



July 1, 2026

Ambassador Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20509

RE: “Request for Comments Concerning Proposed Action Pursuant to the Section 301 Investigation of Brazil’s Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation,” Federal Register docket number USTR-2026-0331.

Dear Ambassador Greer:

The U.S. Chamber of Commerce (“the Chamber”) appreciates the opportunity to present the following comments to the Office of the U.S. Trade Representative (“USTR”) in response to the Federal Register notice cited above. USTR has determined that certain of Brazil’s acts, policies, and practices are actionable under Section 301 of the Trade Act of 1974 and is proposing responsive measures, including potential tariffs, while inviting public comment. The Chamber welcomes the opportunity to provide comments on the proposed actions and accompanying list of exemptions.

The Chamber is the world's largest business organization, representing companies of all sizes across every sector of the economy — from small businesses and local chambers of commerce on main streets across America to leading industry associations and large corporations.

As noted in the Chamber’s August 2025 submission, Brazil is an important commercial partner for a broad range of U.S. companies of every size, sector, and state. Bilateral trade in goods and services reached \$134.1 billion in 2025. Nearly 6,500 American small businesses rely on imports from Brazil, and close to 4,000 American companies operate there. Realizing the full potential of this relationship requires concrete steps to ensure fair market access and enhanced regulatory transparency.

The Chamber supports USTR's determination that some of Brazil's acts, policies, and practices identified in the investigation are unreasonable or

discriminatory and burden or restrict U.S. commerce. The goal of the Section 301 investigation should be to secure concrete reforms through bilateral engagement with Brazil, rather than the imposition of new tariffs or other trade restrictions that harm the U.S. economy. The Chamber is concerned that the proposed 25% tariff action — while subject to certain exclusions — would have unintended consequences, including harm to U.S. manufacturers and supply chains, increased inflationary pressures for consumers, and the undermining of efforts to achieve a durable resolution of the legitimate commercial concerns at the heart of this investigation.

Should USTR determine that tariff action is nonetheless warranted, the Chamber urges that any such tariffs be carefully calibrated, targeted, and proportionate to the specific acts, policies, and practices being addressed — and that USTR adopt a clear policy against tariff stacking across all active Section 301 investigations. The Chamber appreciates the Administration's existing efforts in this regard, including the exclusion of products already subject to Section 232 tariffs from additional Section 301 duties. Of particular concern is the Section 301 investigation into forced labor practices — currently underway — in which Brazil is one of sixty countries under review. Should tariffs be imposed under both investigations simultaneously, U.S. importers of Brazilian goods could face compounding layers of Section 301 duties that would do little to resolve the core practices underlying these issues. The Chamber urges USTR to ensure that any remedial action avoids such cumulative burdens on U.S. manufacturers and consumers

Any tariff action on Brazilian goods should expressly exclude raw materials, inputs, manufacturing components, and equipment for which no adequate domestic supply or alternative foreign source exists to access such items at scale. Where U.S. industries depend on Brazilian goods that cannot be readily substituted — whether due to limited domestic production capacity, unique material specifications, or the absence of comparable alternative suppliers — broad tariff action risks raising input costs, eroding manufacturing competitiveness, and displacing the very American jobs and industries the action seeks to protect. We stand ready to support both governments in advancing a negotiated, pragmatic, and constructive path forward.

Brazil's Strategic Importance to Critical U.S. Sectors

Brazil is a critical supplier across multiple sectors of strategic importance to the United States. It is one of the world's largest producers of alumina — an indispensable precursor to aluminum production on which U.S. smelters depend heavily — and a significant supplier of materials and equipment for both conventional and renewable energy production, transmission, and storage, which is especially critical at a moment when domestic energy security and grid modernization are national priorities. U.S. manufacturers in aerospace, automotive, chemicals, and

advanced manufacturing similarly rely on Brazilian minerals, chemicals, machinery, and specialized components that cannot be readily sourced elsewhere. Imposing broad tariffs on these goods would raise input costs, delay critical infrastructure projects, and deepen the very supply vulnerabilities that Section 301 remedies are intended to address — outcomes directly contrary to the policy's stated goals. The Chamber also welcomes USTR's decision to exclude certain agricultural products — including beef, coffee, and select fruits and juices — and urges that this approach be extended to other critical agricultural inputs and industrial goods where the same supply chain dependencies exist.

To this aim, we urge USTR to establish a robust, transparent, and accessible product exclusion process that enables U.S. companies to seek timely relief where tariffs would cause disproportionate harm, with priority given to goods essential to U.S. energy and food security, manufacturing competitiveness, and critical infrastructure. A list of HTS codes the Chamber believes should be exempted from the proposed 25% tariffs is provided in Annex I, which could supplement the 73-page list under current consideration.

Fundamentally, tariffs alone will not resolve the underlying trade barriers that prompted this investigation. As USTR continues its Section 301 review and negotiations with the Government of Brazil, the Chamber urges the Administration to pursue rigorous, evidence-based solutions that address the U.S. business community's priority concerns related to Brazil's tariff, non-tariff, tax, regulatory, and market-access barriers that limit the ability of U.S. companies to compete fairly, as identified in the Chamber's August 2025 submission.

The U.S. business community is committed to working with both governments and our partners in Brazil to realize the full potential of U.S.-Brazil trade ties. The goal of achieving negotiated commitments to resolve the concerns identified in this Section 301 investigation will create the conditions to pursue opportunities in key sectors such as chemicals; automotive; healthcare; critical minerals and mining; energy security; trade facilitation; technology and the digital economy; and agriculture.

Detailed below are our comments related to USTR's proposed actions in this investigation. For additional trade policies and practices, including longstanding barriers, that we recommend be addressed through bilateral engagement, please see Annex II, which includes the Chamber's original submission.

Digital Trade and Electronic Payment Services

The Chamber appreciates the Administration's consideration of the issues found actionable related to content moderation and electronic payment services.

The Chamber further encourages USTR to leverage ongoing engagement with Brazil to address measures beyond the scope of this investigation including ongoing concerns related to platform liability, content ratings, and data center obligations as well as proposed legislation on ex-ante competition regulation, artificial intelligence, video-on-demand, local content requirements, network usage fees, and digital services taxes that unfairly target U.S. companies. The Chamber's August 2025 Section 301 submission, appended as Annex II, provides a comprehensive overview of these issues.

Content Moderation

U.S. companies have been impacted by decisions that appear to exceed the sovereign and legal jurisdiction of Brazil's judiciary. While Brazil's authority over content transmitted or hosted within its borders is not contested, these orders require U.S. companies to remove content not just in Brazil but globally, including within the United States. If Brazil continues to issue orders with extraterritorial applicability, it will inappropriately interfere with the rights of U.S. companies and consumers outside Brazil. The scope of its judicial decrees should apply only to content transmitted within the sovereign boundaries of Brazil's territory.

Electronic Payment Services

We commend Brazil's leadership in expanding financial inclusion and digital access while driving meaningful innovation through PIX. Since its launch by the Central Bank of Brazil (BCB) in November 2020, PIX has become a central component of Brazil's payment ecosystem. American firms partner with PIX, laud its accomplishments, and consider the continued success of PIX to be a priority.

U.S. Industry does not oppose the PIX system, rather the central concern is BCB's governance approach, where it serves as both the regulator and owner-operator of PIX. While it is not uncommon for central banks to operate one or more payment systems and supervise the private sector, the BCB has failed to establish governance procedures that avoid conflicts of interest and crowding out the private sector. We encourage U.S. engagement to focus on BCB's governance framework, particularly given that recent public discourse and media have interpreted industry concerns as broader criticism of PIX as a service. A more targeted approach would help foster a constructive and less politicized dialogue around PIX governance.

To help address concerns related to competitive neutrality, market access, and regulatory fairness, the BCB should align its regulatory and operational framework for PIX with the following international best practices.

Separate Regulatory and Operational Roles

International best practices from the OECD, World Bank, CPMI, BIS, and WTO, all call for a clear separation between oversight functions and commercial activities. Accordingly, Brazil should adopt effective governance safeguards that separate the Central Bank's regulatory and operational roles with respect to PIX, consistent with international best practices emphasizing the separation of oversight, rule-setting, and operations.

These should include:

- Establishing institutional firewalls between supervisory and operational functions;
- Ensuring independent governance of system operations; and
- Maintaining transparent, consistent rulemaking applied equally to all participants.

Ensure Competitive Neutrality Across Payment Systems

To ensure competitive neutrality across payment systems, Brazil should review and revise existing regulations and practices that create structural or regulatory advantages for PIX, while ensuring that rules governing electronic payment services are applied on a non-discriminatory basis across all providers. International best practices emphasize that real-time payment systems should support fair and competitive access, with transparent and consistent requirements that allow market forces to shape outcomes.

Ensuring competitive neutrality would require:

- Removing policies or mandates that favor PIX over competing payment solutions;
- Ensuring participation requirements are neutral, transparent, and market-based;
- Aligning technical, operational, and compliance requirements across payment systems;
- Avoiding regulatory approaches that position PIX as a default or preferred option; and

- Ensuring consistent enforcement of rules, irrespective of whether a provider is public or private.

These steps would help ensure that public infrastructure complements, rather than displaces, private-sector innovation, while reducing barriers to entry, promoting competition, and enhancing consumer choice.

Adopt Market-Based Pricing Frameworks

Brazil should review the pricing approach applied to PIX to better align with transparent and sustainable cost-recovery principles. Prolonged reliance on subsidized or administratively constrained pricing risks distorting competition and discouraging private investment.

To address this, Brazil should:

- Provide greater flexibility in how payment providers structure pricing;
- Adopt clear and transparent cost-recovery approaches that reflect underlying economic costs; and
- Avoid pricing arrangements that result in implicit cross-subsidies or uneven competitive conditions.

Preserve Commercial Autonomy

Brazil should preserve the ability of payment providers to independently design, integrate, and present payment options to customers. Requirements that compel participation in or promotion of specific systems risk distorting competition and limiting differentiation. To address this, Brazil should:

- Remove requirements mandating the prominence or preferential display of PIX;
- Avoid policies that impose integration or promotion obligations without reciprocal conditions; and
- Ensure providers can compete based on service quality, innovation, and user experience.

To address the governance concerns and competitive distortions outlined above, PIX should operate under the same regulatory and operational standards as private-sector providers and be subject to appropriate independent oversight. Ensuring a clear separation between the BCB's operational and supervisory roles will be critical to promoting regulatory neutrality, mitigating conflicts of interest, and aligning with international best practices.

Intellectual Property Protection

Brazil's patentability framework has faced sustained uncertainty following a series of Supreme Court decisions that eliminated mechanisms designed to compensate for administrative delays and introduced differential treatment across technology sectors. The 2021 invalidation of Article 40 removed minimum patent term guarantees, with retroactive application targeting biopharmaceutical and health-related patents, which was in place to compensate for the egregious patent examination delays. A subsequent 2023 ruling confirmed that patent terms cannot extend beyond 20 years from filing, regardless of delays in examination, further weakening predictability for rightsholders. Continued litigation has failed to clarify the practical application of these decisions, as reflected in divergent court outcomes as recently as 2025. Consistent with the Chamber's *International IP Index* findings, this evolving legal environment undermines effective patent protection by eroding term certainty and failing to provide safeguards—such as patent term adjustment—that are common in higher-performing IP systems. Indeed, the absence of a patent term adjustment mechanism makes Brazil an outlier not only globally, but also within the region. Other Latin American and Caribbean countries, including Chile, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua, provide some form of patent term adjustment to compensate for undue delays in patent examination. Brazil stands out as a notable exception.

Brazil's patent backlog and examination delays remain a significant structural challenge, particularly in innovation-intensive sectors such as biopharmaceuticals and information and communications technology. It should be noted that delays have not been reduced for pharmaceutical patents even though timelines have improved for other industries, leading industry to believe that the biopharmaceutical and life sciences sector is being discriminated against in patent examination processes. Despite recent efforts by the National Institute of Industrial Property (INPI) to reduce pendency, average wait times far exceed the typical 2-4 years seen in OECD economies. For instance, for biopharmaceutical patents granted between January 2020 and November 2025, the average time amounted to 9.15 years. While Chamber analysis has recognized positive steps, including hiring initiatives to expand examination capacity, resource constraints and past budget cuts have impeded sustained progress. The absence of systemic reforms to streamline examination processes continues to limit the effectiveness of these improvements. Importantly, while measures to improve INPI's operation efficiency should continue, it is critical for the Brazilian Government to introduce an effective Patent Term Adjustment (PTA)

system that can adequately compensate innovators for any undue delays attributed to INPI.

Finally, Brazil's lack of regulatory data protection (RDP) for pharmaceuticals raises both compliance and policy concerns when assessed against international standards and its own domestic practices. Article 39.3 of the TRIPS Agreement requires WTO members to provide temporary protection for the confidential data that biopharmaceutical innovators submit to regulatory authorities to demonstrate the safety and efficacy of a medicine for marketing approval. RDP must protect against both disclosure of test data and, for a limited time, third-party reliance on the data. While Brazil provides a defined period of RDP for veterinary pharmaceutical products, fertilizers, bioinputs and pesticides, it has not established an equivalent framework for biopharmaceuticals for human use. This results in *de facto* discrimination against the healthcare sector developing medicines for human use, where innovators face immediate reliance or early generic entry based on their data, and is inconsistent with Brazil's TRIPS obligations.

The absence of pharmaceutical RDP significantly weakens incentives for innovation and undermines the overall effectiveness of Brazil's IP ecosystem. Without data protection, and with the delays in patent examination and the lack of patent term adjustment, innovators are left exposed and with no recourse. Moreover, the differential treatment between agricultural and health products sends a conflicting signal to investors about Brazil's commitment to predictable and balanced IP protection.

On the copyright side, legislative changes to Brazil's Pay-TV framework have extended and reinforced domestic content requirements, with implications for both the creative and ICT sectors. The updated rules mandate minimum levels of Brazilian programming on certain channels, alongside requirements that a significant share of this content be produced by independent local creators. In addition, a portion of channels offered within subscription packages must be domestically sourced, restricting the composition of available content. These measures can narrow consumer access to diverse international programming and may inadvertently contribute to increased reliance on unauthorized distribution channels when demand is not met.

Separately, Brazil has renewed its longstanding theatrical exhibition quotas through legislation extending into 2033, reintroducing requirements for cinemas to allocate screen time to national productions. The policy ties exhibition obligations to

the size of theater complexes, including minimum shares of Brazilian films and limits on how frequently a single title can be shown. By capping the proportion of screenings dedicated to individual releases, the framework constrains scheduling flexibility for operators and affects the commercial viability of widely demanded films.

These restrictions can diminish consumer choice and, similar to broadcast constraints, risk pushing audiences toward informal or unlicensed viewing options when preferred content is less accessible.

Ethanol Market Access

Prior to February 2023, U.S. ethanol entered Brazil tariff-free under a tariff-rate quota program. Brazil subsequently imposed a 16% tariff, later raised to 18% in 2024 — compared to the 2.5% tariff the U.S. applied to Brazilian ethanol prior to August 2025. Non-tariff barriers compound this imbalance. While Brazilian producers benefit from access to the U.S. Renewable Fuels Standard and California's Low Carbon Fuel Standard, U.S. producers receive no equivalent treatment in Brazil. Brazil's RenovaBio and RenovaCalc programs present additional obstacles: RenovaBio's eligibility criteria do not recognize the EPA's "aggregate compliance" approach, effectively barring U.S. producers from qualifying, while RenovaCalc's carbon accounting model unfairly inflates the carbon score of U.S. corn ethanol, imposing a 300% penalty that limits access to CBio carbon credits and undermines U.S. competitiveness.

USTR should press Brazil to reform RenovaBio and RenovaCalc by promoting mutual recognition of environmental standards — including the EPA's "aggregate compliance" approach, which Canada has already accepted — and adopting transparent, science-based carbon accounting that ensures fair treatment of U.S. ethanol producers.

The combined effect of tariff disparities and program access barriers puts U.S. producers at a significant competitive disadvantage, undermines price stability, and hinders energy cooperation between the world's two largest ethanol producers. The Chamber also urges both governments to explore collaboration on sustainable aviation fuel, an area of growing strategic importance where U.S. companies are well-positioned to contribute.

Illegal Deforestation

The Chamber supports existing frameworks that protect Amazonian resources while providing the transparency and traceability that U.S. companies require from their Brazilian suppliers. Brazil's Forest Code (Law No. 12,651/2012) and relevant international certifications serve this purpose, and the Chamber urges their

recognition by U.S. regulatory systems to promote legal certainty, reduce compliance burdens, and support voluntary adherence to high sustainability standards — enabling U.S. agribusiness and forestry companies to access Brazilian markets on a level playing field.

Trade negotiations with Brazil should also reinforce the Lacey Act, which prohibits trade in wood and plant materials taken in violation of U.S. or foreign law. The Lacey Act enjoys broad support across industry, labor, and environmental communities precisely because it allows American forest product companies to compete fairly, supports U.S. jobs, and deters the destructive impacts of illegal logging on forests and forest-dependent communities.

Ultimately, durable progress on deforestation requires more than regulatory enforcement. Policies must address the underlying social and economic drivers of deforestation — particularly for smallholder farmers — by promoting rural prosperity, community wellbeing, and inclusive development. A curated mix of tools that combines strong legal frameworks with meaningful economic incentives for forest protection is essential to achieving outcomes that are both environmentally sustainable and globally food-secure.

The U.S. Chamber appreciates the opportunity to share these comments and looks forward to participating in the upcoming hearing to address these important issues. The Chamber believes that, approached constructively, this process can serve as a catalyst for strengthening U.S.-Brazil trade relations and building on the momentum of current negotiations to make meaningful and lasting progress for workers, businesses, and consumers on both sides.

Sincerely,

A handwritten signature in black ink that reads "Anne McKinney". The signature is written in a cursive, flowing style.

Anne McKinney
Vice-President, Americas
U.S. Chamber of Commerce

Annex I: Recommended HTS Code Exclusions from Proposed 25% Tariffs

The Chamber requests exclusion of the following HTS codes from the proposed 25% tariff action, each representing goods for which no adequate domestic substitute exists and for which tariff imposition would cause disproportionate harm to U.S. industries, workers, and supply chains.

HTS Code	Product / Item Description	Justification for Exclusion from Proposed 25% Tariffs
2106.90.9998	Acerola powder — acerola cherries harvested, juiced, and spray dried with maltodextrin and calcium hydroxide for processing; used as a Vitamin C source in dietary nutrition supplements and beauty products.	Acerola raw materials are critical inputs for U.S. manufacturing and exports. Brazil is the primary commercial source of acerola, with growing conditions not comparable to the United States. The product is not readily available from adequate domestic or alternative sources. A 25% tariff rate would increase costs on a Brazil-sourced input used in more than 500 U.S.-manufactured finished products, many of which are exported.
2009.89.6515	Acerola juice concentrate — acerola cherries harvested, juiced, and frozen; used as a Vitamin C source in nutrition dietary supplements and beauty products.	Acerola juice concentrate is a critical input for U.S. manufacturing and export-oriented production. Brazil is the world's largest producer of acerola cherries and provides the consistent tropical/subtropical conditions required for commercial supply. Domestic production and alternative sourcing are not adequate substitutes. A 25% tariff rate would raise costs on a non-substitutable input and harm U.S. manufacturing competitiveness.
2308.00.9800	Acerola pulp — acerola cherries processed in pulp form; used as a Vitamin C source in nutrition dietary	Acerola pulp is an essential input for U.S. manufacturing of nutrition and beauty products. The product is sourced from Brazil because acerola is highly sensitive

	supplements and beauty products.	to weather conditions and requires growing conditions not available at comparable scale in the United States. A 25% tariff rate would impose disproportionate costs on U.S. production and exports without creating a viable domestic supply alternative.
8504.21.00	Liquid dielectric transformers, having a power handling capacity not exceeding 650 kVA	Transformers are critical electrical infrastructure inputs. Imposing additional tariffs would increase costs and risk delays for power infrastructure, energy resilience, and related U.S. operations that depend on reliable transformer supply. Exclusion would help avoid unnecessary disruption to critical power and digital infrastructure deployment.
8504.22.00	Liquid dielectric transformers, having a power handling capacity exceeding 650 kVA but not exceeding 10,000 kVA	Transformers are critical electrical infrastructure inputs. Imposing additional tariffs would increase costs and risk delays for power infrastructure, energy resilience, and related U.S. operations that depend on reliable transformer supply. Exclusion would help avoid unnecessary disruption to critical power and digital infrastructure deployment.
8504.23.00	Liquid dielectric transformers, having a power handling capacity exceeding 10,000 kVA	Transformers are critical electrical infrastructure inputs. Imposing additional tariffs would increase costs and risk delays for power infrastructure, energy resilience, and related U.S. operations that depend on reliable transformer supply. Exclusion would help avoid unnecessary disruption to critical power and digital infrastructure deployment.

8502.11.00	Diesel generating sets, not exceeding 75 kVA / approximately 60 kW	Diesel generator sets are critical for emergency and disaster response, hospitals and healthcare systems, police, fire, and other public safety infrastructure, as well as backup power for small businesses and rural communities. Tariffs on these products could raise costs and disrupt access to essential backup power equipment with economy-wide implications.
8502.12.00	Diesel generating sets, exceeding 75 kVA but not exceeding 375 kVA / approximately 60–300 kW	Diesel generator sets are critical for emergency and disaster response, hospitals and healthcare systems, police, fire, and other public safety infrastructure, as well as backup power for small businesses and rural communities. Tariffs on these products could raise costs and disrupt access to essential backup power equipment with economy-wide implications.
8502.13.00	Diesel generating sets, exceeding 375 kVA / approximately above 300 kW	Large diesel generator sets provide essential backup and emergency power for critical facilities and infrastructure. Additional tariffs would increase costs for sectors that rely on resilient power supply, including healthcare, public safety, emergency response, rural communities, and small businesses, creating potential economy-wide disruptions.
8501.61.01	AC generators, not exceeding 75 kVA / approximately 60 kW	AC generators are important components for power-generation and backup-power systems used across critical infrastructure. Tariffs would increase costs for equipment needed in emergency

		response, healthcare, public safety, rural communities, and small business operations, without advancing supply-chain resilience.
8501.62.01	AC generators, exceeding 75 kVA but not exceeding 375 kVA / approximately 60–300 kW	AC generators are important components for power-generation and backup-power systems used across critical infrastructure. Tariffs would increase costs for equipment needed in emergency response, healthcare, public safety, rural communities, and small business operations, without advancing supply-chain resilience.
8207.30.30.20	Interchangeable tools for rock drilling, earth boring, and related industrial applications	These specialized tools are critical inputs for U.S. manufacturing, mining, construction, and energy operations. Domestic production is insufficient to meet industry demand and comparable alternative sources are not available. Tariffs would raise operating costs, reduce competitiveness, and disrupt project timelines in sectors vital to U.S. infrastructure and energy development.
8207.30.60.32	Interchangeable tools for rock drilling, earth boring, and related industrial applications	These specialized tools are critical inputs for U.S. manufacturing, mining, construction, and energy operations. Domestic production is insufficient to meet industry demand and comparable alternative sources are not available. Tariffs would raise operating costs, reduce competitiveness, and disrupt project timelines in sectors vital to U.S. infrastructure and energy development.

8207.20.00.40	Interchangeable tools for rock drilling, earth boring, and related industrial applications	<p>These specialized tools are critical inputs for U.S. manufacturing, mining, construction, and energy operations. Domestic production is insufficient to meet industry demand and comparable alternative sources are not available. Tariffs would raise operating costs, reduce competitiveness, and disrupt project timelines in sectors vital to U.S. infrastructure and energy development.</p>
2818.30.00	Aluminum hydroxide	<p>Aluminum hydroxide is an indispensable critical input for a broad range of U.S. industries, including drinking water treatment, national defense, oil and gas refining, automotive manufacturing, construction, agriculture, and advanced manufacturing. Brazilian supply represents a substantial share of U.S. market demand, while domestic production is structurally insufficient and depends on imported bauxite. There is no viable near-term substitute. A 25% tariff would raise costs for water utilities, disrupt refinery catalyst supply, undermine flame-retardant and defense material supply chains, and increase input costs across key industrial sectors without meaningfully stimulating additional domestic production.</p>
1302.20.00.00	Pectic substances, pectinates and pectates.	<p>Pectin is a small-volume but critical plant-based input used as a gelling agent, stabilizer, and thickener in a broad range of U.S. food products, including jams, yogurt, beverages, and confectionery. The US does not currently extract pectin at</p>

		<p>commercial scale and relies almost entirely on imports to meet domestic demand. Because pectin production is geographically concentrated in regions with large-scale citrus and apple processing industries, including Brazil, there are limited short-term alternatives. A 25% tariff would increase costs and create supply-chain risk for downstream U.S. food manufacturers without supporting any meaningful domestic upstream production.</p>
9031.80.80.85	Checking Fixture	<p>These specialized tools are critical inputs for U.S. manufacturing, mining, construction, and energy operations. Domestic production is insufficient to meet industry demand and comparable alternative sources are not available. Tariffs would raise operating costs, reduce competitiveness, and disrupt project timelines in sectors vital to U.S. infrastructure and energy development.</p>

Annex II: U.S. Chamber Original Submission

August 18, 2025

Ambassador Jamieson Greer
United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, DC 20509

RE: “Initiation of Section 301 Investigation: Brazil’s Acts, Policies, and Practices Related to Digital Trade and Electronic Payment Services; Unfair, Preferential Tariffs; Anti-Corruption Enforcement; Intellectual Property Protection; Ethanol Market Access; and Illegal Deforestation; Hearing; and Request for Public Comments,” Federal Register docket number [USTR-2025-0043](#).

Dear Ambassador Greer:

The U.S. Chamber of Commerce (“the Chamber”) appreciates the opportunity to present the following comments to the Office of the U.S. Trade Representative (“USTR”) in response to the Federal Register notice cited above. The administration has stated its intent to use these comments as part of its investigation under Section 301 of the Trade Act of 1974 “to examine whether Brazil’s acts, policies, and practices related to digital trade and electronic payment services; unfair, preferential tariffs; anti-corruption enforcement; intellectual property protection; ethanol market access; and illegal deforestation are unreasonable or discriminatory and burden or restrict U.S. commerce.” The Chamber welcomes the opportunity to address a number of barriers within the remit of this investigation affecting U.S.-Brazil trade.

Brazil is an important commercial partner for a broad range of U.S. companies of every size, sector, and state. It represents a dynamic market that is full of potential for continued growth that will benefit American workers, farmers, and companies. Realizing this potential requires concrete steps to ensure fair market access and enhance regulatory transparency.

Addressing these trade barriers is not only in the strategic interest of the United States but also stands to benefit the Brazilian people. Greater openness to U.S. imports and investment would provide Brazilian consumers with access to world-class technologies, essential aerospace components, and greater access to competitive biofuels such as ethanol and sustainable aviation fuel, to name just a few products. At the same time, a more stable and transparent trade environment will support growth and innovation in Brazil, to the benefit of both Brazilian and U.S. firms.

The Chamber supports a deliberative, evidence-based approach to addressing concerns relating to Brazil's trade policies and practices. We are concerned that the recent imposition of a 50% tariff on a significant percentage of U.S. imports from Brazil will have far-reaching negative implications for U.S. businesses and workers, will jeopardize efforts to achieve resolution of the legitimate commercial concerns at the focus of the present investigation, and will have unintended consequences that negatively impact other administration policy priorities on issues from energy to AI.

The decision to levy these tariffs also risks adversely impacting supply chains for U.S. manufacturers and U.S. consumers that have links into Brazil and puts U.S. businesses at significant risk of retaliatory measures. It will also punish U.S. consumers by exacerbating inflationary pressures as seen already with products such as coffee. For the same reasons, we urge careful deliberation before USTR imposes additional tariffs on products of Brazil pursuant to this investigation.

We also urge that tariff stacking should be avoided for all products subject to sectoral tariffs under Section 232 as this would result in cumulative tariff burdens on U.S. companies and consumers. Ideally, the Section 301 process leads to comprehensive negotiations to place the bilateral economic relationship on a more stable, predictable, and prosperous footing.

Indeed, international trade thrives on cooperation as much as competition, and the free exchange of goods and services depends on a shared recognition of mutual benefit. Bilateral trade with Brazil supports hundreds of thousands of American jobs, with trade in goods and services exceeding \$127 billion last year and a U.S. trade surplus nearing \$30 billion. Nearly 6,500 American small businesses rely on imports from Brazil and close to 4,000 American companies operate in Brazil.

Securing improvements in the U.S.–Brazil trade relationship by lowering tariff and non-tariff trade barriers in a reciprocal manner and ending unfair discrimination is a worthy goal that will enjoy broad support from the U.S. business and agricultural communities. To this end, we urge USTR to pursue structured and enforceable pathways that promote long-term stability and joint prosperity. The U.S. Chamber welcomed the first Trump administration's signing of the U.S.-Brazil Protocol Relating to Trade Rules and Transparency in October 2020 ("the Protocol"), which updated the 2011 Agreement on Trade and Cooperation (ATEC) with the inclusion of commitments on certain trade facilitation, good regulatory practices, and anti-corruption measures modeled on the high-standard United States-Mexico-Canada Agreement (USMCA). The Chamber has also urged both governments to build on the Protocol by expanding it to new areas. As USTR considers its approach to Brazil, we encourage the adoption

of similarly comprehensive, enforceable, and durable mechanisms that eliminate tariffs and other trade barriers and ensure reciprocal market access.

In sum, pro-growth reforms should be the objective of U.S. trade negotiations with Brazil. U.S. officials should engage with their Brazilian counterparts to dismantle barriers and expand opportunities for U.S. companies to realize the full potential of U.S. trade with Brazil, while avoiding tariffs that raise the cost of living, harm small businesses, and undermine manufacturing in the United States. As such, the Section 301 review provides an important platform to work with Brazil to address not only longstanding challenges such as ethanol market access and intellectual property protection but also budding regulatory irritants in areas such as digital trade that are still in the proposal phase.

Detailed below are the Chamber's comments on Brazil's trade policies and practices, including unfair trade barriers that we have highlighted in the past, along with recommendations to help ensure this investigation leads to the successful remediation of legitimate commercial concerns through negotiated solutions that avert new tariffs, roll back existing ones, and support a pro-growth bilateral trade agenda.

Digital Trade and Electronic Payment Services

The U.S. Chamber is closely following Brazil's evolving digital policy landscape. Recent court decisions have imposed extraterritorial content moderation that expands corporate liability in ways that disproportionately impact U.S. companies. The Chamber encourages USTR to press for a predictable, transparent, and non-discriminatory digital regulatory environment.

Content Moderation

U.S. companies have been impacted by decisions that appear to exceed the sovereign and legal jurisdiction of Brazil's judiciary. While Brazil's authority over content transmitted or hosted within its borders is not contested, these orders require U.S. companies to remove content not just in Brazil but globally, including within the United States. If Brazil continues to issue orders with extraterritorial applicability, it will inappropriately interfere with the rights of U.S. companies and consumers outside Brazil. The scope of its judicial decrees should apply only to content transmitted within the sovereign boundaries of Brazil's territory.

Electronic Payment Services

PIX has been successful in expanding financial inclusion and digital access in Brazil since its launch by the Central Bank of Brazil (BCB) in November 2020.

American firms partner with PIX, laud its success, and consider the continued success of PIX to be a priority. However, we maintain concerns around the fact that BCB both regulates and competes with payment arrangements (PAs). While it is not uncommon for central banks to operate one or more payment systems and supervise the private sector, the BCB has failed to establish governance procedures that avoid conflicts of interest and crowding out the private sector.

The BCB is the sole *systemic regulator* of Brazil's financial sector, setting market entry conditions, operational standards, and pricing frameworks for all PAs. At the same time, it operates PIX, a Central Bank-run retail payment network, which is itself a PA and a direct competitor in the marketplace. As such, U.S. electronic payment system companies must compete against their own regulator. This contradicts international best practices and guidance from the OECD, World Bank, CPMI, BIS, and WTO, all of which call for a clear separation between oversight functions and commercial activities.

Further, PIX is not subject to regulation and supervision from a third-party regulator and overseer or price or budget controls in a way that would be materially equivalent to the kind of regulation and supervision that private players face. Specifically:

- The BCB has access to confidential and sensitive information from its private competitors (including pricing, product development, and commercialization plans) and manages the development and operation of PIX. Without effective governance safeguards, this structure enables the BCB to shape both market dynamics and regulatory standards in ways that advantage its own platform.
- Mandated bank investments in PIX improvements, new features, and products—and guidance that banks should prioritize PIX—without equivalent obligations for private platforms disadvantage the latter.
- Regulation dictating priority placement of the PIX icon within bank apps ensures prominent PIX exposure.
- Mandatory network integration with PIX channels retailer and consumer behavior toward the government platform, constraining growth opportunities for U.S. companies in Brazil's payments ecosystem.
- PAs are also subject to technical standards, tax collection requirements, and supervisory costs that do not apply to PIX.
- U.S. card networks are not authorized to use their credentials to initiate payments via PIX. The BCB should promptly authorize all card networks for payments initiation. Such a measure would complement—not replace—existing PIX offerings and support broader adoption.

Brazil should commit to implementing effective measures that address the regulatory conflict of interest and anticompetitive practices described above. PIX should comply with the same regulatory, cybersecurity, and operational standards imposed on private-sector platforms and be subject to independent third-party regulation and supervision. Brazil should also ensure a clear separation between PIX's operational and regulatory/supervisory functions within the BCB to safeguard regulatory neutrality, mitigate conflicts of interest, and align with international best practices.

Platform Joint Liability for Telecom Products Conformity

On August 1, 2025, Brazil's National Telecommunications Agency (ANATEL) issued its new Regulation for Conformity Assessment of Telecommunications Products (ANATEL Resolution No. 780/2025), with rules that extend joint liability with sellers to marketplaces and notably to any digital platform involved in the commercialization chain (even if only through advertising or promotion). Under the new rules, these entities are now held jointly liable for offering non-certified or non-compliant telecom products, and this includes an obligation to display certification codes and verify product compliance. Non-compliance may lead to fines of up to BRL 50 million. By holding digital platforms and marketplaces liable for ensuring third-party product conformity, Brazil's conformity assessment regime for telecommunications products establishes disproportionate burdens on all actors in the sales chain.

Brazilian Advisory Rating System – ClassInd

The Brazilian Advisory Rating System, "*Classificação Indicativa*" (ClassInd), is a content rating system utilized in Brazil for the classification of various forms of media and entertainment, including streaming services, electronic games, applications, and public performances, as well as films and television programs. The Chamber does not object to age-appropriate ratings but underscores the importance of clarity for compliance purposes and the need to apply them consistently across various platforms. Brazil's Ministry of Justice has in a discretionary manner changed the age classification for U.S. social media companies to 16+, while non-U.S. companies remain at 14+. The government cites age-inappropriate content for this change but uses a non-standardized process that makes it challenging for companies to fully address their concerns (e.g., not collecting or sending companies URLs, not accounting for Community Standards or existing review processes, etc.).

The lack of clarity and transparency in the Brazilian Advisory Rating System has resulted in discrimination against U.S. digital platforms, which have taken proactive and concrete action towards improving child and youth safety online (such as with

“Teen Accounts”), while competitors have been given preferential treatment. We encourage Brazilian authorities to uphold transparent and nondiscriminatory treatment for digital platforms, ensuring a welcoming and predictable environment for new investments.

Data Center Obligations

ANATEL’s Resolution No. 780/2025 revises the Regulation on Conformity Assessment and Homologation of Telecommunications Products (RACPT). Among other changes, the new regulation introduces mandatory conformity assessment and homologation for data centers that are part of telecommunications networks, creating a new layer of compliance obligations. Although impactful to the data center landscape in Brazil, these new obligations were not subject to public consultation nor supported by a regulatory impact assessment — as would ordinarily be required under ANATEL’s own rules. The measure was proposed directly by ANATEL’s Board of Directors during the decision-making process, raising concerns regarding its legality and predictability. This creates an opening for administrative or judicial challenges, particularly for affected stakeholders who were not previously consulted. Key new requirements for data centers that are considered by ANATEL to be part of telecom networks include:

- Mandatory conformity assessment and homologation, as a precondition for installation or contracting by telecom service providers;
- Operational resilience, ensuring continuous service even in the event of failures or disasters;
- Physical security, to prevent unauthorized access and mitigate internal and external threats;
- Cybersecurity, with robust systems to protect against intrusions and attacks; and
- Energy efficiency and environmental sustainability, including the use of best practices and technologies to reduce energy consumption.

The regulation also mandates the publication by the Agency’s technical staff of a new operational procedure within 240 days, detailing the conformity assessment process and establishing deadlines for both new and existing data centers to comply (the latter having a 3-year transition period).

The new regulation’s mandatory conformity assessment and homologation requirements for data centers, particularly those integrated into telecommunications networks, may be seen as creating barriers to U.S. companies operating in Brazil’s digital infrastructure sector. The fact that these new obligations were implemented without public consultation or a regulatory impact assessment raises concerns about

transparency and fairness in the regulatory process. This could be interpreted as an unfair trade practice that burdens U.S. commerce, especially given the significant presence of U.S. tech companies in Brazil's cloud and data center market. The specific requirements for operational resilience, physical security, cybersecurity, and environmental sustainability, while important, could be viewed as potential non-tariff barriers if they disproportionately affect foreign companies or are applied in a discriminatory manner.

Proposed Regulations

Brazil is pursuing regulation in a number of areas, including AI, platform regulation, and local content requirements that have yet to be finalized and therefore have not yet had a clear and disparate impact on American companies doing business in Brazil. The Chamber is closely tracking these proposals. USTR should seek commitments from Brazil confirming that it will not proceed with digital economy regulations that target or discriminate against U.S. companies. Details on these proposals follow.

AI Regulation: The Chamber is actively advocating on the bill to regulate Artificial Intelligence (Bill 2338/2023). This includes language that would broadly classify AI activities as “high-risk” and grant wide-ranging jurisdiction to Brazil's central regulatory agency without sufficient oversight. Additionally, obligations for General Purpose AI (GPAI) developers would undermine the services offered in Brazil as they would apply significant compliance costs to low-risk uses. These proposals would likely have an outsized impact on American companies, including by imposing significant compliance costs. Brazil should refrain from pursuing AI legislation that would result in disparate treatment of American companies. Finally, the Bill makes the Brazilian Data Protection Authority (ANPD) the main AI regulator in the country, in charge of coordinating different sectorial regulators and adopting and enforcing secondary regulation for “unregulated sectors”. This would introduce a great degree of uncertainty due to the overlap between the General Data Protection Law (LGPD) and the proposed AI regulation as it stands today. In 2024, ANPD initiated AI-related investigations against US and foreign tech firms (including by issuing preemptive blocking orders), interpreting the Brazilian law in a way that can be considered as stifling innovation, largely inspired by similarly restrictive approaches adopted by regulators in the EU.

Platform Regulation: Brazil has advanced proposals for platform regulation on two separate tracks: a bill with ex-ante rules that is closely modeled on the EU Digital Markets Act (DMA) via Bill 2768/2022, and a comprehensive government-authored bill

based on a Ministry of Finance report¹ that draws on elements of EU, UK, and other regulatory regimes. The Chamber has repeatedly raised concerns that ex-ante platform regulation should not target foreign, primarily U.S.-headquartered companies. Similarly, we have expressed concerns about how these regulatory approaches can negatively impact cybersecurity, data privacy, and consumer choice.² The EU's DMA overwhelmingly targets U.S. companies and includes provisions prohibiting business practices by U.S. companies that competitors would remain free to use, requirements to disclose information and provide support to competitors, and an enforcement regime featuring excessive fines and penalties. Brazil's proposed measures are expected to have a similar effect. Like the EU's DMA, Brazil's proposed measures would likely apply only to a small group of U.S. companies, while sparing Brazilian incumbents and Chinese companies. By contrast, India recently decided against moving forward with similar platform regulation, underscoring the importance of avoiding measures that could stifle innovation and deter investment. The U.S. should secure a commitment from Brazil to avoid moving forward with platform regulation that applies to only certain industry participants.

Local Content Requirements: Video on Demand (VOD) bills (Bill 2331/2022 and Bill 8889/2017) are being considered that would disproportionately target U.S. video platforms while favoring Brazilian broadcasters. These bills would additionally impose a platform-wide tax to fund Brazilian content development. The same provisions are expected to be published in a Presidential decree. Mandatory content quotas could have unintended negative effects on the digital economy and consumer choice. They create a compliance burden for companies that need to identify and prominently display local content. They also increase costs for platforms, which are typically passed down to consumers in the form of higher fees. While we support the goal of promoting local culture and content, mandatory quotas or similar regulations limit consumer choice and the ability of companies to innovate. Brazil should prioritize collaboration over regulation in the content space by incentivizing voluntary investment in local productions rather than relying on content controls.

Network Usage Fee: Brazil is considering imposing a network fee or related scheme that would force U.S. content providers and technology companies to directly or indirectly pay large local internet service providers (ISPs) to fund telecommunications infrastructure. In 2023, ANATEL opened a public consultation

¹ *Digital Platforms: Competition Aspects and Regulatory Recommendations for Brazil*, Secretariat of Economic Reforms, Ministry of Finance (2024), available at <https://www.gov.br/fazenda/pt-br/central-de-conteudo/publicacoes/relatorios/sre/relatorio-consolidado-traducao-26122024.pdf>.

² *Secretariat of Economic Reforms proposes 12 competitive measures for digital platforms in report - Digital Council*, <https://www.gov.br/fazenda/pt-br/central-de-conteudo/publicacoes/relatorios/sre/relatorio-plataformas-consolidado.pdf>

that included questions on the topic of “cost-sharing,” which is the idea that some networks or services send disproportionate amounts of data traffic and should therefore pay more to network operators. The proposed network usage fees would likely fall disproportionately on U.S. tech companies and would thereby undermine the significant investments made by U.S. companies in Brazil’s telecommunications infrastructure. In addition, the proposed fees would burden U.S. commerce by forcing U.S. companies to pay the highest fees compared to fees paid by smaller non-U.S. companies. The effective outcome would be to force U.S. companies to subsidize their competitors.

Digital Services Tax: Despite multilateral efforts to align international taxation rules, the Brazilian Congress continues to introduce bills aimed at creating unilateral Digital Services Taxes (DSTs) that would directly affect U.S. companies operating in the country. Similar measures, such as France’s DST, have been found to be actionable under Section 301. The implementation of these unilateral tax measures not only risks jeopardizing multilateral negotiations but also threatens U.S. businesses that fully comply with Brazil’s tax laws and should receive equal treatment compared to local companies. The Brazilian Congress is currently considering seven DST bills and Brazil’s president has been open to initiatives that tax U.S. digital service providers. The seven DST proposals in Congress would conflict with Brazil’s existing tax system, which already taxes profit remittances abroad, and contradict Brazil’s ongoing tax reform efforts that aim to tax both digital and physical products and services equally. An additional tax aimed exclusively at the revenues of multinational enterprises would disproportionately burden U.S. companies and increase the incidence of double taxation thereon, placing U.S. firms at a competitive disadvantage in competing with local firms offering identical services to Brazilian customers. The differential nature of these bills is evident in data from Brazil’s Federal Tax Authority from 2018 to 2022, which shows that digital services in Brazil generated average tax revenue of 16.4%, while non-digital private sector services contributed only 6.1% on average. Beyond being incompatible with Brazil’s economic reality, the effects of these DST bills will be compounded as more jurisdictions adopt divergent and overlapping DST measures. The Brazilian government should be encouraged to focus its efforts and resources on achieving consensus through multilateral fora rather than implementing unilateral taxes that will discriminate against U.S. companies doing business in Brazil.

Tariffs and Taxes

Pharmaceutical Tariffs

Brazil imposes most-favored nation tariffs averaging 6.8% on pharmaceutical products. This differential creates a notable competitive disadvantage for U.S. pharmaceutical exporters in Brazil. The United States should negotiate with Brazil to

lower pharmaceutical tariffs for U.S. exports. This would improve access to lifesaving innovations and strengthen bilateral trade in the life sciences sector.

Polyethylene Tariffs

In 2024, the U.S. accounted for approximately 70% of all polyethylene (PE) imports to the Brazilian market, making it the largest foreign supplier of PE to Brazil. PE is a key component in critical sectors including automotive, packaging, construction, healthcare, agriculture, and infrastructure among others. PE is also a broad category of chemicals that covers a wide range of grades and qualities of material, many of which are not domestically available in Brazil. However, Brazilian buyers can source from other regions such as Asia and the Middle East. In October 2024, Brazil increased tariffs on chemical imports from 11.5% to 20%, including PE. Brazil is also in the midst of an anti-dumping investigation into U.S. and Canadian PE, which could result in the imposition of an additional tariff of 21.4%, bringing the total to 41.4%. No such duty has yet been applied, but the investigation is ongoing.

Brazil's recent increase in its PE tariff to 20% not only harms U.S. chemical exporters but also leads to higher prices for domestic consumers. As the investigation continues, the U.S. and Brazil should engage to ensure the investigation remains narrowly focused to address Brazil's domestic concerns without straining bilateral relations or driving up input costs for Brazilian manufacturers.

Express Shipments Import Duties

Brazil's current import duty structure for express shipments of a flat 60% rate, which applies to goods valued between \$50 and \$3,000, is substantially higher than other countries. This creates a structural disadvantage for U.S. exporters and express logistics providers operating in the Brazilian market. Lowering this import duty rate on express shipments would not only help level the playing field for U.S. exporters but also support Brazil's domestic economic goals.

Brazilian Taxation

Brazil is currently undergoing one of the most ambitious consumption tax reforms in the world, with further reforms to its income and payroll tax systems on the horizon. These reforms come on the heels of major legislation approved in 2023 to realign Brazil's transfer pricing rules with international taxing norms by adopting the arm's length standard in full alignment with the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. Brazil's Congress also approved legislation late last year to introduce a Qualified Domestic Minimum Top-up Tax (QDMTT) in alignment with OECD Pillar Two standards.

The current consumption tax reform comes with a seven-year transition period, during which Brazil's old and new tax systems will run in parallel for seven years—a lengthy and complex transition period for businesses with Brazilian operations. The new consumption tax system, based on a value-added tax (VAT) model, will apply where goods or services are consumed—not where they are produced—and does not contemplate different or special treatment for digital services businesses. Thus, technology and digital services businesses will be subject to the same VAT burdens as businesses in other sectors.

The “CIDE Royalties” (Law 10168/2000), currently at 10% rate on payments, credits, use or remittances made by a Brazilian source for royalties, license and technical services provided by non-residents, is a practice that raises cost of US companies operating in Brazil, creating barriers for cross-border technological transfers, that are paramount for tech companies. A case involving this tax has been filed at Brazil's Supreme Court, questioning the validity of this tax, since the purpose for which it was created (“support technological development in Brazil”) is not reflected by the destination of the tax collected. Noteworthy is that this tax has also been listed in the Economic Reciprocity Law (15122/2025, Art. 10) as one of the possible retaliations that can be used by the Government of Brazil against companies from countries which adopt unilateral measures against Brazil.

Moreover, the Withholding Income Tax (WHT) is levied on all cross-border remittances, including payments for technical services and technical assistance - also relevant for high technology services. The WHT rates for these services typically range from 15% to 25%, depending on the nature of the service and applicable tax treaties. For tech companies operating in Brazil, the WHT represents a significant tax burden on cross-border payments related to software licensing, cloud services, technical support, and other digital services.

Introducing additional taxes, such as the recent abrupt raise to 3.5% in “*Imposto sobre Operações Financeiras*”—IOF tax, on these same revenue streams would in effect result in the triplication—and, in some cases, the quadrupling—of taxes on digital operations, creating an excessively burdensome and layered tax environment. Such overlapping of taxes on a single transaction undermines the principles of tax equity and neutrality, placing the digital economy at a competitive disadvantage compared to other industries. Furthermore, such a measure risks stifling innovation, deterring foreign investment, and ultimately hindering job creation and the overall growth of the tech sector. As such, any new taxation initiatives should carefully consider the existing fiscal landscape to avoid inefficiency, double—or even triple—taxation, and the detrimental effects on the economy.

Intellectual Property Protection

Intellectual property (IP) protections provide innovative companies with the legal certainty needed to make high-risk, high-capital investments into the next generation of innovative medicines, technologies, and creative and content-based output. The United States has been a long-standing leader in IP protection, ranking atop the U.S. Chamber's International IP Index in all thirteen editions of this annual report. American-based companies seeking to diversify investment in other jurisdictions rely on baseline, global best practices to secure their investments and promote fair market access and commercialization of their innovations and creations.

Inadequate Patent Protection and Lack of Regulatory Data Protection for Biopharmaceuticals

Recent judicial decisions, systemic delays, and an expansive compulsory licensing regime have created legal uncertainty and undermined the value of intellectual property rights, raising concerns under international trade and IP agreements.

Specifically, in the spring of 2021, Brazil's Supreme Court issued a landmark ruling that shook the foundations of the country's patent system. Declaring Article 40 of the Industrial Property Law (Law No. 9.279/96) unconstitutional, the Court eliminated the provision that guaranteed a minimum patent term of 10 years for inventions and 7 years for utility models. This decision disproportionately impacted the biopharmaceutical and health sectors by applying the ruling retroactively—an approach that raised serious concerns under international law.

By singling out one field of technology for retroactive treatment, the Court's decision appeared to violate Article 27(1) of the TRIPS Agreement, which mandates non-discrimination in patent rights across different technologies. The uncertainty deepened in January 2023, when a Supreme Court panel reaffirmed that patent terms in Brazil could not exceed 20 years from the date of filing, regardless of how long the patent office took to grant the patent. This left innovators, especially in sectors with long development timelines, without assurance of a meaningful period of market exclusivity.

To address this ongoing uncertainty and restore investor confidence, it is essential to establish a clear legal provision that defines the applicable patent term in Brazil, particularly in situations involving administrative delays. Such a provision would align domestic law with international commitments, provide predictability for innovators, and ensure that sectors with long development timelines can rely on a meaningful and consistent period of market exclusivity. Establishing this legal clarity

would not only strengthen Brazil's innovation ecosystem but also promote a stable and transparent environment for bilateral trade and investment.

Despite efforts by Brazil's National Institute of Industrial Property (INPI) to streamline patent examination, the lack of a Patent Term Adjustment (PTA) mechanism means that innovators are often left unprotected against unreasonable delays. In contrast to OECD economies where patent examination typically takes 2-4 years, Brazil continues to face a significant patent backlog. The Chamber's January 2025 submission to USTR for its 2025 Special 301 Review recommended that the Brazilian Government and lawmakers immediately address these issues through the introduction of a new statutory defined PTA mechanism to compensate for unreasonable grant delays at INPI. While complementary initiatives, including expanding the Patent Prosecution Highway, hiring needed personnel, and appropriately funding INPI are also important, PTA remains the central structural reform needed to guarantee certainty and predictability for right holders.

Additionally, Brazilian law currently does not provide regulatory data protection (RDP) for pharmaceuticals made for human use, despite providing RDP for veterinary, fertilizer and agrochemical products. The lack of RDP for biopharmaceuticals is inconsistent with Brazil's obligations under the TRIPS Agreement. Moreover, the lack of an appropriate protection term for data supporting the marketing approval of pharmaceuticals for human use exacerbates the challenges regarding unpredictability of IP for biotechnology companies operating in Brazil. Brazilian authorities, including Brazil's National Health Regulatory Agency (ANVISA), and the National Data Protection Authority (ANPD) must ensure adequate and effective regulatory data protection for technologies from across all sectors of the economy.

Finally, the Industrial Property Law 9.279/96 provides a broad basis for compulsory licensing (CL) beyond the use of this mechanism solely for public health emergencies that do not involve commercial consideration. Moreover, this mechanism also includes a domestic manufacturing criterion that can form the basis for the issuing of a compulsory license. These sections have been used in the past during price negotiations with foreign biopharmaceutical innovators to reduce their prices considering the threat of approving the manufacturing of local generic versions of patented medicines. In late 2021, several amendments to the Industrial Property Law were enacted, including provisions broadening the Government's emergency powers and authority to issue compulsory licenses, setting the percentage of royalties to be paid in licensing fees and expanding the compulsory licensing mechanism to also cover patent applications.

To this end, the Brazilian government must ensure that its CL rules are compatible with its WTO obligations and, if so, that the CL framework provides legal

certainty and due process for innovators and sustains our shared global competitiveness.

Copyright Enforcement

Brazil is considering significant amendments to its copyright framework through legislative proposals such as Bill 2370/2019 and Bill 4968/2024. These bills aim to introduce new remuneration obligations for the use of copyrighted works and sound recordings in digital streaming environments. Among the proposed changes are mandatory collective management of rights, contract override provisions, and expanded definitions of broadcasting and public performance. These measures would apply to digital platforms operating in Brazil, including those offering interactive streaming services.

The proposals also introduce legal ambiguity by equating interactive digital uses (e.g., on-demand streaming) with public performance, potentially subjecting them to collective licensing regimes. This could alter the nature of exclusive rights under Brazilian law and affect how rights holders negotiate and enforce their rights in the digital marketplace.

The proposed reforms would have a direct impact on U.S.-based digital service providers (DSPs), particularly those operating large-scale streaming platforms. The introduction of mandatory remuneration obligations and collective management requirements could significantly increase compliance costs and operational complexity. U.S. companies may face limitations on their ability to negotiate individual licensing agreements, undermining contractual freedom and business models based on direct licensing.

Additionally, the bills' vague definitions and broad scoping of rights could create legal uncertainty, making it difficult for U.S. platforms to assess liability and structure their services in Brazil. The risk of overlapping or duplicative payment obligations—especially in the absence of clear legal mandates—could deter investment and innovation in Brazil's digital content market.

To address the challenges, Brazil must align its legal definitions with international standards, particularly those in the World Intellectual Property Organization (WIPO) Internet Treaties, to ensure clarity around rights such as “making available” and “public performance.” The legal framework should preserve the ability of rights holders and digital platforms to negotiate licensing terms freely, without mandatory collective management or contract override provisions. Additionally, Brazil should modernize its collective rights management system to promote transparency,

fair representation, and competition, and conduct thorough consultations and impact assessments before implementing major legislative changes.

Trademark and Protection and Enforcement

The sale of counterfeit goods has flourished in many Brazilian cities due to lack of criminal prosecution and coordinated enforcement. In recent years however, the Chamber has observed successful enforcement actions through a taskforce of the City Hall of São Paulo, Customs, Federal Revenue Service (DIREP) and State Police.

Brazil's National Congress should approve legislation that would bring criminal penalties and fines for trademark infringement in line with those already established for copyright infringement, as well as legislation that allows for the *ex officio* seizure and destruction of infringing goods, which would represent a major advancement in Brazil's enforcement regime.

Ethanol Market Access

Prior to February 2023, U.S. ethanol entered the Brazilian market tariff-free under a tariff-rate quota program. However, in February 2023, the Brazilian Foreign Trade Chamber (Camex) established a 16% tariff on ethanol imports from the U.S., later increasing it to 18% in 2024, compared to the 2.5% tariff the U.S. applied to Brazilian ethanol prior to August 2025. Non-tariff barriers further complicate bilateral ethanol trade. While Brazilian ethanol producers benefit from access to the Renewable Fuels Standard and California's Low Carbon Fuel Standard program, similar preferential treatment is not extended to U.S. producers in Brazil. Brazil's RenovaBio and RenovaCalc programs, which seek to promote low-carbon biofuels and measure their environmental impact, have created significant market access barriers for U.S. ethanol producers. Renovabio's eligibility criteria does not recognize the U.S. Environmental Protection Agency's "aggregate compliance" approach and therefore creates a technical barrier that has prevented U.S. ethanol producers from qualifying for the program. Moreover, RenovaCalc's carbon accounting model unfairly inflates the carbon score of U.S. corn ethanol which results in a 300% penalty to U.S. producers. This limits access to CBio carbon credits, reducing both competitiveness and potential revenue for U.S. ethanol in the Brazilian market.

U.S. companies exporting biofuels to Brazil—particularly ethanol and sustainable aviation fuel (SAF)—could face mounting challenges should Brazil implement reciprocal tariffs. In response to the U.S. tariff of 50% announced on July 31, 2025, Brazil could retaliate and increase its tariff beyond 18% which could severely restrict market access for American biofuel producers.

The tariffs could disrupt the emerging SAF trade, complicating efforts to build the global clean fuel supply chain. Overall, these measures threaten to reduce export volumes, increase costs, and undermine competitiveness for U.S. biofuel companies in one of Latin America's largest markets.

To promote fair and reciprocal ethanol trade, USTR should work with Brazil to improve the implementation of RenovaBio and RenovaCalc by promoting mutual recognition of environmental standards—highlighting the U.S. EPA's "aggregate compliance" approach and Canada's acceptance of it as a model. Brazil should adopt transparent, science-based carbon accounting to ensure fair treatment of U.S. ethanol producers and support equitable market access.

The imbalance in tariffs coupled with challenges in accessing RenovaBio and RenovaCalc not only puts U.S. producers at a competitive disadvantage but also impacts price stability and hinders energy cooperation between the two largest ethanol-producing nations. Additionally, Brazil and the U.S. should explore collaboration in expanding the SAF market, an area where U.S. companies are making significant advancements, and which holds promise for joint innovation and expanded biofuel market access.

Illegal Deforestation

Current Brazilian Law, including the Brazilian Forest Code (Law No. 12,651/2012) and a number of international certifications, serve to protect key Amazonian resources and provide transparency and product traceability to ensure a level playing field for U.S. companies that depend on Brazilian suppliers. We urge their recognition by U.S. regulatory systems to promote legal certainty, reduce bureaucratic burdens, and support voluntary compliance with high sustainability standards that will enable U.S. agribusiness and forestry companies access to important Brazilian markets.

In addition, the Lacey Act amendments of 2008, which passed with overwhelming support from Congress, industry, labor and environmental organizations, make it unlawful to trade wood, wood products or other plant materials taken in violation of the laws of either a U.S. state or a foreign country. Trade negotiations with Brazil should support the Lacey Act and its enforcement because it enables American forest product companies to compete fairly in the global marketplace, supports U.S. jobs, and deters the destructive impacts of illegal logging on forests and forest-dependent communities in developing countries.

Overall, policies that recognize global trade flows and are geared at improving livelihoods for farmers of all sizes should be promoted. Farmer and rural prosperity are key for a safe, secure, and affordable food supply. For any action to endure in

preventing deforestation, it must include a “smart mix of tools” and actions that address the local social and economic issues, with specific consideration to the inclusion of smallholders.

It is also imperative to enable and incentivize forest protection, within sustainable and inclusive development. Solutions for forest protection must promote farmers’ economic livelihoods, smallholder and community wellbeing and global food security needs.

The U.S. Chamber appreciates the opportunity to share these comments and looks forward to participating in the upcoming hearing to address these important issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "Neil Herrington". The signature is fluid and cursive, with a long horizontal stroke at the end.

Neil Herrington
Senior Vice-President, Americas
U.S. Chamber of Commerce