

To: Our Clients and Friends

April 7, 2010

## **U.S. and Brazil Avoid Trade Retaliation in Cotton Dispute**

On April 6, 2010, the United States and Brazil reached an agreement on a negotiated solution toward settling the long-standing cotton subsidies dispute. The agreement comes one day before Brazil was to begin implementation of up to \$830 million in trade sanctions authorized by the World Trade Organization (“WTO”). The WTO ruled in 2005 and again in 2008 that the United States provided illegal subsidies to cotton producers through various payments and programs.

Under the agreement, Brazil would refrain from imposing the sanctions in exchange for: (1) near-term modifications to the operation of the Export Credit Guarantee Program and engagement with Brazil on further operations of the program; (2) the establishment of a fund of \$147.3 million per year to provide technical assistance and capacity building that will last until passage of the next farm bill, expected in 2012, or when a mutually agreeable solution is reached, whichever comes first; and (3) the publication of a proposed rule to recognize the Brazilian state, Santa Catarina, as free of certain animal diseases, including foot-and-mouth disease, and to evaluate and identify risk measures that can prevent the introduction of foot-and-mouth disease in the U.S. Both governments also agree to continue discussion with the hope of reaching an agreement by June on a process that can definitively resolve the dispute.

Brazil announced on March 8, 2010, a final list of products from the U.S. that would face higher duties upon importation into Brazil. Implementation was delayed for 30 days to provide opportunities to explore alternatives with the U.S. government. Included on the list are products such as cotton, wheat, fruit, nuts, textiles, automobiles, pharmaceuticals, medical equipment, and electronics. In addition, Brazil proposed to annul intellectual property rights held by U.S. companies, such as nullifying pharmaceutical patents before their expiration date and granting the right to Brazilian farmers to use seeds developed by American biotechnology companies for free.

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