BRAZIL - IMPOSITION OF ANTI-DUMPING DUTIES ON VACUUM BLOOD COLLECTION TUBES FROM THE UNITED STATES

Request for Consultations under Article 15 of the Agreement

Communication from the United States

The following communication, dated 6 October 1995, has been received from the Office of the United States Trade Representative.

In accordance with Article 15 of the Agreement on the Implementation of Article VI of the General Agreement on Tariffs and Trade ("the Agreement"), the United States requests consultations with the Government of Brazil concerning the case:

Closing of investigation of dumping in connection with imports of vacuum blood collection tubes from the United States.

On 19 October 1993 the Tariff Technical Department (DTT) of the Foreign Trade Office (Secex) issued a final determination that resulted in the imposition of definitive duties of between 52 and 134 percent on blood collection tubes from the United States.

Based on the information and reasons included in the determination, the United States believes that benefits accruing to the United States under the Agreement are being nullified and impaired and that the achievement of objectives of the Agreement are being impeded in several respects specifically:

1. In determining normal value, the Government of Brazil disregarded the data on US sales provided by the US exporter and instead based normal value on a price list for other Latin American countries. This constitutes a violation of Articles 2.1 and 2.4.

2. The determination indicates that adjustments (e.g. selling expenses, freight, import duties etc.) were made to construct the export price, but no adjustments were made to the price lists in determining normal value. This may constitute a violation of Article 2.6.

3. The Brazilian authorities declined to use data provided by the US exporter notwithstanding the fact that there was no finding that the US exporter failed to provide requested information or that the US exporter in some other way impeded the investigation. This action may constitute a violation of Article 6.8.
4. In the area of injury, the determination appears deficient in several key respects:

- With regard to the volume of imports, there was no examination of the volume of imports over the period covered and no consideration of whether there has been a significant increase in the allegedly dumped imports, as required by paragraphs 1 and 2 of Article 3.

- With regard to prices, there was no examination of how the allegedly dumped imports affected prices in the domestic market, and no consideration of whether there has been a significant price undercutting by the allegedly dumped imports, or whether the effect of such imports is to depress to a significant degree or to prevent price increases, which otherwise would occur, to a significant degree, as required by paragraphs 1 and 2 of Article 3.

- As a result of the above failures, there was no demonstration that the allegedly dumped imports are causing injury, as required by Article 3.4.

There are a number of methodological issues which we would also like to discuss including, inter alia, selection of the sample of invoices used in the construction of the export price and achieving comparability of sales in terms of level of trade. There is insufficient information to determine if the methodologies used constitute violations of the Agreement. The United States reserves its right to raise these issues during the forthcoming consultations and at any later stages. The United States also reserves its right to raise other issues and/or other provisions of the Agreement in regard to this case.

The United States would therefore request consultations to take place the week of 23 October in Geneva, Switzerland, which is the week immediately preceding the week in which are scheduled the next regular meetings of the Tokyo Round and WTO Committees on Anti-Dumping Practices.