

ANNEX INTA Comments.

Comments in relation to Measure 14 Favor

Against

1. DETAILS OF THE DECLARANT

1.1) Name: INTERNATIONAL TRADEMARK ASSOCIATION (INTA)

1.2) CNPJ/CPF: Not applicable

1.3) Address: 655 Third Avenue, 10th Floor, New York, NY 10017-5617, U.S.A.

1.4) Telephone No//Fax (com DDD): +1-212-642-1700/+1-212-768-7796

1.5) Contact Person/email: *Laura Cruz* lcruz@inta.org

1.6) Activity of declarant (importer, distributor, licensee etc.): Not-for-profit international IP organization

2. COMMENTS

2.1 Brief description of the object protected by intellectual property rights that the declaration refers to, if any.

These comments are directed to trademarks. A trademark can be a sign, symbol and/or word, which plays a significant role in commerce. Trademarks indicate the source of goods and/or services and assure consumers of the consistency of a product's quality. Furthermore, trademarks help consumers recognize a product from others in the market place, and serve to guarantee the goodwill acquired through investment and effort over time in the brand by the trademark owner. Both trademark owners and consumers need to be protected and such protection needs to be maintained over time through reliable national trademark office practices and reasonable registration fees.

The International Trademark Association is a 131-year-old, not-for-profit organization representing trademark owners throughout the world and dedicated to the support and enforcement of trademark laws. INTA has over 5,600 members in 190 countries. Currently our Association has 72 member companies and firms in Brazil. (See www.inta.org)

2.2) In brief, indicate the motivation for the declaration and the potential impact of the application of the measure (maximum 25 lines)

INTA urges the Council of Ministers of the Chamber of Foreign Trade not to adopt proposed measure 14 with respect to trademarks for the following reasons:


1. **Expected Shortfall in INPI Revenue:** Should measure 14 be applied by increasing the fees applicable with respect to issuing/maintaining registration of American trademarks in Brazil, a decline in trademark applications by U.S. trademark owners and a decrease in revenues for INPI can be expected. Further, U.S. trademark owners may decide not to renew registrations for those marks with limited market share, thus denying INPI a stable stream of income.
2. **Negative Impact on Foreign Investment:** By applying cross-sector sanctions to intellectual property in general, and to trademarks in particular, the confidence of U.S. trademark owners in Brazil's IP system will be undermined and will prompt them to invest in jurisdictions which offer a secure and reliable IP system. This lack of confidence could spread to foreign investors from other countries. As a result, Brazil would lose revenue from IP-based industries, as well as current and potential

jobs. Without the competition generated by foreign brands, Brazil's consumers will face decreasing choices and increasing prices.

3. **National Rights Violations:** PM 482/2010 and item 14 of CAMEX Resolution 16/2010 are incompatible with the Federal Constitution and are subject to nullification by a direct action of unconstitutionality for violation of the Principle of Isonomy in its article 5 and of the Principle of Fiscal Isonomy in its article 150, item II.

Again, INTA respectfully urges reconsideration and exclusion of item 14.

Signature:



Heather Steinmeyer
International Trademark Association
President

ANNEX INTA Comments.

Comments in relation to Measure 18 Favor

Against

1. DETAILS OF THE DECLARANT

1.1) Name: INTERNATIONAL TRADEMARK ASSOCIATION (INTA)

1.2) CNPJ/CPF: Not applicable

1.3) Address: 655 Third Avenue, 10th Floor, New York, NY 10017-5617, U.S.A.

1.4) Telephone No//Fax (com DDD): +1-212-642-1700/+1-212-768-7796

1.5) Contact Person/email: *Laura Cruz* lcruz@inta.org

1.6) Activity of declarant (importer, distributor, licensee etc.): Not-for-profit international IP organization

2. COMMENTS

2.1 Brief description of the object protected by intellectual property rights that the declaration refers to, if any.

These comments are directed to trademarks. A trademark can be a sign, symbol and/or word, which plays a significant role in commerce. Trademarks indicate the source of goods and/or services and assure consumers of the consistency of a product's quality. Furthermore, trademarks help consumers recognize a product from others in the market place, and serve to guarantee the goodwill acquired through investment and effort over time in the brand by the trademark owner. Both trademark owners and consumers need to be protected and such protection needs to be maintained over time through reliable national trademark office practices and reasonable registration fees.

The International Trademark Association is a 131-year-old, not-for-profit organization representing trademark owners throughout the world and dedicated to the support and enforcement of trademark laws. INTA has over 5,600 members in 190 countries. Currently our Association has 72 member companies and firms in Brazil. (See www.inta.org)

2.2) In brief, indicate the motivation for the declaration and the potential impact of the application of the measure (maximum 25 lines). INTA urges the Council of Ministers of the Chamber of Foreign Trade not to adopt proposed measure 18 with respect to trademarks for the following reasons:

1. **Expected Shortfall in INPI Revenue:** Should measure 18 be applied by imposing special duties on any kind of remuneration due under licensing and transfer agreements of trademarks, Brazil can expect a decrease in new transactions until the temporary measures are removed and INPI can expect a decrease in revenues from the reduction of recordal services.
2. **Negative Impact on Foreign Investment:** By applying cross-sector sanctions to intellectual property in general, and to trademarks in particular, the confidence of U.S. trademark owners in Brazil's IP system will be undermined and will prompt them to invest in jurisdictions which offer a secure and reliable IP system. This lack of confidence could spread to foreign investors from other countries as well. As a result, Brazil would lose revenue from IP-based industries, as well as current and potential jobs. Duties on licensing arrangements and the delays caused by the new rules will increase the licensing costs, which can be expected to reduce the number of new transactions. Without the competition generated by foreign brands, Brazil's

consumers will face decreasing choices and increasing prices. This reduction in choices on products bearing well known brands will increase counterfeits and piracy, which cost jobs and the loss of tax revenues.

3. **National Rights Violations: PM 482/2010 and item 18 of CAMEX Resolution 16/2010** are incompatible with the Federal Constitution and are subject to nullification by a direct action of unconstitutionality for violation of the Principle of Isonomy in its article 5 and of the Principle of Fiscal Isonomy in its article 150, item II.

Signature:



Heather Steinmeyer
International Trademark Association
President