

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

RESTRICTED
MTN.SB/SN/26
15 June 1993
Special Distribution

Surveillance Body

STANDSTILL

Notification

1. Participant notifying: Brazil

2. Participant maintaining the measure: United States

3. Description of the measure (including date of entry into force and reference to any relevant legislation or other document):

On 30 April 1993, the U.S. Government identified Brazil as a "priority foreign country" for the purposes of initiating, in the context of the "special" 301 provisions of the U.S. Trade Act of 1974, an investigation to determine whether the laws and practices of Brazil "deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons who rely on intellectual property protection".

4. Products covered, including tariff headings (CCCN where applicable, otherwise national tariff lines):

To be identified by U.S. authorities, but the U.S. decision actually affects trade prospects of Brazilian exports of any product to the U.S. market.

5. Country or countries to which the measure applies:

Brazil (other countries have also been identified by the U.S. Government as "priority foreign countries")

6. Relevance of the measure to the standstill commitment:

The identification of a country as a "priority foreign country" is the first step in a process that may ultimately lead to the application of trade restrictive measures against that country by the United States.

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The U.S. unilateral decision in and of itself constitutes a trade inhibiting factor which prejudices Brazil's trade interests, as well as its GATT rights, and threatens the existence and the credibility of the multilateral trading system, as embodied in the GATT rules. Furthermore, by means of a threat to apply trade measures in contempt to U.S. obligations vis-à-vis the GATT, it is intended to apply pressure on Brazil to mould its proposed legislation on industrial property, now under examination by the Brazilian Congress, according to standards which the U.S. Government considers adequate to meet U.S. concerns. As such, it also purports to improve the U.S. negotiating position in the negotiations on trade-related aspects of intellectual property rights, including trade in counterfeit goods (TRIPs) of the Uruguay Round.

The U.S. Decision, thus, violates the commitments set forth in sub-items (i) and (iii) of the section on standstill of the Punta del Este Declaration.

7. Comments by the participant maintaining the measure:

The United States Delegation does not accept the legitimacy of the notification submitted by Brazil in this document and considers that the U.S. decision in question was not appropriately the subject of discussion in the Surveillance Body. The United States Delegation rejects categorically the Brazilian assertion that the U.S. decision in question represents a violation of the commitments undertaken in the Punta del Este Declaration.

No trade restrictive or distorting measure inconsistent with the provisions of the GATT has been taken by the United States in this case. Similarly, no trade measures have been taken by the United States with a view to improving its negotiating position with respect to Brazil. The fact that the Brazilian delegation was incapable of specifying products covered in part 4 of the notification is proof that no such measures have been taken by the United States.
