

DECONTROLLED/UNCLASSIFIED

1037
Eldo

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

Page: 1
RELEASED IN PART
B4 Channel: n/a

~~LIMITED OFFICIAL USE~~

PAGE 01 BRASIL 13332 01 OF 02 131332Z
ACTION ARA-00

INFO LOG-00 COPY-01 ADS-00 INR-10 CIAE-00 EB-00 NSAE-00
STR-17 INRE-00 OES-09 /037 W
-----160742 131630Z /43

R 131327Z NOV 87
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 0168
USDOC WASHDC
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

~~LIMITED OFFICIAL USE~~ SECTION 01 OF 02 BRASILIA 13332

USDOC FOR 4330/IEP/WH/OSA/PETER FIELD AND
- 6710/TD/SE/OCBE/JACK MCPHEE AND
- 4300/IEP/WH/DAS/ANN HUGHES

USTR FOR CHRISTINA LUND, JON ROSENBAUMAND PEP FULLER
EB ALSO FOR TOM WHITE

PASS FDA FOR COMMISSIONER FRANK YOUNG

E.O. 12356: N/A
TAGS: EIND, ETRD, EINV, BR
SUBJECT: BRAZIL PHARMACEUTICALS: MORE ON PATENTS

REF(S): (A) SAO PAULO 2610, (B) BRASILIA 7921,
(C) SAO PAULO 2470

SAO PAULO 2959, TRANSMITTED TO AMEMBASSY BRASILIA AND
AMCONSUL RIO DE JANEIRO, IS REPEATED HEREWITH FOR
ACTION/INFO OF ADDRESSEES:

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~

PAGE 02 BRASIL 13332 01 OF 02 131332Z

1. SUMMARY. THE PRESIDENT OF A MAJOR MULTINATIONAL

Current Class: ~~LIMITED OFFICIAL USE~~

Page: 1

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: NORMAN M. BOUTON
DATE/CASE ID: 4 JAN 2002 200000143

DECONTROLLED/UNCLASSIFIED

DECONTROLLED/UNCLASSIFIED

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

Page: 2
Channel: n/a

PHARMACEUTICAL FIRM HERE TOLD ECONOFF ON NOVEMBER 5 THAT, WHILE HE AND A FEW OTHER MULTINATIONAL EXECUTIVES ARE WORKING NEARLY FULL-TIME ON THE PATENT PROTECTION ISSUE, A NUMBER OF HIS "COLLEAGUES" ARE GIVING PRIORITY TO THE PRICING PROBLEM, WHICH HE ARGUED IS CAUSED LARGELY BY THE LACK OF PATENT PROTECTION. THIS SOURCE SAID THAT U.S. PARENT FIRMS AND THE PHARMACEUTICAL MANUFACTURERS ASSOCIATION (PMA) SHOULD PRESS THEIR BRAZILIAN SUBSIDIARIES TO DO MORE AND SHOULD THEMSELVES COMMIT MORE TIME, MONEY, AND RESOURCES TO THE PRO-PATENT EDUCATION CAMPAIGN HERE. THIS CAMPAIGN, HE ADDED, SHOULD FOCUS ON CONVINCING BRAZILIAN LEADERS OF THE VALUE OF PATENT PROTECTION FOR BRAZIL, NOT ON COMPLAINING ABOUT THE DAMAGE DONE TO MULTINATIONALS BY THE LACK OF PROTECTION. FINALLY, THE INDUSTRY REPRESENTATIVE ARGUED STRONGLY AGAINST PROPOSALS PUT FORTH BY OTHER MULTINATIONAL EXECUTIVES THAT THE INDUSTRY AND THE USG MUST BE WILLING TO TRADE SOMETHING (SUCH AS AN AGREEMENT TO LICENSE PATENTED DRUGS) FOR PATENT PROTECTION. END SUMMARY.

2. ON THURSDAY, NOVEMBER 5, ECONOFF MET WITH THE PRESIDENT OF THE BRAZILIAN SUBSIDIARY OF A MAJOR U.S. PHARMACEUTICAL FIRM TO DISCUSS PATENT PROTECTION. ECONOFF BEGAN BY NOTING THAT, FROM CONVERSATIONS WITH A NUMBER OF INDUSTRY REPRESENTATIVES (REFTEL A), IT SEEMED THAT THE FIGHT FOR PATENT PROTECTION HAS LATELY BEEN PLAYING SECOND FIDDLE TO THE BATTLE FOR HIGHER PRICES. 3. THE SOURCE AGREED THAT MANY OF HIS "COLLEAGUES" WERE, MISTAKENLY IN HIS VIEW, FOCUSING ON THE PRICING ISSUE AT THE EXPENSE OF THE MORE IMPORTANT

~~LIMITED OFFICIAL USE~~

PAGE 03 BRASIL 13332 01 OF 02 131332Z

PATENT PROTECTION ISSUE. HE ARGUED, HOWEVER, THAT THE LACK OF PATENT PROTECTION IS A MAJOR FACTOR IN THE PRICING PROBLEM. HE EXPLAINED WITH AN EXAMPLE. IF A U.S. FIRM DEVELOPS A NEW DRUG AND THEN SELLS THE RAW MATERIALS FOR THE DRUG TO ITS BRAZILIAN SUBSIDIARY, THE SUBSIDIARY PAYS A PRICE FOR THE RAW MATERIALS THAT INCLUDES SOME OF THE DRUG'S DEVELOPMENT COST. SINCE THE GOB DETERMINES A DRUG'S PRICE BASED LARGELY ON THE COST OF RAW MATERIALS, THE SUBSIDIARY IS GRANTED A PRICE THAT ALLOWS FOR DEVELOPMENT COSTS. HOWEVER, IF A BRAZILIAN FIRM, NOT HAVING TO WORRY ABOUT VIOLATING A

Current Class: ~~LIMITED OFFICIAL USE~~

Page: 2

DECONTROLLED/UNCLASSIFIED

DECONTROLLED/UNCLASSIFIED

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

Page: 3
Channel: n/a

PATENT, DECIDES TO MAKE THE SAME DRUG, IT CAN BUY THE RAW MATERIALS FROM ANOTHER SUPPLIER, EITHER LOCALLY OR OVERSEAS, AT A PRICE THAT DOES NOT INCLUDE THE DRUG'S DEVELOPMENT EXPENSE. SINCE THE GOB DETERMINES DRUG PRICES BASED ON THE LOWEST COST PAID FOR THE RAW MATERIALS, THE PRICE GRANTED FOR THE DRUG (WHETHER ORIGINAL OR PIRATED) WOULD NOT INCLUDE ANY ALLOWANCE FOR DEVELOPMENT COSTS.

4. THE COMPANY PRESIDENT EMPHASIZED THAT PATENT PROTECTION IS ABSOLUTELY ESSENTIAL FOR THE INDUSTRY, AND SAID HE AND A FEW OTHER MULTINATIONAL EXECUTIVES ARE WORKING NEARLY FULL-TIME ON AN EDUCATION CAMPAIGN DESIGNED TO DRUM UP SUPPORT FOR PATENT PROTECTION. (COMMENT. HE SAID INDIVIDUAL COMPANY CHIEFS, RATHER THAN THE LATIN AMERICA WORKING GROUP - LAWG, WERE DOING MOST OF THE WORK. END COMMENT.) SPECIFICALLY, THEY HAVE HIRED A FULL-TIME PUBLIC RELATIONS FIRM THAT HAS BEEN LOBBYING, SO FAR SUCCESSFULLY, TO PREVENT THE INCORPORATION INTO THE NEW CONSTITUTION OF A PROVISION FORBIDDING PATENT PROTECTION FOR PHARMACEUTICALS.

~~LIMITED OFFICIAL USE~~

NNNN

~~LIMITED OFFICIAL USE~~

PAGE 01 BRASIL 13332 02 OF 02 131333Z
ACTION ARA-00

INFO LOG-00 COPY-01 ADS-00 INR-10 CIAE-00 EB-00 NSAE-00
STR-17 INRE-00 OES-09 /037 W

-----160755 131629Z /43
R 131327Z NOV 87

Current Class: ~~LIMITED OFFICIAL USE~~

Page: 3

DECONTROLLED/UNCLASSIFIED

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

Page: 4

Channel: n/a

FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 0169
USDOC WASHDC
INFO AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

~~LIMITED OFFICIAL USE~~ SECTION 02 OF 02 BRASILIA 13332

USDOC FOR 4330/IEP/WH/OSA/PETER FIELD AND

- 6710/TD/SE/OCBE/JACK MCPHEE AND

- 4300/IEP/WH/DAS/ANN HUGHES

USTR FOR CHRISTINA LUND, JON ROSENBAUMAND PEP FULLER

EB ALSO FOR TOM WHITE

PASS FDA FOR COMMISSIONER FRANK YOUNG

E.O. 12356: N/A

TAGS: EIND, ETRD, EINV, BR

SUBJECT: BRAZIL PHARMACEUTICALS: MORE ON PATENTS

5. IN ADDITION, THEY HAVE BEEN DISSEMINATING INFORMATION, INCLUDING AN UPDATED VERSION OF THE PFIZER REPORT MENTIONED IN REFTTEL B, ON THE VALUE OF PATENT PROTECTION TO BRAZIL. FINALLY, AS REPORTED IN REFTTEL C, THEY ARE WORKING TO GAIN ALLIES AMONG POLITICALLY INFLUENTIAL INDIVIDUALS AND GROUPS IN THE HOPE THAT

~~LIMITED OFFICIAL USE~~

~~LIMITED OFFICIAL USE~~

PAGE 02 BRASIL 13332 02 OF 02 131333Z

ENOUGH POLITICAL PRESSURE IN FAVOR OF PATENT PROTECTION CAN BE BUILT UP TO FORCE THE GOVERNMENT TO ACT. NEXT WEEK, FOR EXAMPLE, THEY WILL MEET WITH REPRESENTATIVES FROM INTERPAT (A SWITZERLAND-BASED PHARMACEUTICAL PATENT LOBBY) TO DISCUSS WAYS TO OBTAIN PATENT PROTECTION IN BRAZIL.

6. THE SOURCE SAID THAT, DESPITE HIS AND OTHER EXECUTIVES' EFFORTS, MORE NEEDS TO BE DONE. SPECIFICALLY, HE SAID U.S. PARENT FIRMS AND THE PMA SHOULD PRESS THEIR BRAZILIAN SUBSIDIARIES TO DEVOTE

Current Class: ~~LIMITED OFFICIAL USE~~

Page: 4

DECONTROLLED/UNCLASSIFIED

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

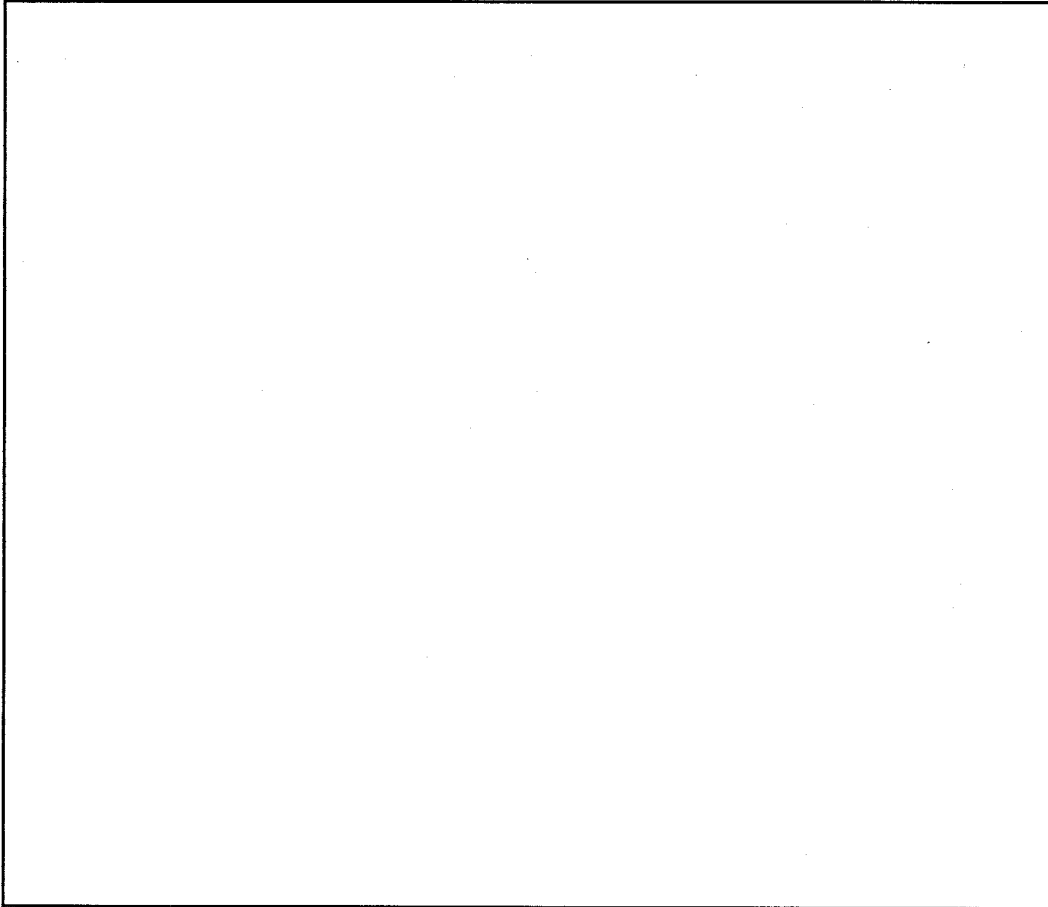
Page: 5

Channel: n/a

GREATER EFFORT TO THE PUBLIC EDUCATION CAMPAIGN. IN ADDITION, HE SAID THE PMA ITSELF SHOULD CONTRIBUTE MORE MONEY, TIME, AND EFFORT TO THE PROJECT HERE IN BRAZIL. LOCAL FIRMS, HE SAID, SIMPLY DO NOT HAVE THE RESOURCES, FINANCIAL AND OTHERWISE, TO DO EVERYTHING THAT NEEDS TO BE DONE.

7. THE PATENT EDUCATION CAMPAIGN, HE SAID, SHOULD AVOID LENGTHY DISCUSSION ABOUT HOW THE LACK OF PROTECTION DAMAGES FOREIGN FIRMS. THAT HE SAID, WILL DO LITTLE TO HELP THE CAUSE. INSTEAD, INDUSTRY AND THE USG SHOULD EMPHASIZE TO BRAZILIAN GOVERNMENT AND INDUSTRY LEADERS THE BENEFITS THAT WILL ACCRUE TO BRAZIL WITH THE ADOPTION OF PATENT PROTECTION. AND, AS MENTIONED IN REFTTEL C, THE CAMPAIGN SHOULD BE AIMED AT POLITICALLY INFLUENTIAL LEADERS, NOT AT THE MAN IN THE STREET.

B4



Current Class: ~~LIMITED OFFICIAL USE~~

Page: 5

DECONTROLLED/UNCLASSIFIED

DECONTROLLED/UNCLASSIFIED

Current Class: ~~LIMITED OFFICIAL USE~~
Current Handling: n/a
Document Number: 1987BRASIL13332

Page: 6
Channel: n/a

SHLAUDEMAM

~~LIMITED OFFICIAL USE~~

NNNN

Current Class: ~~LIMITED OFFICIAL USE~~

Page: 6

DECONTROLLED/UNCLASSIFIED