Brazil's "MARKET RESERVE" policy, should Brazil reverse its action and live up to its commitments to the U.S., I will be prepared to lift these sanctions.

Brazil is a good friend of the United States and we support the steps it is taking to restore its democratic institutions. But Brazil is also a major beneficiary of the global trading system, the openness of which cannot be maintained if markets are deliberately closed, and policies incompatible with a more free and open trading system are established.

2. Following is text of White House fact sheet distributed concurrently with the presidential statement.

**Background**

In September 1985 President Reagan instructed the U.S. Trade Representative to initiate an investigation into Brazil's Informatics policy under Section 301 of the Trade Act of 1974. The President cited Brazil's market reserve policy, administrative barriers on imports, prohibition of foreign investment, and lack of copyright protection for computer software as major grounds for the complaint. In December 1986 the President suspended the Market Reserve and administrative portions of the Section 301 case in response to Brazil's commitment to implement its law in a more clear manner, and not to extend market reserve requirements to new areas, nor beyond 1992, when the market reserve policy is scheduled to expire. He also instructed U.S. Trade Representative Clayton Yeutter to monitor the relevant commitments.

In June 1987 the President suspended the intellectual property rights part of the Section 301 investigation after Brazil's Chamber of Deputies passed legislation that would provide copyright protection for software, and he instructed Ambassador Yeutter to monitor the bill's passage through Brazil's Senate. He also instructed USTR to continue to negotiate the investment parts of the investigation.

In September 1987 Brazil's Secretariat for Informatics (SEI) rejected agreements negotiated between a U.S. software company and six Brazilian Informatics companies for licensing one of the world's leading operating systems. SEI based the rejection on its determination that a Brazilian-made "functionally equivalent" operating system already exists.

Even though the United States has demonstrated that the two operating systems are not similar, the Brazilian government contends that the Brazilian product is adequate for its domestic market. On this basis, any software program or operating system could be considered "equivalent" to the Brazilian product. SEI's decision specifically violates understandings reached with the Brazilian government that SEI's interpretation of "functional equivalent" software would be objective, and the decision establishes a precedent which effectively bars U.S. companies from the Brazilian software market. Except for mainframes, U.S. companies are already prohibited from participating in the Brazilian hardware market.

Brazil's recent action is also likely to increase end-user piracy of foreign software since the prohibited product is not legally available and demand for current state-of-the-art software will continue. End-user piracy...
IS PERHAPS THE MOST DIFFICULT KIND OF PIRACY TO MONITOR OR ENFORCE. BRAZIL'S RECENT DECISION TO GRANT COPYRIGHT PROTECTION FOR COMPUTER SOFTWARE WILL HAVE LITTLE EFFECT.

THE PRESIDENT'S ACTION

THE PRESIDENT HAS DECIDED TO IMPOSE SANCTIONS ON CERTAIN BRAZILIAN EXPORTS TO THE UNITED STATES. A NOTICE WILL BE PLACED IN THE FEDERAL REGISTER NEXT WEEK LISTING PRODUCTS UPON WHICH SANCTIONS COULD BE IMPOSED. AFTER PUBLIC HEARINGS ARE HELD, THE ADMINISTRATION WILL SELECT A RETALIATORY LIST OF PRODUCTS. THE SIZE OF THE RETALIATION WILL REFLECT THE AVERAGE ANNUAL LOST SALES OPPORTUNITIES BY THE U.S. SOFTWARE INDUSTRY IN BRAZIL, ESTIMATED AT $1.5 BILLION. IN ADDITION, THE ADMINISTRATION WILL RESTRICT IMPORTS OF INFORMATICS PRODUCTS FROM BRAZIL WHICH ARE COVERED UNDER THE BRAZILIAN MARKET RESERVE POLICY. ALTHOUGH BRAZIL DOES NOT EXPORT THESE PRODUCTS TO THE U.S. AT THIS TIME, THIS ACTION WILL PREVENT THE BRAZILIAN INFORMATICS INDUSTRY FROM ENTERING THE U.S. MARKET AS LONG AS IT IMPOSES A MARKET RESERVE ON COMPUTER SOFTWARE.

THese Sanctions WILL NOT DEPRIVE U.S. CONSUMERS OF THE PRODUCTS AGAINST WHICH RETALIATORY ACTION WILL BE TAKEN. ALl PRODUCTS ON THE LIST CAN BE SUPPLIED BY DOMESTIC OR OTHER FOREIGN PRODUCERS. THE HIGHER TARIFFS, WHICH WILL ONLY BE PLACED ON IMPORTS FROM BRAZIL OF THESE PRODUCTS, WILL BE REMOVED WHEN IT HAS BEEN DETERMINED THAT THESE UNFAIR PRACTICES HAVE BEEN ELIMINATED.

SHULTZ
DT
04/03