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March 2023

COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP ENTERS INTO FORCE

On Tuesday, February 21, 2023, Decree Nº318/2022 of the Ministry of Foreign Affairs was published in the Official Gazette, enacting the "Comprehensive and Progressive Agreement for Trans-Pacific Partnership" (CPTPP), which has entered into force as of that date.

The treaty seeks to promote the economic integration of the parties, generating a common framework for trade policy, government procurement, intellectual property, electronic commerce, investment, among others.

With respect to intellectual property, pharmaceutical products, electronic commerce, consumer rights and protection of personal data, we can report the following relevant aspects:

Trademarks, Internet domain names and patents:

CPTPP includes various standards to be met by local legislation with respect to trademarks, geographical indications, domain names and patents, referring mainly to the signs and inventions that may be subject to registration and the minimum rules that registration procedures must comply with.

In this regard, the relevant local regulations, particularly after the legal amendments of the year 2022 regarding industrial property, already include the aforementioned standards. In that sense, the treaty would not imply the need to introduce substantive amendments to the national legislation.

For more details, please click here.

Copyright and related rights:

In the area of copyrights, the treaty introduces criteria already included in the local legislation regarding the recognition of rights and its limitations, collective management entities and industrial secrets. It introduces the special commitment of the parties to use non-infringing software in governments. The treaty would not imply

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Carey y Cía. Ltda.
Isidora Goyenechea 2800, 43rd Floor.
Las Condes, Santiago, Chile.
www.carey.cl

the need for substantive amendments to national legislation.

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Intellectual property litigation:

CPTPP sets forth several criteria to improve and streamline the mechanisms for the enforcement of intellectual property rights, several of which are already included in our domestic legislation.

Notwithstanding the above, the treaty includes innovations that reinforce the standards currently in force in Chile, introducing presumptions in favor of the holders of intellectual property rights and reinforcing both criminal sanctions and precautionary measures already in place, especially in matters of trade secrets and trademark counterfeiting.

For more details, please click here.

E-commerce, consumer rights, technology, and data protection:

The treaty provides a general framework for e-commerce, considering the growth and opportunities offered by such phenomenon, stressing the importance of having regulations that promote consumer confidence in transactions carried out by electronic means.

This regulatory framework provides that the parties must maintain a legal framework that is compatible with the principles of international model laws; it prohibits denying the validity of signatures on the basis that they are electronic; it establishes the obligation to adopt or maintain consumer protection laws to prohibit fraudulent or deceptive practices that cause potential damages.

It also addresses the obligation to set forth rules to protect the personal data of electronic consumers; regulates international data transfers; prohibits setting forth requirements for the location of computer resources; protects source codes; and urges the parties to adopt or maintain measures to prevent unsolicited commercial messages. Finally, it addresses the need for international cooperation in relation to electronic commerce, including cybersecurity.

For more details, please click here.

Pharmaceutical and regulatory affairs:

The treaty addresses pharmaceuticals from three distinct

perspectives.

First, in relation to technical barriers to trade, it seeks to eliminate unnecessary technical barriers and improve transparency by increasing regulatory cooperation and applying to the development and adoption of regulations, standards and marketing authorization processes for pharmaceuticals, cosmetics, and medical devices.

Second, from the perspective of the protection and enforcement of intellectual property rights, it sets forth measures relating to the marketing of pharmaceutical products and patent linkage, to grant protection to the patent holder and avoiding the alteration of the periods of protection.

Finally, the treaty refers to those principles and rules that address transparency and procedural fairness in relation to each party's systems applicable to this class of products.

For more details, please click here.