

ACTION: Identification of countries that deny adequate protection for intellectual property rights or market access for persons who rely on intellectual property protection.

SUMMARY: The United States Trade Representative (USTR) is directed by section 182 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2242), to identify those foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to United States persons that rely upon intellectual property protection, and those foreign countries determined to be priority foreign countries. These identifications must be made within 30 days of the date on which the annual report is submitted to Congressional committees under section 181(b) of the Trade Act. They are presented below.

DATES: This identification took place on April 30, 1996.

ADDRESS: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Joseph Papovich, Deputy Assistant USTR for Intellectual Property, (202) 395-6864, Jo Ellen Urban, Director for Intellectual Property, (202) 395-6864, or Thomas Robertson, Assistant General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: Section 182 of the Trade Act requires the USTR to identify within 30 days of the publication of the National Trade Estimates Report all trading partners that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to United States persons that rely upon intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices that have the greatest adverse impact (actual or potential) on the relevant United States products must be identified as "priority foreign countries," unless they are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection for intellectual property rights. In identifying countries in this manner, the USTR is directed to take into account the history of intellectual property laws and practices of the foreign country, including any previous identifications as a priority foreign country, and the history of efforts of the United States, and the response of the foreign country, to achieve adequate and effective protection and enforcement of intellectual property rights. In making these determinations, the USTR must

consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officials of the Federal Government and take into account information from other sources such as information submitted by interested persons.

On April 30, 1996, having consulted with the appropriate private sector advisory committees, the USTR identified 34 trading partners as failing to provide adequate and effective intellectual property protection and fair and equitable market access to persons who rely on such protection. Of these trading partners, China was identified as a priority foreign country because of its failure to implement the 1995 intellectual property enforcement agreement. Economic damage to U.S. industries continues to rise as a result. Although China has made some progress in halting the retail trade in infringing goods, it has failed to stop illegal CD production, to prevent the export of infringing goods, or to honor its promise to grant market access for legitimate audiovisual products. Because intellectual property enforcement problems in China are already the subject of an action under section 301, a new section 301 investigation will not be initiated. See 19 U.S.C. 2412(b)(2)(A)(ii); 59 FR 35558 (July 12, 1994); 60 FR 1829 (January 5, 1995); 60 FR 7230 (February 7, 1995); 60 FR 12582 (March 7, 1995). China's implementation of the 1995 agreement will remain subject to section 306 monitoring. Trade sanctions for noncompliance could be imposed pursuant to a decision by USTR that China is not satisfactorily implementing the 1995 agreement. 19 U.S.C. 2416.

Eight other trading partners were placed on the administratively-created "priority watch lists," including Argentina, the European Union, Greece, India, Indonesia, Japan, Korea, and Turkey. Greece and Argentina will be subject to review during the course of the year to maintain pressure for further progress. Twenty-five other countries were placed on the special 301 "watch list," including Australia, Bahrain, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, Egypt, EL Salvador, Guatemala, Italy, Kuwait, Oman, Pakistan, Paraguay, Peru, the Philippines, Poland, Romania, the Russian Federation, Saudi Arabia, Singapore, Thailand, the UAE (United Arab Emirates), and Venezuela. The intellectual property protection and market access regimes of EL Salvador, Italy, Paraguay, the Philippines, Russia, Saudi Arabia, and Thailand will be subject to "out-of-cycle" reviews. The USTR noted growing concerns about

IPR problems in four countries, and highlighted developments and expectations for further progress in 15 other countries. Finally, the USTR announced the impending initiation of WTO dispute settlement cases against Portugal, Pakistan, and India for patent-related violations of the Agreement on Trade-Related Aspects of Intellectual Property Rights and Turkey for violations of the national treatment obligations in the General Agreement on Tariffs and Trade 1994. Separate Federal Register notices will be issued detailing these cases at the appropriate time.

Joseph Papovich,

Deputy Assistant USTR for Intellectual Property.

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BILLING CODE 3190-01-M

[Docket No. 301-103]

Initiation of Section 302 Investigation and Request for Public Comment: Practices of the Government of Portugal Regarding the Term of Patent Protection

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2412(b)(1)), with respect to certain acts, policies and practices of the Government of Portugal relating to the term of existing patents. The United States alleges that these acts, policies and practices result in patents owned by U.S. individuals and firms receiving shorter terms than those required by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), administered by the World Trade Organization (WTO). USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on April 30, 1996. Written comments from the public are due on or before noon on Monday, June 3, 1996.

ADDRESSES: Offices of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Joseph Papovich, Deputy Assistant USTR for Intellectual Property, (202) 395-6864, or Thomas Robertson, Assistant General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: Section 302(b)(1) of the Trade Act authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as "section 301") with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, *inter alia*, the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

On April 30, 1996, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to determine whether certain laws and regulations or Portugal affecting patent term are actionable under section 301(a). Articles 33 and 65 of the TRIPs Agreement require developed country WTO members to establish by January 1, 1996, a term of protection for patents that runs from the date of grant at least until twenty years after the filing of the application for the patent. Article 70 of the TRIPs Agreement requires this term of protection to be provided to patents existing on January 1, 1996, and those granted thereafter. While Portugal modified its Patent Law to establish a twenty-year-from-application patent term, this term applies only to patents granted after June 1, 1995, and does not apply to patents granted before that time. This failure appears to be inconsistent with the obligations set forth in Article 70 of the TRIPs Agreement.

Investigation and Consultations

As required in section 303(a) of the Trade Act, the USTR has requested consultations with the Government of Portugal regarding the issues under investigation. The request was made pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 64 of the TRIPs Agreement (to the extent that it incorporates by reference Article XXII of the General Agreement on Tariffs and Trade 1994). If the consultations do not result in a satisfactory resolution of the matter, the USTR will request the establishment of a panel pursuant to Article 6 of the DSU.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of WTO dispute settlement procedures,

whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of Portugal which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Monday, June 3, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, D.C. 20508.

Comments will be placed in a file (Docket 301-103) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301-103) may be made by calling Brenda Webb (202) 395-6186. The USTR Reading Room is open to the public from 10:00 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,
Chairman, Section 301 Committee.
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[Docket No. 301-104]

Initiation of Section 302 Investigation and Request for Public Comment: Practices of the Government of Pakistan Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2412(b)(1)), with respect to certain acts, policies and practices of the Government of Pakistan that may result in the denial of patents and exclusive marketing rights to U.S. individuals and firms involved in the development of innovative pharmaceutical and agricultural chemicals products. The United States alleges that these acts, policies and practices are inconsistent with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement), administered by the World Trade Organization (WTO). USTR invites written comments from the public on the matters being investigated. **DATES:** This investigation was initiated on April 30, 1996. Written comments from the public are due on or before noon on Monday, June 3, 1996.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

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On April 30, 1996, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should