



International Trade Practice

TAX RAISE AND SUSPENSION OF IP RIGHTS

On March 9, the Executive Chamber of the Brazilian Ministry of International Commerce (CAMEX) issued the final report listing more than 100 US-originated products that will possibly face tariff raise. The new tariffs will go into effect in 30 days, unless the US and Brazilian governments can reach a last-minute deal. Listed products currently taxed at between 6% and 35% could then be taxed at 100%, affecting a wide range of products, including food, beauty and electronic goods, non-patented OTC drugs and other health-oriented products.

Background:

In August 2009 the World Trade Organization (WTO) decided that, since the United States failed to comply with WTO rules within a pre-established period of time, Brazil was authorized to seek retaliation, by suspending trade concessions, as well as by imposing countermeasures against the United States. The total value of retaliation is based on a specific formula set by WTO Arbitrators, which will vary each year. According to 2006 fiscal year data, this amount would be equivalent to \$294.7 million.

Intellectual Property Rights subject to trade retaliation:

The Brazilian Government will also be entitled to suspend obligations under WTO's Trade-Related Intellectual Property Rights Agreement (TRIPS) if the level of permissible countermeasures increased above the threshold of U.S. \$409.7, as established by WTO.

On February 10, the Office of the Brazilian Presidency enacted the Provisional Measure no. 482 ruling the conditions upon which the Federative Republic of Brazil may suspend rights or other obligations in relation to Intellectual Property Rights in case of breach of regulations and agreements under the World Trade Organization.

Provisional Measure no. 482 provides guidance to the Brazilian Government if it finally decides to use trade countermeasures against US, including by means of cross retaliating through the suspension of local Intellectual Property Rights held by US corporations or held by corporations with business operations in the US. Issuance of compulsory licenses and suspension of royalties payments abroad are among the countermeasures listed in Provisional Measure no. 482.

KLA's team is continuously monitoring the situation and is engaged in discussions on and solutions to the matter with trade associations and other agents involved thereto.

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