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ACTION ARA-00

INFO LOG-00 COPY-01 ADS-00 SS-00 EB-00 L-03 ITC-01
STR-17 E-01 P-02 /025 W
-----177441 250007Z /72 38

R 241814Z SEP 87
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 8891
INFO USDOC WASHDC
AMCONSUL RIO DE JANEIRO
AMCONSUL SAO PAULO

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

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

- 4300/IEP/WH/DAS/ANN HUGHES

USTR FOR CHRISTINA LUND

E.O.12356: N/A
TAGS: BR, ECON, ETRD, EIND
SUBJECT: BRAZILIAN PHARMACEUTICALS: U.S. FIRMS
DEVELOPING STRATEGY FOR OBTAINING PATENT PROTECTION

SAO PAULO 2470, ORIGINALLY TRANSMITTED TO AMEMBASSY
BRASILIA AND AMCONSUL RIO DE JANEIRO, IS REPEATED BELOW
FOR ACTION/INFO OF ADDRESSEES:

1. SUMMARY. THE PHARMACEUTICAL INDUSTRY'S LATIN
AMERICA WORKING GROUP (LAWG) HAS BEGUN TO DEVELOP A
STRATEGY TO GAIN PATENT PROTECTION. PART OF THAT
STRATEGY INVOLVES CONVINCING POLITICALLY INFLUENTIAL
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GROUPS TO WORK BEHIND THE SCENES TO WIN OVER TOP
BRAZILIAN OFFICIALS. ANOTHER PART OF THAT STRATEGY IS

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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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TO TRY TO CONVINCING AT LEAST SOME BRAZILIAN PHARMACEUTICAL FIRMS TO SUPPORT PATENT PROTECTION. ONE U.S. FIRM, [REDACTED] HAS BROUGHT UP THE IDEA OF OFFERING JOINT MARKETING ARRANGEMENTS TO BRAZILIAN FIRMS IN RETURN FOR SUPPORT ON PATENT PROTECTION. END SUMMARY.

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2. ON FRIDAY, SEPTEMBER 3, THE CONSUL GENERAL HOSTED A MEETING OF THE U.S. CHAMBER OF COMMERCE'S EXECUTIVE COMMITTEE AT WHICH THE PHARMACEUTICAL INDUSTRY'S LATIN AMERICAN WORKING GROUP (LAWG) MADE A PRESENTATION ASKING FOR THE SUPPORT OF THE CHAMBER IN THE INDUSTRY'S STRUGGLE TO OBTAIN PATENT PROTECTION FOR ITS PRODUCTS.

3. THE INDUSTRY IS TRYING TO ENLIST THE SUPPORT OF INFLUENTIAL GROUPS, INCLUDING THE CHAMBER, BECAUSE IT BELIEVES THAT THE BEST WAY TO WIN ITS CASE IS TO HAVE SUCH GROUPS LOBBY BEHIND THE SCENES TO CONVINCING TOP GOVERNMENT OFFICIALS OF THE VALUE OF PATENT PROTECTION. LAWG LEADERS THINK THAT THE DECISION ON PATENT PROTECTION WILL BE MADE AT HIGH LEVELS AND WILL BE DETERMINED BY POLITICAL CONSIDERATIONS (WITH THE ECONOMIC ARGUMENTS FOR AND AGAINST PROTECTION NOW BEING BANDIED ABOUT USED ONLY LATER TO JUSTIFY THE DECISION).

4. ACCORDING TO [REDACTED] AND AN ACTIVE LAWG PARTICIPANT, THE PRESIDENT OF THE U.S. CHAMBER IN SAO PAULO, CHRISTOPHER LUND, HAS AGREED TO TRY TO HELP THE LAWG GAIN THE SUPPORT OF OTHER FOREIGN CHAMBERS AND THE THE GROUP OF THIRTY, AN INFLUENTIAL TRADE GROUP WITHIN THE SAO PAULO STATE FEDERATION OF INDUSTRIES. (COMMENT. [REDACTED])

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SHOWED ECONOFFS A COPY OF A PHARMACEUTICAL PATENT PROTECTION ISSUE PAPER, WHICH THE LAWG PLANS TO USE AS A MODEL, PREPARED BY THE FOREIGN CHAMBERS IN THAILAND. END COMMENT.)

5. ACCORDING TO [REDACTED] THE LAWG IS ALSO TRYING TO ENLIST THE COOPERATION OF LOCAL PHARMACEUTICAL FIRMS, WHICH SO FAR HAVE OPPOSED PATENT PROTECTION. ONE POSSIBLE WAY TO GAIN SUCH SUPPORT, [REDACTED]

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[REDACTED] IS TO OFFER THEM JOINT MARKETING VENTURES IN RETURN. [REDACTED] CALLED IT "SANCTIONED PIRACY."

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6. COMMENT. THE MULTINATIONAL PHARMACEUTICAL INDUSTRY HERE HAS SO FAR BEEN UNABLE TO FOCUS ITSELF WELL ENOUGH TO DEVELOP A RATIONAL, CONSISTENT STRATEGY FOR OBTAINING PATENT PROTECTION. PART OF THE PROBLEM, ACCORDING TO [REDACTED] IS THE LACK OF TIME. THE LAWG IS LED BY MEN LIKE [REDACTED] WHOSE JOBS AS PRESIDENTS OR DIRECTORS OF LARGE CORPORATIONS LEAVE LITTLE TIME FOR LAWG ACTIVITY. [REDACTED] FOR EXAMPLE, TOLD ECONOFF THAT HE HAS BEEN WORKING 60-70 HOURS A WEEK, AND THAT HE CAN'T CONTINUE WORKING SUCH HOURS MUCH LONGER.

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7. NEVERTHELESS, THE LAWG'S EFFORTS LAST WEEK WERE A STEP IN THE RIGHT DIRECTION. THE INDUSTRY CLEARLY UNDERSTANDS THAT THE DECISION ON PATENT PROTECTION IS GOING TO BE BASED ON POLITICAL, NOT ECONOMIC,

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CONSIDERATIONS, AND THAT DISCREET LOBBYING BY
POLITICALLY INFLUENTIAL ORGANIZATIONS IS THEREFORE A
MUST. WHILE THE POLITICAL INFLUENCE OF THE U.S.
CHAMBER SHOULD NOT BE EXAGGERATED, ITS COOPERATION
MIGHT HELP THE LAWG REACH OTHER, MORE INFLUENTIAL
GROUPS.

8. THE IDEA OF OFFERING JOINT MARKETING ARRANGEMENTS
IN RETURN FOR SUPPORTING PATENT PROTECTION HAS BEEN
MENTIONED BEFORE, BUT THE LAWG HAS NOT YET CONSIDERED
IT SERIOUSLY. IN EYES, IT IS ONE POSSIBLE
CARROT TO BE USED IN THE LONG-TERM STRATEGY OF WINNING

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ALLIES. WE WILL SOUND OUT OTHER U.S. FIRMS HERE TO SEE
WHAT THEIR VIEWS ON THE IDEA ARE.
SHLAUDEMANN

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