

Washington, D.C., June 15, 2007

Sir,

Lawrence A. Kogan, in the article “Brazil’s IP Opportunism Threatens US Private Property Rights”, which appeared in Inter-American Law Review last February, makes many inaccurate assertions regarding Brazil’s stance on intellectual property rights. Some of Mr. Kogan’s allegations are simply biased and ill-informed.

In order to set the record straight, let me clarify that Brazil’s legislation is fully consistent with international rules on intellectual property. Brazil did not take advantage of the entire transitional periods allowed under Article 65 of the TRIPS Agreement to enact the domestic laws on that matter. Brazilian legislation contains some provisions which are “TRIPS plus”, such as those related to “pipeline” pharmaceutical patents.

On the issue of the compulsory license, Brazil’s recent decision regarding the patents of an anti-retroviral medicine used by the Sexually-Transmitted Diseases/AIDS National Program, aside from being entirely consistent with TRIPS and the Doha Ministerial Declaration on TRIPS and Public Health, was taken in full transparency and respect towards the patent holder, which was given a full opportunity to present an offer that met the public interest requirement. The budgetary sustainability of the Program, which ensures free-of-cost, universal treatment to Brazilians infected with HIV/AIDS and is internationally recognized as an example of a highly successful public policy, is Brazil’s only goal.

As regards enforcement issues, the Brazilian Government has been making a great effort to combat copyright piracy, the results of which have been recognized by both the U.S. Government and the copyright industry.

Finally, Brazil's position at the World Intellectual Property Organization, the World Trade Organization and other fora where IP issues are discussed is a constructive one, always seeking to bridge gaps between the interests of developed and developing countries. It is absurd to suggest, as Mr. Kogan did, that this legitimate Brazilian role could pose risks to the international system of intellectual property protection.

Sincerely,

Antonio de Aguiar Patriota

Ambassador