1. SUMMARY. THE PRESIDENT OF A MAJOR MULTINATIONAL
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 ARGUES 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 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 GOVERNMENT 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
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.
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 0169
USDOC WASHDC
INFO AMCONSUL RIO DE JANEIRO
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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 ROSENBAUM AND 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 REFTEL B, ON THE VALUE OF PATENT
PROTECTION TO BRAZIL. FINALLY, AS REPORTED IN REFTEL
C, THEY ARE WORKING TO GAIN ALLIES AMONG POLITICALLY
INFLUENTIAL INDIVIDUALS AND GROUPS IN THE HOPE THAT

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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

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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 REFTEL C, THE CAMPAIGN SHOULD BE AIMED AT POLITICALLY INFLUENTIAL LEADERS, NOT AT THE MAN IN THE STREET.
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