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Since 1989 Trying to Understand Brazil

For US Foundation Brazil Cannot Invoke Health Emergency to Break AIDS Drug Patent



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With a number of other non-profit groups, ITSSD (Institute for Trade, Standards, and Sustainable Development) is calling attention to Brazil's threat to break U.S. patents on American AIDS drugs used as part of Brazil's government-funded treatment program.

After reviewing the initial official statements coming out of Brazil, ITSSD concluded that Brazil would be in violation of the Trade Related Aspects of Intellectual Property or TRIPS Treaty, if it pursues this course of action.

It is questionable if Brazil's government could invoke the "health emergency" clause of the Doha Declaration amendment to the TRIPS Treaty, allowing developing countries to temporarily suspend patents on products needed to alleviate a legitimate health crisis.

Examples of such emergency often include response to an anthrax attack in the U.S. or a sudden outbreak of a treatable disease in Sub-Saharan Africa.

Brazil's AIDS infection rate of 0.6% has parity with that of the United States at 0.5%. For comparison, the AIDS infection rate in Swaziland is 38.6% according to the impoverished African nation's Health Ministry.

Brazil is a major United States trade partner, with more than \$35 billion in trade occurring between the two nations each year.

At the same time, Brazil is by far the worst abuser of intellectual property rights in the Americas. According to the USTR (United States Trade Representative), piracy losses to American businesses add up to nearly \$1 billion in losses annually.

"Brazil is about to contravene a major trade agreement in a thinly veiled effort to bolster its national pharmaceutical industry," said Ambassador Slavi Pachovski, president of the Institute for Trade, Standards, and Sustainable Development.

"If Brazil is allowed to move forward without penalty, it will send economic and trade repercussions throughout the world and puts the global efforts to fight the AIDS epidemic at risk. Brazil cannot be allowed to act in this way."

ITSSD's white paper identified Brazil as an emerging global power, with ambitions at a permanent UN Security Council seat and its domestic pharmaceutical industry primed to reap the benefits of years of research and hundreds of millions of dollars in American pharmaceutical research.

Widespread coverage of Brazilian President Lula's recent visit to African nations has him discussing future AIDS drug trade programs - a capability the South American country does not yet have.

ITSSD's paper, co-authored by Pachovski and ITSSD's CEO, Lawrence Kogan concluded that Brazil's threatened patent theft will not only harm fundamental research but would also preclude Brazilian industry from cutting-edge innovations essential to bolstering the country's emerging markets.

The Institute for Trade, Standards, and Sustainable Development (ITSSD) is an international legal research foundation established to promote positive paradigm of sustainable development and protect free enterprise and international trade.

Founded by former UN Ambassador Slavi Pachovski and ITSSD CEO Lawrence Kogan, the Institute examines international law as it relates to trade, industry and sustainable development around the world.

Institute for Trade, Standards, and Sustainable Development - www.itssd.org