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INFO USDOC WASHDC
AMCONSUL RIO DE JANEIRO
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PASS FDA FOR COMMISSIONER FRANK YOUNG

E.O.12356: N/A

TAGS: EIND, ETRD, EINV, BR
SUBJECT: BRAZILIAN PHARMACEUTICALS: AN UPDATE

REF(S): (A) SAO PAULO 2470, (B) SAO PAULO 1382,
(C) SAO PAULO 0952

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SAO PAULO 2610, ORIGINALLY TRANSMITTED TO AMEMBASSY

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: NORMAN M. BOUTON
DATE/CASE ID: 3 JAN 2002 200000143

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BRASILIA AND AMCONSUL RIO DE JANEIRO, IS REPEATED BELOW FOR ACTION/INFO OF ADDRESSEES.

1. SUMMARY. PHARMACEUTICAL FIRMS IN BRAZIL, PLAGUED BY HUGE PRICE-COST DISPARITIES AND AN ALMOST COMPLETE LACK OF NEW DRUG REGISTRATION, ARE PRESSING THE GOVERNMENT FOR PRICE INCREASES AND FASTER APPROVAL OF NEW DRUGS, WITHDRAWING PRODUCTS FROM THE MARKET, AND, IN SOME CASES, THINKING OF CALLING IT QUITS. MEANWHILE, MULTINATIONAL EXECUTIVES ARE TRYING TO FIND TIME TO DEAL WITH THE PATENT PROTECTION ISSUE. THEY ARGUE THAT PATENT PROTECTION IS ESSENTIAL, BUT THAT SOME COMPROMISES WILL BE NECESSARY IN ORDER TO OBTAIN IT. END SUMMARY.

2. IN THE PAST FEW WEEKS, ECONOFF HAS DISCUSSED THE CURRENT STATUS OF THE PHARMACEUTICAL INDUSTRY WITH SEVERAL MULTINATIONAL EXECUTIVES. THESE TALKS, TOGETHER WITH A NUMBER OF PRESS REPORTS, INDICATE THAT THE PHARMACEUTICAL INDUSTRY IN BRAZIL, INCLUDING NATIONAL AND MULTINATIONAL FIRMS, IS IN SERIOUS TROUBLE.

PRICING AND PROFITABILITY ARE BIG PROBLEMS . . .

3. THE MOST IMMEDIATE THREAT, BESIDES THE PROVISION IN THE LATEST DRAFT CONSTITUTION ALLOWING FOR A STATE MONOPOLY ON PHARMACEUTICAL IMPORTS (SEPTEL), IS PROFITABILITY, OR, RATHER, LACK OF PROFITABILITY. AS REPORTED IN REFTELS, THE PHARMACEUTICAL INDUSTRY HERE HAS LONG COMPLAINED THAT THE GOVERNMENT-SET PRICES FOR

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PHARMACEUTICALS ARE RIDICULOUSLY LOW. AS A RESULT, THE INDUSTRY HAS BEEN FORCED TO SELL MANY OF ITS PRODUCTS BELOW COST.

4. INDUSTRY LEADERS ARGUE THAT THE AVERAGE "DEFASAGEM" (PRICE-COST DISPARITY) FOR PHARMACEUTICALS IS NOW 70 PERCENT, WITH SOME PRODUCTS SUFFERING MUCH GREATER DISPARITIES. THE INTERMINISTERIAL PRICE COUNCIL (CIP) IS ANALYZING THE COST OF ALL PRODUCTS ON THE MARKET (THERE ARE MORE THAN 7000), BASED ON THE COST STRUCTURE OF THE BRAND LEADER IN EACH PRODUCT CATEGORY. THEORETICALLY, THIS WILL ALLOW THE CIP TO SET

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REASONABLE SELLING PRICES FOR ALL PRODUCTS.

UNFORTUNATELY, ACCORDING TO [REDACTED]

[REDACTED] THE CIP HAS NEITHER THE
MANPOWER NOR THE EXPERTISE TO CARRY OUT THIS TASK IN A
REASONABLE TIME. FURTHERMORE, AS [REDACTED]

OF [REDACTED] POINTED OUT, THE CIP ANALYSIS DOES
NOT ALLOW FOR R & D COSTS, SO IT IS INHERENTLY UNFAIR.

5. INDUSTRY REPRESENTATIVES, WHO ARGUE THAT THEY CAN'T
AFFORD TO WAIT FOR THE CIP TO FINISH ITS ANALYSIS, HAVE
BEEN PRESSING THE GOVERNMENT TO GRANT THEM A 70 PERCENT
ACROSS-THE-BOARD PRICE INCREASE. [REDACTED]

[REDACTED] HOWEVER, TOLD
ECONOFF THAT FINANCE MINISTER BRESSER PEREIRA TOLD HIM
RECENTLY THAT THE MOST INDUSTRY COULD HOPE FOR IS AN 18
PERCENT INCREASE IN OCTOBER. (COMMENT. INFLATION IN
OCTOBER IS EXPECTED TO BE IN THE DOUBLE DIGIT RANGE.
END COMMENT.)

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WHILE NEW DRUG REGISTRATION REMAINS AT A STANDSTILL
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6. AS DISCUSSED IN REFTTEL C, INDUSTRY EXECUTIVES HAVE TRIED IN THE PAST TO GET AROUND THE PRICING PROBLEM BY REPLACING "OLD" PRODUCT LINES WITH "NEW" PRODUCT LINES THAT REALLY ARE NOT "NEW" AT ALL. THEY ARE STILL TRYING THIS APPROACH, BUT WITH NO MORE SUCCESS THAN THEY HAD IN THE PAST.

7. THE PROBLEM REMAINS THE FACT THAT DIMED, THE GOVERNMENT ORGAN CHARGED WITH REGISTERING NEW DRUGS, HAS SIMPLY NOT DONE ITS JOB. SEVERAL INDUSTRY SOURCES

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TOLD ECONOFF THAT DIMED HAS APPROVED ONLY A HANDFUL OF NEW DRUGS IN THE PAST SIX MONTHS. ACCORDING TO AN EDITORIAL IN THE DAILY NEWSPAPER GAZETA MERCANTILE, 10,500 NEW DRUG REGISTRATION REQUESTS ARE NOW PENDING AT DIMED, WHICH HAS FOURTEEN INSPECTORS TO REVIEW THEM. JOAO CARLOS PINHEIRO DIAS, WHO REPLACED LEFTIST-LEANING SUELY ROZENFELD AS DIMED DIRECTOR, PUT THE BLAME SQUARELY ON MINISTER OF FINANCE ROBERTO SANTOS, ARGUING THAT THE MINISTER REFUSED TO SUPPORT DIMED. DIAS, WHO WAS LIKED BY PRIVATE INDUSTRY, WAS PROMPTLY FIRED. HIS REPLACEMENT, GILBERTO AMADO PEREIRA ALVES FILHO, HAS EXPRESSED A WILLINGNESS TO WORK WITH INDUSTRY BUT HAS NOT YET MADE ANY MAJOR CHANGES.

INDUSTRY'S RESPONSE IS TO CUT COSTS . . .

8. IN RESPONSE TO THE PRICING AND REGISTRATION PROBLEMS, MULTINATIONAL AND LOCAL FIRMS HAVE STOPPED NEW INVESTMENTS, LAID OFF WORKERS, AND OTHERWISE CUT ~~LIMITED OFFICIAL USE~~

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COSTS.THE MOST SERIOUS STEP, AT LEAST FROM THE BRAZILIAN POPULACE'S PERSPECTIVE, HAS BEEN TO REMOVE SOME PRODUCTS FROM THE MARKET. ACCORDING TO JOAO LUIS FERREIRA SOARES, PRESIDENT OF THE BRAZILIAN PHARMACEUTICAL ASSOCIATION (ABIFARMA), FIRMS HAVE REMOVED MORE THAN 700 PRODUCTS FROM THE MARKET SINCE THE BEGINNING OF THE YEAR, AND A LARGE NUMBER OF OTHER PRODUCTS ARE IN SHORT SUPPLY.

9. MOST MULTINATIONAL FIRMS ARE DOING A BALANCING ACT TO TRY TO REMOVE UNPROFITABLE PRODUCT LINES WHILE STILL SUPPLYING CRITICAL DRUGS. [REDACTED] FOR EXAMPLE, HAS TOLD THE GOVERNMENT THAT IT IS WITHDRAWING 25 OF ITS 65 ETHICAL DRUG PRODUCTS FROM THE MARKET AS OF OCTOBER 1 DUE TO LOW PRICES. [REDACTED]

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AND SOME FIRMS EVEN TALK OF CALLING IT QUILTS

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10. THE SITUATION HAS DETERIORATED TO THE POINT THAT THERE IS INCREASING TALK IN THE INDUSTRY THAT SOME FIRMS MAY CALL IT QUILTS. ACCORDING TO SOME OF THE MORE ALARMIST SOURCES, SUCH AS ABIFARMA PRESIDENT SOARES AND SENATOR ROBERTO CAMPOS, FOUR MULTINATIONAL FIRMS ARE PLANNING TO LEAVE BRAZIL AND 25 BRAZILIAN FIRMS ARE ON THE VERGE OF BANKRUPTCY. [REDACTED] TOLD ECONOFF THAT SOME MULTINATIONALS, INCLUDING HIS

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OWN, WERE THINKING SERIOUSLY OF LEAVING BRAZIL, AND ANOTHER MULTINATIONAL EXECUTIVE TOLD ECONOFF THAT HIS

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FIRM WOULD CONSIDER LEAVING THE BRAZILIAN PHARMACEUTICAL MARKET WITHIN TWO YEARS IF THINGS DON'T IMPROVE. (COMMENT. WE DO NOT DOUBT THAT A FEW MULTINATIONALS MAY BE SERIOUSLY CONSIDERING CALLING IT QUILTS. HOWEVER, GIVEN THE FACT THAT SOME MULTINATIONALS, [REDACTED] HAVE A HISTORY OF THREATENING TO LEAVE BRAZIL, WE BELIEVE THESE LATEST WARNINGS SHOULD BE TAKEN WITH A GRAIN OF SALT. END COMMENT.)

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11. ALTHOUGH THE MULTINATIONAL EXECUTIVES WITH WHOM ECONOFF SPOKE SAID THEY HAD NO DIRECT KNOWLEDGE OF WHAT LOCAL FIRMS WERE DOING, THEY AGREED THAT MOST BRAZILIAN FIRMS WERE AT LEAST AS BAD OFF AS THE MULTINATIONALS. AS [REDACTED] SAID, "AFTER ALL, THEY DON'T HAVE ANY CORPORATE HEADQUARTERS TO ABSORB THEIR LOSSES."

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MEANWHILE, WHAT ABOUT PATENT PROTECTION?

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12. WITH ALL THE PROBLEMS INVOLVED IN JUST TRYING TO STAY AFLOAT IN BRAZIL, MOST MULTINATIONAL EXECUTIVES HAVE NOT FOCUSED TOO MUCH ON THE PATENT PROTECTION ISSUE. ACCORDING TO ONE EXECUTIVE, "PATENTS ARE IMPORTANT, BUT THEY HAVE NOT BEEN SOMETHING WE'VE TALKED ABOUT ON A DAILY BASIS."

13. FOR THE MOST PART, THE MULTINATIONALS HAVE MAINTAINED A LOW PROFILE ON THE PATENT ISSUE, ARGUING THAT THE ISSUE NOW IS BETWEEN THE TWO GOVERNMENTS AND THAT THE MULTINATIONALS SHOULD STICK TO QUIET LOBBYING EFFORTS. SOME SAY THEY ARE NOT PUSHING THE ISSUE TOO HARD BECAUSE IT HURTS TO BE SEEN AS WORKING WITH THE USG.

14. ON THE OTHER HAND, [REDACTED]

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[REDACTED] TOLD ECONOFF THAT HE HAS BEEN SPENDING A LOT OF TIME IN BRASILIA LOBBYING GOVERNMENT OFFICIALS ON THE PATENT ISSUE. (COMMENT. THEY ARE USING THE TERM "INTELLECTUAL PROPERTY RIGHTS" RATHER THAN PATENTS. END COMMENT.) HE ALSO SAID THE HE WAS PLEASED WITH RECENT MEDIA COVERAGE OF THE ISSUE, WHICH HE SAID HAS REFLECTED THE LAWG'S POSITION QUITE WELL.

15. EVERY MANAGER WITH WHOM ECONOFF SPOKE ARGUED AGAINST THE IDEA THAT THERE WAS NO ROOM FOR COMPROMISE ON THE PATENT PROTECTION ISSUE. INSTEAD, THEY SAID THAT COMPROMISE WAS ESSENTIAL, SINCE THE BRAZILIAN GOVERNMENT WOULD NOT ACCEPT A PATENT PROTECTION LAW WITHOUT GAINING SOMETHING IN RETURN.

16. THE IDEA, THEY SAID, IS NOT TO COMPROMISE IN THE SENSE OF GIVING UP ON PATENT PROTECTION, BUT TO OFFER SOMETHING IN RETURN FOR IT. ONE SOURCE SUGGESTED, FOR EXAMPLE, THAT WE ACCEPT A LAW THAT PROTECTS PATENTS FOR 8-10 YEARS INSTEAD OF 15. OTHERS SUGGESTED SOME FORM OF JOINT MARKETING AGREEMENT, WHEREBY MULTINATIONALS WOULD HAVE PATENT PROTECTION, BUT WOULD AGREE IN RETURN TO LICENSE EACH PATENTED PRODUCT TO ONE OR MORE BRAZILIAN FIRMS.

17. MOST OF THE EXECUTIVES ARGUED THAT BRAZIL'S PRICING POLICY IS NOW AND WILL CONTINUE TO BE CONNECTED TO THE PATENT ISSUE. AS ONE MANAGER PUT IT, "THE PMA'S POINT MAN IN WASHINGTON IS PUSHING THE PATENT ISSUE HARD BECAUSE HE IS MAD ABOUT HOW MUCH MONEY HIS COMPANY

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IS LOSING IN BRAZIL. IF HIS COMPANY STARTED MAKING

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MONEY, HE WOULD SOFTEN HIS VIEWS AND BE WILLING TO GIVE UP SOMETHING IN RETURN FOR PATENTS." ANOTHER EXECUTIVE

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AGREED, ARGUING THAT "THERE IS NO DOUBT THAT, IF THE BRAZILIAN GOVERNMENT GIVES ON PRICES, WE WOULD BE WILLING TO MAKE SOME COMPROMISES (SUCH AS THOSE SUGGESTED IN PARA 15) ON THE PATENT ISSUE. WE HAVE TO PUSH HARD, YET BE FLEXIBLE AT THE SAME TIME."

SHLAUDEMAN

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