INTERNATIONAL TRADE / WTO

CLIENT ALERT

JUNE/2019

BRAZIL FACILITATES THE REDUCTION OF IMPORT TARIFFS ON CAPITAL GOODS AND INFORMATION AND COMMUNICATION TECHNOLOGY PRODUCTS

On June 26, 2019, the Brazilian Ministry of Economy published Ordinance nº 309/2019 setting forth new rules for the analysis of *ex-tarifário* requests. *Ex-tarifário* is a regime which concedes temporary reductions, usually for two years, of import tariffs provided that the imported product is not produced domestically.

Brazilian import tariffs levied on capital goods and information and communication technology (ICT) products range from 14% to 16%. Under the *ex-tarifário* regime, import tariffs may be reduced up to 0%. Among the changes provided by the new Ordinance, is a new criteria, for analyzing whether there is equivalent domestic production. The domestic production will only be considered equivalent when the domestic product presents:

- Performance or productivity equal or superior to that of the imported good;
- Delivery time equal or inferior to that of the imported good;
- Previous supply of the product for the last five years;
- Price of the domestic product (ex works, without taxes) not superior to that of the imported good, calculated based on CIF + import tariff.

With these new criteria, the definition of "equivalent national product" becomes very strict.

The analysis and drafting of the legal opinion and recommendation on the request for an *ex-tarifário* regime is now made by the Secretariat of Development of Industry, Trade, Services and Innovation, in the Ministry of Economy. After analysis, the legal opinions are submitted to the Special Secretariat of Foreign Trade and International Affairs (SECINT), the entity that decides whether or not to grant the *ex-tarifário*. In this process, SECINT may request the opinion of the Executive Secretariat of the Chamber of Foreign Trade (CAMEX) before approving or publishing the requests.

Please note that the Ordinance entered into force on June 26 and applies, where applicable, to ongoing *ex-tarifários* requests.

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Further, on June 27, 2019, SECINT published Ordinance nº 461 automatically extending until December 31, 2021, all *ex-tarifários* supposed to expire on June and December 2019 and June and December 2020. Usually, when an *ex-tarifário* comes close to its expiration date, the interested party may present a request for renewal that is analyzed by the competent authority, who will decide whether or not to extend the regime. Ordinance nº 461, however, has granted automatic renewals until 2021.

Please refer below to examples of *ex-tarifários* already granted. A complete list of the *ex-tarifários* in force is available in Portuguese.

- Capital Goods
  The *ad valorem* import duties levied on various capital goods classified under Mercosur Common Nomenclature (*Nomenclatura Comum Mercosul - NCM*) chapters 84, 85, 86, 87, and 90 were reduced. Among those goods were engines, pumps for several uses, compressors, refrigerators, freezers, dryers, axial ventilators, machinery for packaging and labelling, forklifts, hydraulic cranes, gearboxes, sensors, microscopes, industrial ovens, towing vehicles, devices for operating ophthalmic lenses, printers and machinery for food processing.

- ICT Products
  The *ad valorem* import duties levied on certain ICT products classified under NCM chapters 84, 85 and 90 were reduced, *inter alia*, printers, radios, monitors, electronic sensors, control systems, routers and amplifiers.

These new Ordinances seem to be aligned with the direction set by the new Brazilian Government to facilitate imports and foster competition.

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