

the United States believes that, in addition to the previous claims, Argentina:

- Fails to protect against unfair commercial use of undisclosed test or other data, submitted as a requirement for market approval of pharmaceutical or agricultural chemical products;
- Improperly excludes certain subject matter, including micro-organisms, from patentability;
- Fails to provide prompt and effective provisional measures, such as preliminary injunctions, for purposes of preventing infringements of patent rights from occurring;
- Denies certain exclusive rights for patents, such as the protection of products produced by patented processes and the right of importation;
- Fails to provide certain safeguards for the granting of compulsory licenses, including timing and justification safeguards for compulsory licenses granted on the basis of inadequate working;
- Improperly limits the authority of its judiciary to shift the burden of proof in civil proceedings involving the infringements of process patent rights; and
- Places impermissible limitations on certain transitional patents so as to limit the exclusive rights conferred by these patents, and to deny the opportunity for patentees to amend pending applications in order to claim certain enhanced protection provided by the TRIPS Agreement.

As such, these new concerns appear to be inconsistent with Argentina's obligations under the TRIPS Agreement, including Articles 27, 28, 31, 34, 39, 50, 62, 65, and 70 of the Agreement.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter.

Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C.

2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must so designate the information or advice;
- (2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and
- (3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(3) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D-196, Argentina—Patent and Test Data Protection Dispute) may be made by calling Brenda Webb, (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-199]

WTO Consultation Regarding Brazil— Patent Protection

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on May 31, 2000, the United States requested consultants with Brazil under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding provisions in Brazil's patent regime that establish a "local working" requirement for the enjoyment of exclusive patent rights that can only be satisfied by the local production—and not the

importation—of the patented subject matter. The United States considers that such a requirement is inconsistent with Brazil's obligations under Articles 27 and 28 of the Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), and Article III of the General Agreement on Tariffs and Trade 1994 (GATT 1994). Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding (DSU), such consultations are to take place within a period of 30 days from the date of the request, or within a period otherwise mutually agreed between the United States and Brazil. USTR invites written comments from the public concerning the issues raised on this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 28, 2000, to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC, 20508, Attn: Brazil—Patent Protection Dispute. Telephone: (202) 395-3582.

FOR FURTHER INFORMATION CONTACT: Stephen Kho, Assistant General Counsel, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC, (202) 395-3581.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States

Although Brazil has a largely WTO-consistent patent regime that has been in place for some time, there remains a longstanding difference of views between the United States and Brazil over a narrow provision in the TRIPS

Agreement that the United States considers Brazil to be violating. Specifically, the United States is concerned about provisions of Brazil's 1996 industrial property law (Law No. 9,279 of May 14, 1996; effective May 1997) and other related statutes and regulations, which establish a "local working" requirement for the enjoyment of exclusive patent rights that can only be satisfied by the local production—and not the importation—of the patented subject matter.

Brazil's "local working" requirement stipulates that a patent shall be subject to compulsory licensing if the subject matter of the patent is not "worked" in the territory of Brazil. Brazil then explicitly defines "failure to be worked" as "failure to manufacture or incomplete manufacture of the product," or "failure to make full use of the patented process." The United States considers that such a requirement is inconsistent with Brazil's obligations under Articles 27 and 28 of the TRIPS Agreement, and Article III of the GATT 1994.

Having been unable to resolve this difference over the past five years, the United States decided to resort to WTO dispute settlement procedures and on May 31, 2000, requested consultations with Brazil.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508. The public file will include a listing of any comments received by USTR from the public with respect to the dispute; if a dispute settlement panel is convened, the U.S. submissions to that panel, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D-199, Brazil—Patent Protection) may be made by calling Brenda Webb, (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant United States Trade Representative for Monitoring and Enforcement.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-198]

WTO Consultations Regarding Romania's Use of Minimum Import Prices for Customs Valuation Purposes

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that on May 31, 2000, the United States requested consultations with Romania under the Marrakesh Agreement Establishing the World Trade Organization (WTO), regarding Romania's 1997 Customs Code (L141/1997) and Ministry of Finance General Customs Directive (Ordinance No. 5, 4 August 1998) and other related statutes and regulations. The United States alleges that Romania's customs code, directives, regulations and practice arbitrarily establish minimum and maximum import prices for such products as meat, eggs, fruits and vegetables, clothing, footwear, and certain distilled spirits.

Additionally, Romania has instituted burdensome procedures for investigating import prices when the C.I.F. value falls below the minimum import price. The United States considers that this practice is inconsistent with Articles 1 through 7, and 12 of the Agreement on Customs Valuation ("CVA"); general notes 1, 2, and 4 of Annex 1 of the CVA; Articles II, X, and XI of the GATT 1994; Article 4.2 of the Agreement on Agriculture; and Articles 2 and 7 of the Agreement of Textiles and Clothing. Pursuant to Article 4.3 of the WTO Dispute Settlement Understanding ("DSU"), such consultations are to take place within a period of 30 days from the date of the request, or within a period otherwise mutually agreed between the United States and Romania. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although the USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 31 to be assured of timely consideration by USTR.

ADDRESSES: Submit comments to Sandy McKinzy, Monitoring and Enforcement Unit, Office of the General Counsel, Room 122, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C., 20508, Attn: Romania Customs Valuation Dispute. Telephone: (202) 395-3581.

FOR FURTHER INFORMATION CONTACT: Melida N. Hodgson, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street N.W., Washington, D.C., (202) 395-3582.

SUPPLEMENTARY INFORMATION: Section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, but in an effort to provide additional opportunity for comment, USTR is providing notice that consultations have been requested pursuant to the WTO Dispute Settlement Understanding. If such consultations should fail to resolve the matter and a dispute settlement panel is established pursuant to the DSU, such panel, which would hold its meeting in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.