BRAZIL

BRAZIL ACHIEVED A TOTAL $12.5 BILLION TRADE SURPLUS IN 1985. IT ONCE AGAIN MAXIMIZED ITS SURPLUS BY REDUCING TOTAL IMPORTS. IN FACT BRAZIL IS LESS DEPENDENT ON IMPORTS THAN NEARLY ANY OTHER NATION IN THE WORLD.

IN 1985 TOTAL IMPORTS AMOUNTED TO LESS THAN 6 PERCENT OF ITS GROSS DOMESTIC PRODUCT (GDP), LOWER THAN INDIA UNCLASSIFIED
WORLD'S EIGHTH LARGEST ECONOMY. BRAZIL'S 1986 FOOD AND
RAW MATERIAL IMPORTS ARE EXPECTED TO INCREASE SLIGHTLY
AS THE GOVERNMENT ATTEMPTS TO IMPROVE SUPPLIES FOR A
RAPIDLY GROWING ECONOMY.

EXPORTS ARE EXPECTED TO DECLINE SOMEWHAT DUE TO A
DROUGHT-CAUSED REDUCTION IN COFFEE PRODUCTION.
HOWEVER, MANUFACTURED EXPORTS ARE EXPECTED TO
INCREASE. ALTHOUGH THE OVERALL EFFECT OF DECLINING
WORLD OIL PRICES AND HIGHER WORLD COFFEE PRICES IS NOT
YET CLEAR, BRAZIL SHOULD ACHIEVE A 1986 TRADE SURPLUS
SIMILAR TO 1985'S.

DESPITE BRAZIL'S SLIGHT IMPORT DECLINE, 1985 U.S.
EXPORTS MANAGED TO RISE $600 MILLION TO $3.2 BILLION.
INDUSTRIAL COMPONENTS AND COAL USED IN BRAZIL'S
MANUFACTURED EXPORT INDUSTRIES ACCOUNTED FOR MOST OF
THIS GAIN.

THE LEADING 1985 U.S. EXPORTS TO BRAZIL WERE AIRCRAFT
EQUIPMENT, WHEAT, COAL, ORGANIC CHEMICALS, OFFICE
MACHINES AND PARTS AND TELECOMMUNICATIONS EQUIPMENT.
COMARED TO 1984 THIS REPRESENTS A SLIGHT PRIORITY
SHIFT AS AIRCRAFT SALES TOPPED THE LIST.

TOTAL U.S. IMPORTS FROM BRAZIL DECLINED 2 PERCENT IN
1985, REVERSING A SHARPLY INCREASING TWO-YEAR TRENDS.
IMPORTS OF TWO PRODUCTS FELL APPRECIABLY: FROZEN
CONCENTRATED ORANGE JUICE AND NONBEVERAGE ETHANOL
IMPORTS. LEADING 1985 U.S. IMPORTS INCLUDED FOOTWEAR,
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 360296

COFFEE, PETROLEUM PRODUCTS, MOTOR VEHICLES AND AUTO
PARTS, ORANGE JUICE AND IRON AND STEEL PRODUCTS.

TOTAL 1985 U.S. DIRECT INVESTMENT IN BRAZIL WAS $9.5
BILLION, A SLIGHT $100 MILLION INCREASE FROM 1984.
HOWEVER, U.S. INVESTMENT IN BRAZIL HAS GENERALLY
DECLINED OVER THE PAST SEVERAL YEARS, SHOWING ONLY AN
AVERAGE ANNUAL .7 PERCENT INCREASE DURING 1982-85
COMPARED TO 10 PERCENT BETWEEN 1977 AND 1982. THIS
TREND PARALLELS THE GENERAL DECLINE IN NET NEW FOREIGN
INVESTMENT IN BRAZIL SINCE 1980.
BRAZIL ARGUES IT MUST MAXIMIZE EXPORTS AND CUT BACK IMPORTS TO SERVICE ITS DEBT. HOWEVER, BRAZIL ALSO BASES ITS RESTRICTIVE TRADE REGIME ON SEVERAL POLICIES PRECEDING ITS BALANCE OF PAYMENTS CRISIS.

BRAZIL'S TRADE REGIME IS GUIDED BY THE "LAW OF SIMILARS" AND THE MARKET RESERVE POLICY. UNDER THE "LAW OF SIMILARS," BRAZIL CAN WITHHOLD IMPORT LICENSES FOR ANY PRODUCT PRODUCED IN BRAZIL, WHICH IS USUALLY BROADLY DEFINED. BRAZIL'S "MARKET RESERVE" POLICY TOTALLY EXCLUDES FOREIGN INVESTMENT AND IMPORTS FROM CERTAIN MARKET SECTORS.

BRAZIL HAS TRADITIONALLY TARGETED CERTAIN HIGH TECHNOLOGY INDUSTRIES FOR ACCELERATED, GOVERNMENT-SUPPORTED NATIONAL SUPPORT. ITS PRIMARY INTENT IS TO REPLACE IMPORTED PRODUCTS AND TECHNOLOGIES WITH BRAZILIAN ONES TO FOSTER INDIGENOUS INDUSTRIES' GROWTH. SINCE THE 1970S, FOR EXAMPLE, BRAZIL HAS SELECTED ITS AIRCRAFT AND INFORMATICS SECTORS FOR DEVELOPMENT, CLOSING OUT FOREIGN IMPORTS OF THESE PRODUCTS OR REQUIRING TECHNOLOGY TRANSFERS.

IN PREVIOUS YEARS BILATERAL TRADE ISSUES WITH BRAZIL WERE RAISED IN THE U.S.-BRAZIL TRADE SUBGROUP WHICH GENERALLY MET TWICE A YEAR. HOWEVER, NO SUBGROUP MEETINGS WERE SCHEDULED IN 1986 BECAUSE SO LITTLE PROGRESS WAS MADE IN THE LAST DECEMBER 1985 MEETING.

INSTEAD, THE UNITED STATES MET WITH BRAZILIAN OFFICIALS TO DISCUSS SELECTED TRADE PROBLEMS INCLUDING THE SECTION 301 INFORMATICS INVESTIGATION, EXPORT FINANCING, STEEL AND TEXTILES. FURTHER CONSULTATIONS WERE PLANNED IN 1986 TO DISCUSS INFORMATICS, PHARMACEUTICALS, MOTION PICTURES AND OVERALL INTELLECTUAL PROPERTY RIGHTS PROTECTION.

BECAUSE MOST BRAZILIAN IMPORT RESTRICTIONS APPLY TO A BROAD RANGE OF GOODS, IT IS IMPOSSIBLE TO ISOLATE THE EFFECT OF ANY PARTICULAR BARRIER ON U.S. TRADE. FOR
CONCERNING THE DIFFERENTIAL EXPORT TAX. CONSULTATIONS
HAVE NOT ACHIEVED A SATISFACTORY RESULT, BUT THE UNITED
STATES WILL CONTINUE TO PURSUE THE ISSUE IN BILATERAL
CONSULTATIONS.

6. LACK OF INTELLECTUAL PROPERTY PROTECTION

UNCLASSIFIED

UNCLASSIFIED

PAGE 19 STATE 360296

A. DESCRIPTION

1) PATENTS

BRAZIL DOES NOT PROVIDE EITHER PRODUCT OR PROCESS
PATENT PROTECTION FOR METAL ALLOYS, CHEMICAL COMPOUNDS,
FOOD AND CHEMICALPHARMACEUTICAL SUBSTANCES. IN
ADDITION, THERE IS NO PATENT PROTECTION FOR
BIOTECHNOLOGIES. METHOD OF USE CLAIMS IN PATENT
APPLICATIONS ARE ALSO GENERALLY NOT ALLOWED.

BRAZIL REQUIRES A PATENT OWNER TO WORK ALL PATENT
CLAIMS IN BRAZIL. A THIRD PARTY MAY REQUEST A
COMPULSORY LICENSE IF A PATENT OWNER HAS FAILED TO WORK
THE PATENT WITHIN THREE YEARS OF PATENT ISSUANCE OR, IF
EXPLOITATION HAS BEEN DISCONTINUED, FOR MORE THAN ONE
YEAR.

EVEN WHEN SUCH CLAIMS ARE PERMITTED, THERE IS NO
CONCEPT OF CONTRIBUTORY INFRINGEMENT OR INDUCEMENT TO
INFRINGEMENT IN BRAZILIAN LAW THAT COULD ENABLE A PATENT
OWNER TO TAKE EFFECTIVE ACTION AGAINST AN INFRINGER.
BRAZILIAN PATENT EXAMINERS FREQUENTLY REQUIRE INCLUDING
SUCH UNNEEDED PROCESS PARAMETERS AS THE TEMPERATURE OR
PRESSURE AT WHICH A CHEMICAL REACTION OCCURS. THIS
PRACTICE MAKES IT EVEN EASIER TO "INVENT AROUND" A
PROCESS PATENT.

2) LICENSING

ALL LICENSING AND TECHNICAL ASSISTANCE AGREEMENTS
INCLUDING TRADEMARK LICENSES MUST BE REGISTERED WITH
THE NATIONAL INSTITUTE FOR INDUSTRIAL PROPERTY.
FAILURE TO REGISTER WILL RESULT IN DENIAL OF LICENSE
FEES, DISAPPROVAL OF DEDUCTIONS FOR FEES AS A BUSINESS
EXPENSE, TRADEMARK REGISTRATION CANCELLATION OR LAPSE
UNCLASSIFIED

UNCLASSIFIED

PAGE 20 STATE 360296

OF A PATENT FOR NOT WORKING.

PATENT LICENSES MUST ALSO BE REGISTERED WITH THE CENTRAL BANK. LICENSE FEE PAYMENTS TO RELATED FOREIGN COMPANIES IS PROHIBITED AND THOSE TO UNRELATED FOREIGN LICENSORS ARE LIMITED TO BETWEEN 1 AND 5 PERCENT.

3) COPYRIGHT PIRACY

ALTHOUGH BRAZIL HAS RELATIVELY GOOD COPYRIGHT AND RELATED LAWS, THESE LAWS ARE POORLY ENFORCED. UNAUTHORIZED PUBLIC PERFORMANCES OF MOTION PICTURES, VIDEO CASSETTE AND RECORD PIRACY, UNAUTHORIZED TRANSLATION OF LITERARY WORKS AND COMPUTER SOFTWARE PIRACY REMAIN SERIOUS PROBLEMS.

B. ESTIMATED IMPACT

1) PATENTS

U.S. FIRMS, PARTICULARLY AGRICULTURAL CHEMICAL AND PHARMACEUTICAL COMPANIES, HAVE PROVIDED EXAMPLES OF SPECIFIC PROBLEMS. U.S. INDUSTRY DOES FACE COMPETITION IN BRAZIL FROM LOCAL FIRMS THAT "INVENT AROUND" PROCESS PATENTS OR RECEIVE COMPULSORY LICENSES TO USE THE TECHNOLOGY. AS BRAZIL'S INDUSTRY DEVELOPS, IT COULD BECOME A SIGNIFICANT SOURCE OF COPIED CHEMICALS INCLUDING PHARMACEUTICALS FOR OTHER COUNTRIES WHERE PATENT PROTECTION IS WEAK.

2) LICENSING

UNCLASSIFIED

UNCLASSIFIED

PAGE 21 STATE 360296

RESTRICTIONS ON U.S. FIRMS' ABILITY TO NEGOTIATE LICENSING AGREEMENT TERMS DISCOURAGE U.S. FOREIGN
INVESTMENT AND EXPORTS.

3) COPYRIGHT PIRACY

THE INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE ESTIMATES ANNUAL LOSSES IN BRAZIL FROM PIRACY REACH $35 MILLION FOR MICROCOMPUTER SOFTWARE ALONE. LOSSES MAY BE SUBSTANTIALLY HIGHER FOR ALL TYPES OF COMPUTER SOFTWARE. U.S. INDUSTRY ESTIMATES IT LOSES $75 MILLION EACH YEAR TO PIRACY, UNAUTHORIZED PUBLIC PERFORMANCES AND TRANSLATIONS OF U.S. LITERARY WORKS.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES CONTINUES TO PRESS FOR INCREASED INTELLECTUAL PROPERTY RIGHT PROTECTION IN BRAZIL THROUGH MULTILATERAL AND BILATERAL CONSULTATIONS.

DURING THE SECTION 301 INFORMATICS CONSULTATIONS, THE UNITED STATES SOUGHT FULL COPYRIGHT PROTECTION FOR COMPUTER SOFTWARE. A MAY 1986 STATE COURT DECISION HELD THAT COPYRIGHT PROTECTION DID APPLY TO SOFTWARE. HOWEVER, IT ALSO RULED SUCH PROTECTION DID NOT APPLY IF THE PROGRAM WAS EMBEDDED IN HARDWARE (E.G., A CHIP). IF THE DECISION TO APPLY COPYRIGHT PROTECTION TO SOFTWARE IS UPHELD, IT WILL BE AN IMPORTANT STEP IN SOFTWARE PROTECTION. AN INTERAGENCY COUNCIL IN BRAZIL ALSO ENDORSED THE CONCEPT OF COPYRIGHT PROTECTION FOR SOFTWARE ALTHOUGH THE COVERAGE TERMS HAVE NOT YET BEEN DETERMINED. LEGISLATION NOW BEING DRAFTED WILL NOT BE CONSIDERED UNTIL LATE 1986.

THIS LEGISLATION COULD BE SIGNIFICANTLY WEAKENED IF BRAZIL ALSO ADOPTS PENDING COMMERCIALIZATION UNCLASSIFIED

UNCLASSIFIED

PAGE 22 STATE 360296

REGULATIONS WHICH ESTABLISH A MARKET RESERVE FOR SOFTWARE AND PROHIBIT INTELLECTUAL PROPERTY RIGHTS PROTECTION.

ADEQUATE PHARMACEUTICAL PATENT PROTECTION WAS A KEY U.S. OBJECTIVE DURING OCTOBER 1986 BILATERAL CONSULTATIONS. ALTHOUGH BRAZIL HAS NOT YET RESPONDED TO THE AUGUST 1986 U.S. REQUEST FOR CONSULTATIONS ON
MOTION PICTURE AND HOME VIDEO CASSETTE SECTOR PROBLEMS, THE UNITED STATES IS PLANNING TO RAISE ITS CONCERNS ABOUT VIDEO PIRACY AND COMMERCIAL LICENSING. THE UNITED STATES WILL ALSO PURSUE BILATERAL CONSULTATIONS ON INTELLECTUAL PROPERTY RIGHT ISSUES IN GENERAL OVER THE NEXT YEAR.

7. COUNTERTRADE AND OFFSETS

A. DESCRIPTION

BRAZIL HAS DECLINED TO ARTICULATE A FORMAL COUNTERTRADE POLICY. HOWEVER, THIS HAS NOT DECREASED BRAZIL'S RELIANCE ON COUNTERTRADE EITHER IN ITS DEVELOPING COUNTRY TRADE OR OIL TRADE.

HOWEVER, CRUDE OIL COUNTERTRADE OPPORTUNITIES HAVE DECLINED DUE TO SEVERAL FACTORS. WORLD OIL PRICES DROPPED, DOMESTIC OIL SUPPLIES ROSE AND ALCOHOL WAS INCREASINGLY USED AS A MOTOR FUEL. AT THE 1985 PEAK, 95 PERCENT OF NEW CARS USED ALCOHOL FOR FUEL. THIS RATE HAS DECLINED ALONG WITH THE COST OF OIL.

THE BRAZILIAN OIL MONOPOLY, PETROBRAS, ACTIVELY PROMOTES COUNTERTRADE THROUGH ITS SUBSIDIARY UNCLASSIFIED

UNCLASSIFIED

PAGE 23        STATE 360296

INTERBRAS. IT ATTEMPTS TO OBTAIN COUNTERTRADE AGREEMENTS ON FOREIGN OIL PURCHASES. BRAZILIAN EXPORTS UNDER SUCH AGREEMENTS COVER THE FULL RANGE OF MANUFACTURED AND RAW MATERIALS AND EVEN INCLUDE CONSTRUCTION SERVICES. PRODUCTS COMPETING DIRECTLY WITH U.S. EXPORTS INCLUDE POULTRY, SOYBEAN MEAL, CHEMICALS, COTTON, PAPER AND STEEL.

BRAZIL'S 1985 COUNTERTRADE WITH NIGERIA, ITS THIRD LARGEST TRADING PARTNER, REACHED SOME S2 BILLION, LARGELY FROM EXCHANGING BRAZILIAN INDUSTRIAL PRODUCTS FOR OIL. COUNTERTRADE IS ALSO IMPORTANT IN BRAZILIAN TRADE WITH IRAQ, ITS SECOND LARGEST TRADING PARTNER. CLEARING ACCOUNTS ARE MAINTAINED WITH SEVERAL EASTERN BLOC COUNTRIES.

OFFSETS HAVE BEEN REQUESTED AS PART OF MAJOR SALES TO

Current Class: UNCLASSIFIED
BRAZIL. BRAZILIAN IMPORT REGULATIONS PRESSURE MULTINATIONAL FIRM SUBSIDIARIES TO EXPORT WHETHER OR NOT EXPORTS ARE RELATED TO THEIR PRINCIPAL LINE OF BUSINESS. THIS IS DONE THROUGH THE EXPORT INCENTIVE/PERFORMANCE PROGRAMS. BEFLEX ADDS EXPORT COMMITMENTS OF $5.1 BILLION IN THE 87 NEW AGREEMENTS SIGNED THROUGH JUNE L986.

B. ESTIMATED IMPACT

BRAZILIAN COUNTERTRADE HAS SUBSTANTIALLY DISPLACED U.S. EXPORTS TO THIRD MARKETS. BRAZIL, FOR EXAMPLE, USES ITS CREDITS TO PURCHASE POTASH FROM EAST GERMANY TO THE DETRIMENT OF U.S. SUPPLIERS. THE BILATERAL IMBALANCE IN U.S.-BRAZILIAN TRADE MAY BE INCREASED BY MEASURES THAT REDUCE BRAZILIAN DEMAND FOR U.S. PRODUCTS AND EXPAND INCENTIVES FOR BRAZILIAN EXPORTS TO THE UNITED STATES.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES WILL DISCOURAGE GOVERNMENT-MANDATED COUNTERTRADE THROUGH BILATERAL AND MULTILATERAL REPRESENTATIONS AS APPROPRIATE.

8. SERVICES BARRIERS

A. DESCRIPTION

RESTRICTIVE LAWS, ADMINISTRATIVE NONTRANSPARENCY, ARBITRARY APPLICATION OF REGULATIONS AND LAWS AND OTHER ADMINISTRATIVE BARRIERS TO EARNINGS TRANSFER CONTINUE TO LIMIT TRADE AND INVESTMENT OPPORTUNITIES. FOREIGN COMPANIES, PARTICULARLY CONSTRUCTION FIRMS, ARE PREVENTED FROM PROVIDING TECHNICAL SERVICES UNLESS THERE ARE BRAZILIAN FIRMS ABLE TO PERFORM THEM. THE INDUSTRIAL PROPERTY INSTITUTE (INPI) MUST APPROVE ALL TECHNICAL SERVICE CONTRACTS BUT SUBJECTS THEM TO SUBSTANTIAL DELAYS AND OTHER ADMINISTRATIVE
DIFFICULTIES.

TELECOMMUNICATION AND DATA SERVICES MAY BE SUBJECT TO NEW CONTROLS UNDER THE INFORMATICS LAW'S IMPLEMENTING REGULATIONS. BRAZIL IS RECONSIDERING LIMITATIONS ON FOREIGN BANK OWNERSHIP BUT NO DEFINITE REFORM HAS YET BEEN UNDERTAKEN.

B. ESTIMATED IMPACT

UNCLASSIFIED

UNCLASSIFIED

PAGE 25 STATE 360296

DUE TO VARIOUS DIFFICULTIES, FOREIGN COMPANIES ARE FREQUENTLY UNABLE TO COMPETE IN THE BRAZILIAN SERVICES MARKET.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES HELD GATT ARTICLE XXII CONSULTATIONS ON BRAZIL'S INFORMATICS LAW IN JUNE 1985. SERVICES (DATA PROCESSING AND TELECOMMUNICATIONS) HAVE BEEN RAISED IN THE CONTEXT OF THE SECTION 301 INVESTIGATION AGAINST BRAZIL'S INFORMATICS LAW WHICH SHOULD BE CONCLUDED BY THE END OF 1986.

INSURANCE

A. DESCRIPTION

BRAZIL'S RESOLUTION NO. 3/71 OF THE NATIONAL PRIVATE INSURANCE COUNCIL AND OTHER GOVERNMENTAL ACTIONS EFFECTIVELY REQUIRE ALL BRAZILIAN IMPORT INSURANCE TO BE PLACED WITH BRAZILIAN FIRMS. THIS DENIES U.S. MARINE INSURERS FAIR COMPETITIVE ACCESS TO THIS CLASS OF BUSINESS.

ALL REINSURANCE IN BRAZIL MUST ALSO BE PURCHASED FROM THE GOVERNMENT REINSURANCE MONOPOLY. THIS REQUIREMENT DENIES U.S. REINSURERS FULL PARTICIPATION IN THE LOCAL REINSURANCE MARKET.

B. ESTIMATED IMPACT
ACCORDING TO ONE ESTIMATE, INSURANCE PREMIUM VOLUME IN
BRAZIL TOTALS ABOUT $1 BILLION EACH YEAR; MARINE
INSURANCE $60 MILLION; AND REINSURANCE $300 MILLION.
BOTH U.S. LIFE AND NONLIFE INSURERS IN BRAZIL COULD
UNCLASSIFIED

UNCLASSIFIED

PAGE 26    STATE 360296

SELL POLICIES WORTH $10 MILLION EACH YEAR IF CURRENT
RESTRICTIONS WERE REMOVED.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES WILL BRING UP RULES FOR INSURANCE AND
OTHER SERVICE INDUSTRIES IN THE URUGUAY ROUND
NEGOTIATIONS.

DATA PROCESSING AND TELECOMMUNICATIONS

A. DESCRIPTION

BRAZIL REQUIRES DATA RECEIVED FROM UNRELATED PARTIES TO
BE PROCESSED WITHIN THE COUNTRY. THIS DEPRIVES MANY
DATA PROCESSORS OF THE ABILITY TO COMPETE IN THAT
MARKET BY USING CENTRAL PROCESSING FACILITIES ABROAD.
FOREIGN EQUITY PARTICIPATION IN INFORMATION SERVICE
INDUSTRIES IN BRAZIL IS LIMITED.

B. ESTIMATED IMPACT

IT IS NOT POSSIBLE TO ESTIMATE THE MARKET LOSSES DUE TO
THESE PRACTICES.

C. ACTIONS TAKEN OR TO BE TAKEN

BRAZILIAN LIMITATIONS ON TRANSBORDER DATA FLOWS HAVE
BEEN RAISED DURING BILATERAL TALKS ON INFORMATICS AND
WILL BE DISCUSSED IN THE URUGUAY ROUND NEGOTIATIONS.

MOTION PICTURES

UNCLASSIFIED

UNCLASSIFIED

PAGE 27    STATE 360296

Current Class: UNCLASSIFIED

Page: 22
A. DESCRIPTION

THE MOST SIGNIFICANT TRADE BARRIER FOR U.S. MOTION PICTURES IS A CONCIME 98 REQUIREMENT FOR FOREIGN HOME VIDEO CASSETTE DISTRIBUTORS TO MAINTAIN AN INVENTORY INCLUDING AT LEAST 25 PERCENT BRAZILIAN TITLES AND 25 PERCENT COPIES EACH MONTH. BECAUSE THE SUPPLY OF BRAZILIAN HOME VIDEO CASSETTES IS LIMITED, THIS REQUIREMENT RESTRICTS THE NUMBER OF FOREIGN VIDEOS THAT MAY BE DISTRIBUTED AND THEREFORE IMPORTED.

IT ALSO SIGNIFICANTLY INCREASES DISTRIBUTORS' OPERATING EXPENSES SINCE THEY MUST: A) PURCHASE VIDEO RIGHTS FOR NATIONAL PRODUCERS; B) BUY BLANK CASSETTES FOR Duplicating NATIONAL FILMS; C) PAY FOR Duplicating NATIONAL FILMS (A HIGH COST SINCE THERE IS ONLY ONE BRAZILIAN PRINTING COMPANY); D) PAY FOR NATIONAL FILM PACKAGING AND PUBLICITY; AND E) PAY ALL RELEVANT TAXES ON NATIONAL FILMS (5 PERCENT SERVICE TAX, 5 PERCENT INDUSTRIAL TAX AND 12 PERCENT SALES TAX).

IT ALSO ARTIFICIALLY INCREASES DEMAND FOR THE LIMITED BRAZILIAN HOME VIDEO CASSETTES AVAILABLE, THEREBY DRIVING UP THEIR PRICES CONSIDERABLY. FINALLY, LIMITED AVAILABILITY OF LEGITIMATE IMPORTED CASSETTES CREATES AN ENVIRONMENT THAT PERPETUATES WIDESPREAD PIRACY OF U.S. HOME VIDEO PROGRAMMING.

OTHER BARRIERS INCLUDE:

OA DISCRIMINATORY REQUIREMENT TO EXHIBIT A BRAZILIAN SHORT SUBJECT FILM ALONG WITH ANY FOREIGN FEATURE FILM.

ODIVIDING 3.4 PERCENT OF THE GROSS BOX OFFICE
UNCLASSIFIED

UNCLASSIFIED

PAGE 28 STATE 360296

RECEIPTS AMONG THE BRAZILIAN SHORT SUBJECT PRODUCERS AND THE NATIONAL DISTRIBUTOR OF BRAZILIAN FILMS, EMBRAPILME.

OSUBJECTING EACH FOREIGN FILM TITLE IMPORTED

Current Class: UNCLASSIFIED
FOR THEATRICAL OR TELEVISION DISTRIBUTION TO A
GOVERNMENT CENSORSHIP REVIEW BEFORE
DISTRIBUTION. A FEE IS REQUIRED FOR EACH
FOREIGN TITLE BUT NOT IMPOSED ON BRAZILIAN
FILMS.

OA REQUIREMENT ON ALL BRAZILIAN MOVIE THEATERS
TO EXHIBIT BRAZILIAN FEATURE FILMS AT LEAST
140 DAYS EVERY YEAR.

OA REQUIREMENT TO PRINT ALL COLOR FEATURE FILMS
DISTRIBUTED FOR TELEVISION BROADCAST AND
THEATRICAL EXHIBITION IN BRAZILIAN
LABORATORIES. BRAZIL HAS ONLY ONE SUCH
LABORATORY.

OA FIVE-YEAR WAITING PERIOD FOR THEATRICAL
TELEVISION DISTRIBUTION.

B. ESTIMATED IMPACT

IN 1985 BRAZIL WAS THE 10TH LARGEST FOREIGN MARKET IN
REVENUE FOR ALL MEDIA AND THE LARGEST LATIN AMERICAN
MARKET FOR U.S. MOTION PICTURE DISTRIBUTORS. GIVEN THE
BRAZILIAN POPULATION'S AGE AND INCOME DISTRIBUTION, THE
U.S. MOTION PICTURE INDUSTRY BELIEVES BRAZIL IS AN
ENORMOUS POTENTIAL MARKET.
U.S. INDUSTRY ESTIMATES ONE MILLION PIRATED CASSETTES
UNCLASSIFIED

UNCLASSIFIED

PAGE 29 STATE 360296

WERE AVAILABLE AT THE END OF 1984. SOME 30 NEW
U.S. TITLES WERE PIRATED EVERY MONTH. BRAZIL HAS THUS
BECOME THE LARGEST SOURCE FOR GENERATING PIRATED
U.S. HOME VIDEO CASSETTES IN LATIN AMERICA.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES HAS UNSUCCESSFULLY RAISED ITS
CONCERNS ABOUT THE CONCISE 96 RESOLUTION AND OTHER
RELATED ISSUES DURING GENERAL BILATERAL CONSULTATIONS

AND WITH BRAZILIAN OFFICIALS FOR THE LAST SEVERAL
YEARS. IN AUGUST 1986 THE UNITED STATES OFFICIALLY
REQUESTED CONSULTATIONS BUT HAS NOT YET RECEIVED A
JANUARY 1985 THE U.S.-BRAZIL INVESTMENT TASK FORCE MET TO DISCUSS BILATERAL INVESTMENT MATTERS IN GREATER DETAIL. IN MAY THE TASK FORCE PREPARED A PROGRESS REPORT FOR THE FULL SUBGROUP'S CONSIDERATION.

10. OTHER BARRIERS

INFORMATICS

A. DESCRIPTION

IN 1984 BRAZIL APPROVED A COMPLEX NEW LAW CODIFYING AND EXTENDING POLICIES FOLLOWED SINCE THE 1970S TO PROMOTE A NATIONAL INFORMATICS INDUSTRY. THE INFORMATICS SECTOR IS BROADLY DEFINED TO INCLUDE NOT ONLY COMPUTERS AND PARTS BUT ALL OTHER DEVICES INCORPORATING A DIGITAL INSTRUMENT. THUS COMMUNICATIONS SWITCHING EQUIPMENT, INSTRUMENTS, PROCESS CONTROLS, OPTICAL AND ELECTRONIC COMPONENTS ARE COVERED AS IS SOFTWARE.

THE NEW LAW GRANTS THE GOVERNMENT'S EXECUTIVE BRANCH BROAD AUTHORITY TO RESTRICT IMPORTS FOR AN ADDITIONAL EIGHT YEARS. IT RESERVES PRODUCTION AND SALES OF MANY PRODUCTS EXCLUSIVELY FOR BRAZILIAN-OWNED FIRMS.

IMPORTS OF DIGITAL PRODUCTS, PRODUCTS INCORPORATING DIGITAL TECHNOLOGY AND, REPORTEDLY, ALL INSTRUMENTATION WHETHER DIGITAL OR OTHERWISE ARE SUBJECT TO REVIEW AND APPROVAL BY THE SPECIAL SECRETARIAT FOR INFORMATICS (SRI) UNDER INFORMATICS LAW PROVISIONS. SINCE THE LAW IS VAGUE AND NONTRANSPARENT, SRI HAS WIDE DISCRETION IN ITS APPLICATION. MANY PRODUCTS ARE DENIED ENTRY.

NATIONAL FIRMS ARE GIVEN PREFERENCE IN GOVERNMENT PROCUREMENT AND ACCESS TO SPECIAL FISCAL AND FINANCIAL INCENTIVES. FOREIGN FIRMS OPERATING IN SPECIAL EXPORT UNCLASSIFIED

UNCLASSIFIED

PAGE 34

ZONES ENJOY ALL EXPORT INCENTIVES BUT MAY NOT SELL IN THE DOMESTIC MARKET. LOCAL CONTENT REQUIREMENTS ARE
CONDITIONS FOR VARIOUS INCENTIVES AND APPROVAL OF SOME INVESTMENTS. IN ADDITION, BRAZIL DOES NOT NOW GRANT FULL COPYRIGHT PROTECTION TO COMPUTER SOFTWARE.

B. ESTIMATED IMPACT


PROSPECTIVE U.S. LOSSES ARE EVEN MORE SIGNIFICANT. BRAZIL’S MARKET RESERVE POLICY WILL VIRTUALLY ELIMINATE U.S. ACCESS TO THE LOW END OF THE COMPUTER MARKET WHERE MOST OF THE GROWTH IS EXPECTED BOTH IN BRAZIL AND IN THE WORLD. FUTURE LOSSES COULD REACH $12 BILLION FROM 1985 TO 1992 WHEN THE INFORMATICS LAW IS SCHEDULED TO EXPIRE.

C. ACTIONS TAKEN OR TO BE TAKEN

FOR THREE YEARS THE UNITED STATES HAS CONSISTENTLY RAISED ITS CONCERNS ABOUT BRAZIL’S INFORMATICS POLICIES UNCLASSIFIED UNCLASSIFIED PAGE 35 STATE 360296

BOTH IN BILATERAL CONSULTATIONS AND UNDER GATT ARTICLE XXII. IN SEPTEMBER 1985 THE PRESIDENT ORDERED A SECTION 301 INVESTIGATION.

CONSULTATIONS WITH BRAZIL UNDER THAT INVESTIGATION HAVE FOCUSED ON THE WIDE AND UNDEFINED SCOPE OF SBI’S REVIEW, ITS VIRTUALLY UNLIMITED DISCRETION TO APPROVE OR DISAPPROVE APPLICATIONS, THE REGULATIONS’ GENERAL NONTRANSPARENCY AND ARBITRARY NATURE, THE DENIAL OF NATIONAL TREATMENT TO FOREIGN FIRMS AND PRODUCTS AND
LACK OF SOFTWARE COPYRIGHT PROTECTION.

TO DATE BRAZIL HAS MADE INADEQUATE CONCESSIONS TO RESOLVE THE CASE SATISFAC-TORILY. THEREFORE, ON OCTOBER 6, 1986 THE PRESIDENT DETERMINED THAT BRAZIL'S INFORMATICS POLICIES WERE AN "UNREASONABLE" TRADE ACTION UNDER SECTION 301 OF THE 1974 TRADE ACT.

HOWEVER, THE PRESIDENT INDICATED FURTHER CONSULTATIONS WITH BRAZIL SHOULD BE ATTEMPTED. HIS DECISION ON FINAL ACTIONS TO BE TAKEN WILL BE DEFERRED UNTIL THE END OF 1986 PENDING THE OUTCOME OF THESE DISCUSSIONS.

AS AN INTERIM MEASURE, THE UNITED STATES WILL NOTIFY GATT OF ITS INTENT TO SUSPEND TARIFF CONCESSIONS ON SELECTED BRAZILIAN PRODUCT IMPORTS TO COMPENSATE FOR U.S. SALES LOST DUE TO BRAZIL'S INFORMATICS POLICIES. ALTHOUGH THIS ACTION DOES NOT IMMEDIATELY INCREASE U.S. TARIFFS ON BRAZILIAN IMPORTS, IT ENABLES THE PRESIDENT TO DO SO EVENTUALLY SHOULD HE DETERMINE SUCH AN ACTION WOULD BE JUSTIFIED.

GENERAL AVIATION AIRCRAFT

A. DESCRIPTION
UNCLASSIFIED

UNCLASSIFIED

PAGE 36 STATE 360296

LICENSING IS THE MAJOR DETERRENT TO U.S. GENERAL AVIATION AIRCRAFT SALES IN BRAZIL. HOWEVER, BRAZIL FREELY EXPORTS ASSEMBLED AIRCRAFT TO THE UNITED STATES WHICH HAS NO TARIFF.

ALTHOUGH BRAZIL HAS TAKEN STEPS TO EXPEDITE THE LICENSING PROCEDURE FOR REGULAR SALES OF NEW AIRCRAFT, IT IS ACTIVELY CONSIDERING IMPOSING A "MARKET RESERVE" FOR HELICOPTERS. THIS WOULD RESERVE THE BRAZILIAN MARKET FOR ONLY THOSE HELICOPTERS MADE BY MAJORITYOWNED BRAZILIAN FIRMS.

THE U.S. INDUSTRY ALSO MAINTAINS BRAZIL'S TAXES AND GENERAL AVIATION AIRCRAFT FEES INCREASE IMPORTED AIRCRAFT COSTS MORE THAN 90 PERCENT UNLESS A WAIVER IS
GRANTED. THE LANDED PRICE OF U.S.-MANUFACTURED AIRCRAFT OFFERED FOR SALE IN BRAZIL IS VIRTUALLY DOUBLE THE C.I.F. PRICE.

BRAZIL IS NOW CONSIDERING ADDITIONAL FINANCING FOR NEW GENERAL AVIATION AIRCRAFT WHICH, IF NOT FULLY RECOVERED IN THE SALES PRICE, MAY ALSO CONSTITUTE UNFAIR COMPETITION FOR U.S. MANUFACTURERS. EMBRAER OF BRAZIL AND FABRICA MILITAR DE AVIONES (FMA) OF ARGENTINA PLAN TO COPRODUCE A PRESSURIZED, 19-PASSENGER, TURBOPROP AIRCRAFT TO BE DESIGNATED THE EMB-123 IN BRAZIL AND IA70 IN ARGENTINA. EMBRAER WILL PROVIDE TWO-THIRDS AND FMA ONE-THIRD OF THE ESTIMATED $300 MILLION DEVELOPMENT COSTS.

B. ESTIMATED IMPACT

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DURING THE EARLY 1970S BEFORE RESTRICTIONS WERE IMPOSED, THE UNITED STATES EXPORTED 200 TO 600 GENERAL AVIATION AIRCRAFT TO BRAZIL, ITS LARGEST FOREIGN MARKET, EACH YEAR. SINCE 1976 THE RESTRICTIONS HAVE ALL BUT ENDED ASSEMBLED AIRCRAFT EXPORTS.

IN 1985 10 FULLY ASSEMBLED U.S. GENERAL AVIATION AIRCRAFT WERE SOLD IN BRAZIL ALONG WITH 77 SHIPMENTS OF AIRCRAFT PARTS TO BE ASSEMBLED IN BRAZIL. THIS AGAIN MAKES BRAZIL THE TOP EXPORT MARKET BY VALUE FOR U.S. GENERAL AVIATION MANUFACTURERS.

THE U.S. GENERAL AVIATION INDUSTRY IS CONCERNED ARGENTINE AND BRAZILIAN SUBSIDIES FOR THE EMB-123/IA-70 MAY LOWER THE SELLING PRICE BELOW THE AIRCRAFT’S TRUE MARKET COST, THEREBY GIVING IT AN UNFAIR ADVANTAGE COMPARED TO SIMILAR U.S.-MANUFACTURED AIRCRAFT.

C. ACTIONS TAKEN OR TO BE TAKEN

AT A DECEMBER 1985 MEETING IN BRASILIA, BRAZIL ANNOUNCED IT WOULD UNILATERALLY REDUCE ITS TARIFF ON GENERAL AVIATION AIRCRAFT AND LIBERALIZE THE ISSUANCE OF AIRCRAFT IMPORT LICENSES. ON JANUARY 30, 1986 THE BRAZILIAN CUSTOMS POLICY COMMISSION PASSED RESOLUTION...
02-0897 WHICH LOWERED THE TARIFF ON AIRCRAFT UNDER
7,000 KILOGRAMS (15,400 POUNDS) FROM 50 TO 20 PERCENT.
ON APRIL 23, 1986 THE CIVIL AIR TRANSPORTATION COORDI-
NATION COMMISSION (COTAC) PASSED RESOLUTION 12/86,
WHICH AUTHORIZED IMPORT LICENSES TO BE GRANTED WITHIN
30 DAYS FOR AIRCRAFT ON WHICH THE TARIFF AND ALL
RELEVANT TAXES ARE PAID.

THE UNITED STATES RAISED THE MATTER OF NEW GOVERNMENT
UNCLASSIFIED

UNCLASSIFIED

PAGE 38    STATE 360296

SUPPORT FOR GENERAL AVIATION AIRCRAFT IN OCTOBER 1986.

IN ADDITION TO REDUCING BRAZIL’S IMPORT BARRIERS, THE
UNITED STATES SOUGHT BRAZILIAN ADHERENCE TO THE
ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT
(OECD) STANDSTILL AGREEMENT ON AIRCRAFT FINANCING TO
RESTRAIN THE SUBSIDY ELEMENT IN BRAZIL’S EXPORT
FINANCE. THE UNITED STATES WOULD ALSO LIKE BRAZIL TO
SIGN THE GATT AGREEMENT ON TRADE IN CIVIL AIRCRAFT. IT
PLANS TO REOPEN NEGOTIATIONS IN THE NEAR FUTURE.

PHARMACEUTICALS

A.DESCRIPTION

IN OCTOBER 1984 BRAZIL’S OUTGOING ADMINISTRATION ISSUED
A REGULATION (PORTARIA 4), REQUIRING ALL NEW SPECIALTY
CHEMICAL PRODUCT PROJECTS TO OBTAIN PRIOR APPROVAL FROM
THE INDUSTRIAL POLICY AUTHORITY, CDI. SPECIALTY
CHEMICALS ARE DEFINED AS RAW MATERIALS, PHARMACEUTICALS
AND ADDITIVES USED IN DRUGS AND A VARIETY OF CHEMICAL
PRODUCTS.

CDI IS EMPOWERED TO BAN ANY FOREIGN INVESTMENT THAT
WOULD COMPETE WITH A BRAZILIAN-CONTROLLED COMPANY IF
INTERNAL DEMAND IS JUDGED INSUFFICIENT FOR MORE THAN
ONE COMPANY. IN EFFECT, PORTARIA 4 APPLIES A MARKET
RESERVE PRINCIPLE TO SPECIALTY CHEMICALS.

IN JULY 1986 A BRAZILIAN INTERAGENCY TASK FORCE GAVE
THE PRESIDENT A NEW INDUSTRIAL DEVELOPMENT PLAN TO
EXPAND PORTARIA 4 AND CODIFY A DE FACTO MARKET RESERVE.
POLICY FOR PHARMACEUTICALS AND FINE CHEMICALS. CDI
UNCLASSIFIED

UNCLASSIFIED

PAGE 39  STATE  360296

WILL HAVE TO AUTHORIZE ALL NEW INVESTMENTS. APPROVAL
CRITERIA WOULD INCLUDE LOCAL OWNERSHIP, TECHNOLOGY
CONTROL AND HIGH LEVELS OF VALUE ADDED.

THE DRAFT DECREE WILL ALSO RAISE IMPORT TARIFFS FOR
CERTAIN CHEMICAL PRODUCTS, CHANNEL RESOURCES TO
GOVERNMENT-AFFILIATED RESEARCH AND DEVELOPMENT CENTERS
AND UNIVERSITIES AND PROVIDE RESEARCH SUBSIDIES TO
 FIRMS.

IN ADDITION, THE GOVERNMENT WILL REQUIRE THE CENTRO DE
MEDICAMENTOS, WHICH IS RESPONSIBLE FOR BUYING AND

DEVELOPING MEDICINES USED IN THE PUBLIC HEALTH SYSTEM,
TO SET SPECIFIC "NATIONAL" INDICES FOR ALL DRUGS IT
 BUYS. THIS WILL APPLY NOT ONLY TO LOCAL CONTENT BUT TO
BRAZILIAN OWNERSHIP AS WELL.

STRICT PRICE CONTROLS IN BRAZIL HAVE SEVERELY HAMPERED
U.S. COMPANIES' EFFORTS TO RECOVER THE COSTS OF
RESEARCH, DEVELOPMENT AND MARKETING OF PRESENT AND
FUTURE PRODUCTS.

SINCE 1969 THERE HAS BEEN NO PATENT PROTECTION FOR
PHARMACEUTICALS, ANIMAL HEALTH OR FOOD PRODUCTS IN
BRAZIL. THIS BAN EXTENDS TO FINE CHEMICALS AND
ADDITIVES USED TO PRODUCE COSMETICS AND HYGIENE
PRODUCTS. THE LACK OF PATENT PROTECTION ENABLES PIRATE
PRODUCERS TO IMPORT OR COPY RAW MATERIALS AS WELL AS
FINISHED PRODUCTS AT LESS THAN THE ORIGINATOR'S FULL
PRODUCTION COST. IN SOME INSTANCES FOREIGN COMPANIES
ARE NOT AUTHORIZED TO BRING IN IMPORTS WHEN A SIMILAR
PIRATED PRODUCT IS AVAILABLE LOCALLY.

B. ESTIMATED IMPACT

UNCLASSIFIED

UNCLASSIFIED

PAGE 40  STATE  360296

Current Class: UNCLASSIFIED  Page: 33
IN 1985 THE UNITED STATES EXPORTED APPROXIMATELY $70 MILLION IN PHARMACEUTICALS TO BRAZIL. TOTAL U.S. PHARMACEUTICAL COMPANY INVESTMENT IN BRAZIL IS ABOUT $1.1 BILLION.

MOST U.S. FIRMS REPORT THEIR RETURN ON NET WORTH DECLINED FROM NEARLY 31 PERCENT IN 1983 TO 11 PERCENT IN 1985, PARTLY AS A RESULT OF GOVERNMENTAL PRICING POLICIES. ESTIMATES OF LOST SALES AND INVESTMENTS DUE TO BRAZIL'S DE FACTO MARKET RESERVE POLICIES AND INADEQUATE INTELLECTUAL PROPERTY PROTECTION ARE BEING DEVELOPED FOR LATE 1986 BILATERAL CONSULTATIONS.

C. ACTIONS TAKEN OR TO BE TAKEN

THE UNITED STATES HAS RAISED THESE ISSUES IN PREVIOUS U.S.-BRAZIL TRADE SUBGROUP TALKS, MOST RECENTLY IN DECEMBER 1985. IN EARLY APRIL 1986 THE UNITED STATES OFFICIALLY REQUESTED CONSULTATIONS WITH BRAZIL. BRAZIL FINALLY AGREED TO MEET WITH THE UNITED STATES IN NOVEMBER 1986. SHULTZ