-letter1-05.pdf> (accessed 18 August 2009).

Shaffer, ER and JE Brenner. A trade agreement's impact on access to generic drugs. Health Affairs, Web Exclusive. Aug. 25, 2009. w957-w967. <http://www.cpath.org/id40.html>

Keywords: Guatemala / CAFTA / IPR