

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON, D.C.  
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FOR IMMEDIATE RELEASE  
April 2, 1997

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**ANNUAL REVIEW OF TELECOMMUNICATIONS TRADE AGREEMENTS UNDER  
SECTION 1377 OF THE 1988 TRADE ACT COMPLETED**

United States Trade Representative Charlene Barshefsky announced today the completion of the annual review of the operation of U.S. telecommunications trade agreements under Section 1377 of the 1988 Omnibus Trade and Competitiveness Act.

"The record demonstrates that we have successfully addressed a number of telecommunications trade agreements in the last twelve months," said Barshefsky. "Clearly, global telecommunications agreements will break down barriers in telecommunications around the world to an extent we would not have thought possible just a year ago. The 1377 process provides an invaluable benchmark in identifying specific foreign trade barriers that must be addressed on a priority basis."

This year's review, which was completed on March 31, 1997, focussed on U.S. concerns about implementation of bilateral agreements with Mexico, Japan, Korea and Taiwan.

**Mexico.** There were two main issues of concern this year regarding Mexico's implementation of its NAFTA telecommunications obligations.

The first issue -- Mexico's establishment of standards for terminal attachment for telecommunications equipment -- was satisfactorily addressed at the February 11, 1997 meeting of the NAFTA Telecommunications Standards Subcommittee (TSSC). Based upon industry input, the TSSC agreed to terminal attachment standards consistent with NAFTA obligations. Mexico will place these standards into effect within approximately ninety days of the February 1997 meeting.

The second issue, which was an area highlighted in last year's review, was the exchange of test data related to product safety of telecommunications equipment. Mexican and U.S. negotiators completed substantive agreement on a procedure for the exchange of product safety test data of telecommunications equipment which will allow for laboratory-to-laboratory relationships.

Based on the successful outcome of these two negotiations, the review concluded that Mexico was in compliance with its telecommunications obligations.

**Japan.** The review examined telecommunications procurement by the Japanese Government and NTT.

#### National Police Agency Procurement

United States concerns related to the National Police Agency (NPA) have been addressed in a way that should ensure fair and equitable access to an important telecommunications procurement by the Japanese government. A general principle in both the WTO Agreement on Government Procurement and the 1994 U.S.-Japan Framework Agreement on Japanese public sector telecommunications procurement (Framework Agreement) is that companies involved in the development of specifications should not be allowed to participate in the procurement if it would result in an unfair competitive advantage over other suppliers. Over several months, the United States raised concerns with the specifications development process that the Japanese National Police Agency (NPA) was using for its next generation VHF mobile communications system. The United States was particularly concerned about the conduct of the specifications development process, and that the selected Japanese firms would develop specifications that U.S. firms would not be able to meet. The U.S. believed that all interested firms should be given a full and fair opportunity to participate in the resulting procurement.

In addition, the United States asserted that the NPA's reliance on a public order and safety exception to remove the procurement from the disciplines in the WTO Agreement on Government Procurement and the Framework Agreement was not justified in this case.

As a result of persistent U.S. Government intervention, the Government of Japan has cancelled its plans to develop a next generation mobile radio communications system. The NPA has determined that it can meet its objectives of ensuring the security of its police communications while allowing broad participation of suppliers by adopting a new approach for the development of this system. Under this new approach, the NPA plans to conduct the procurement of this system in accordance with the WTO Agreement on Government Procurement and the Framework Agreement, with the exception of the encryption module. The Japanese Government has also informed the U.S. Government that the technical specifications to be used in this new approach will not provide an unfair competitive advantage to the companies that participated in the canceled program.

The United States will monitor the implementation of the new approach to ensure that all interested foreign firms are provided with full and fair procurement opportunities and are not unfairly disadvantaged vis-a-vis the companies that developed the specifications for the procurement that was canceled. The United States will consult with the Japanese Government as necessary as the new approach unfolds.

#### NTT Procurement Agreement and Other Issues Relating to the 1994 U.S.-Japan Framework Agreement on Japanese Public Sector Telecommunications Procurement.

The United States raised several concerns during the October 1996 review of the NTT procurement agreement based upon NTT's continued use of non-transparent and

discriminatory criteria to determine the share of procurement to be awarded among NTT suppliers. It appears that NTT continues to rely excessively on NTT-specific product-based specifications and has not moved sufficiently to comparable international performance-based specifications. It also appears that NTT excessively employs single tendering and follow-on procurement procedures which disadvantage non incumbent firms. The United States will seek to address these issues in consultations called for under the agreement.

With regard to the Framework Agreement, the United States is concerned about statistical analysis indicating a disparity between the value of telecommunications procurements conducted under the Framework Agreement and the total value of Japanese Government telecommunications procurements. The U.S. has asked Japan for a detailed explanation of this situation and will pursue these issues in consultations called for under the Framework Agreement.

**Korea.** The Administration has expressed serious concerns that the Korean government continues to play an active and discriminatory role in the telecommunications sector in Korea. USTR will continue to monitor the troubling pattern of Korean government practices which limit the purchase of foreign telecommunications equipment and services in the Korean market.

Reflecting these concerns, as well as the fact that a number of important issues are not covered by existing telecommunications agreements with Korea, Ambassador Barshefsky on July 26, 1996 designated Korea a "Priority Foreign Country" (PFC) under Section 1374 of the 1988 Act. Under this Act, the United States has a one-year period in which to reach a resolution which addresses U.S. objectives, after which trade sanctions may be imposed. Bilateral negotiations on this matter are ongoing.

**Taiwan.** In July 1996, the American Institute in Taiwan concluded with their Taiwanese counterparts an agreement on the licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market in Taiwan. The Directorate General of Telecommunications (DGT) agreed that interconnection agreements between wireless operators and Chunghwa Telecommunications Co. would be cost-based, transparent, unbundled and non-discriminatory and the terms of such agreements publicly available. The United States will monitor the implementation of these wireless licences to ensure it conforms to the agreement.

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FOR IMMEDIATE RELEASE  
April 4, 1997

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**UNITED STATES AND JORDAN REACH AGREEMENT  
ON A BILATERAL INVESTMENT TREATY**

United States Trade Representative Charlene Barshefsky and Jordan's Minister of Planning, Dr. Rima Khalaf, yesterday reached agreement on a Bilateral Investment Treaty (BIT). This treaty provides strong guarantees to investors from the United States and Jordan and should deepen and strengthen the economic ties between the two countries.

"The U.S.-Jordan Bilateral Investment Treaty demonstrates the commitment of both countries to increased economic cooperation," Ambassador Barshefsky said. "We hope that this agreement helps Jordan in its ambitious economic reform program and serves to strengthen the Middle East peace process."

The U.S.-Jordan Bilateral Investment Treaty underscores U.S. support for Jordan's continuing efforts to transform its economy, to increase the role of the private sector and to create an investor-friendly business climate. Over the past several years Jordan has streamlined investment procedures, created tax and investment incentives, reduced tariffs and simplified customs procedures. The United States welcomes these important steps and looks to the private sector to take advantage of the many emerging business opportunities in Jordan and throughout the Middle East.

The new Treaty provides the following protections:

- the better of national treatment or most-favored-nation treatment to investments in the partner country;
- limits on expropriation of investments and compensation according to world standards if an expropriation should occur;

- guarantee of free transfers of funds into and out of the partner country;
- limits on a host government's ability to require a party's investors to adopt inefficient and trade distorting practices (performance requirements);
- the right to international dispute settlement should a problem arise; and
- the right of each party's investors to engage the top managerial personnel of their choice, regardless of nationality.

Background

This will be the 39th Bilateral Investment Treaty signed by the United States since 1982. Twenty-eight of those are now in force.

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FOR IMMEDIATE RELEASE  
April 7, 1997

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**USTR ANNOUNCES STEPS ON ACCESS TO JAPAN'S PAPER MARKET**

United States Trade Representative Charlene Barshefsky expressed concern today about the market access problems that U.S. paper and paperboard producers continue to face in Japan, and called upon the Government of Japan to undertake effective measures to deal with these problems.

"With import penetration far below that of any other industrialized country, access to Japan's paper market remains inadequate," said Ambassador Barshefsky. "We will be working closely with U.S. paper producers to assess in detail the position of foreign paper companies and market access barriers they continue to face in Japan."

The United States Government is undertaking the steps outlined below:

- USTR has urged the Government of Japan to encourage paper users and distributors in Japan to develop and actively implement open procurement programs for paper and paperboard products which will guarantee equal, non-discriminatory access to foreign producers, as well as to adopt effective antimonopoly act compliance programs;
- USTR will carefully review import trends in Japan of paper and paperboard products;
- the United States Government will work with the U.S. paper and paperboard industry in its export promotion efforts in Japan, and will continue to seek Government of Japan cooperation and assistance with such efforts;
- USTR has requested U.S. industry to work closely with it to assess market conditions and trade barriers in this sector in Japan by August, 1997;

- USTR has indicated its willingness to work with the Government of Japan in a constructive manner to reach an acceptable arrangement in this sector, and urged the Government of Japan to respond constructively to its March 21 proposal.

## BACKGROUND

Market access for foreign paper and paperboard products in Japan has not increased substantially as stipulated in the April 5, 1992 bilateral agreement which just expired. USTR had earlier expressed concern to the Government of Japan that the 1992 bilateral Paper Agreement, which stemmed from the Structural Impediments Initiative and was negotiated prior to the Framework agreement, was not meeting its objective. The Administration also reported these concerns in Super 301 reports to the Congress.

In 1992 Japan acknowledged that its market was not sufficiently open to imports. Japan's import penetration for relevant products at that time was 3.7 percent, compared to the range of 15-80 percent for other OECD countries. Between 1995 and 1996 Japan's import penetration increased from 4.2 to 5.1 percent, with imports up only 242,000 tons in a 30 million ton market. Even this small increase may not be sustained in face of a projected 1.25 million ton increase in Japanese production capacity.

On March 21, the United States put forward a proposal for a focused work program designed to improve conditions for market access in this sector. Increased import competition in this sector in Japan will benefit Japanese paper and paperboard users, and help make the Japanese paper industry more internationally competitive.

Many U.S. paper companies have been active in Japan for many years and have made a positive contribution to the Japanese economy. U.S. global exports of paper grew from 7.48 to 9.24 million tons between 1995 and 1996. By contrast, U.S. paper and paperboard exports to Japan are only 220,000 tons. In 1996 the U.S. paper and paperboard industry employed 700,000 workers in the United States and exported over \$20 billion of paper and paperboard.

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FOR IMMEDIATE RELEASE  
April 7, 1997

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**JOINT STATEMENT BY USTR CHARLENE BARSHEFSKY  
AND TREASURY SECRETARY ROBERT RUBIN  
ON THE WTO NEGOTIATIONS ON TRADE IN FINANCIAL SERVICES**

The United States welcomes the resumption of the WTO financial services negotiations. We are fully committed to seeking a comprehensive WTO agreement that provides substantially full market access and national treatment to financial service providers on a non-discriminatory basis. This ambitious undertaking will require a higher standard of liberalization than has been offered to date by a number of key emerging markets.

The United States has financial markets that are among the most open in the world. This openness to foreign participation is one reason why the U.S. financial markets are competitive, innovative, and effective in financing investment and growth. Foreign financial service providers have enjoyed full access on a non-discriminatory basis to the U.S. market. However, if our trading partners want legal guarantees in the WTO that the United States will not restrict access to its financial services market, then they in turn must work with us to ensure that each WTO Member with substantial markets provides similar guarantees.

Financial liberalization is an important part of building the strong financial system that countries all recognize is important to economic growth. Liberalization in this sector, however, also presents challenges to governments and monetary authorities. That is why the WTO agreement provides extensive accommodations to the prudential regulation needed to protect the safety and soundness of banking systems, to safeguard the integrity of financial markets, and to protect investors. The United States is prepared to consider transition periods that will allow for the phase in of commitments by countries over a reasonable period of time.

We expect that the recent successes in the WTO negotiations on telecommunications goods and

services have established a firm basis for moving forward in financial services. They clearly show that the United States is willing to sign onto agreements that cover a critical mass of countries and provide real commercial opportunities to our companies. And, if we can now succeed in the financial services negotiations, we can build the infrastructure for a more interconnected global economy of the 21st century.

The United States has much to gain from the conclusion of a successful agreement that opens new opportunities for U.S. financial services providers and furthers the integration of national financial systems. We will approach these negotiations in a constructive spirit and will work closely with our trading partners, both the established financial centers and the emerging markets, to conclude a strong, market opening agreement. Our objective in the negotiations is commitments from our trading partners to provide substantially full market access and national treatment to our companies. In return, we are prepared to commit ourselves to do the same.

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FOR IMMEDIATE RELEASE  
April 15, 1997

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**USTR ANNOUNCES LIST OF ARGENTINE PRODUCTS TO LOSE GSP BENEFITS  
AS A RESULT OF "OUT-OF-CYCLE" REVIEW**

The Office of the U.S. Trade Representative today released the list of Argentine products which will lose duty-free treatment as a result of the January 15, 1997, Clinton Administration decision to withdraw benefits for approximately fifty percent of Argentina's exports under the Generalized System of Preferences (GSP) program. This decision was the result of an "out-of-cycle" review of Argentina's intellectual property rights (IPR) regime under the U.S. Government's "Special 301" program, designed to advance the protection of U.S. intellectual property rights around the world.

"Effective protection of intellectual property rights is key to creating an environment for economic growth in our Hemisphere and is an important element in our Hemispheric trade agenda," said U.S. Trade Representative Charlene Barshefsky. "Argentina has failed to bring its IPR provisions into compliance with longstanding commitments. This action demonstrates our commitment to strong IPR protection around the world."

"The action taken today will remain in effect until Argentina takes steps to improve its IPR protection," Barshefsky said.

On April 30, 1996, USTR announced that Argentina was being named to the Priority Watch List under Special 301 because Argentina's newly enacted patent legislation and an implementing decree fell far short of adequate and effective protection, and failed to achieve earlier Argentine assurances. Despite continued efforts by the Menem Administration to establish modern intellectual property protection in Argentina, there have been inadequate improvements in Argentina's patent regime since April 1996.

As a result, the Administration determined that Argentina fails to provide adequate and effective means under its laws for foreign nationals to secure, to exercise, and to enforce exclusive rights in intellectual property. On January 15, 1997, USTR announced the Administration's decision to withdraw benefits for fifty percent of Argentina's exports under the GSP program. On January

21, 1997, a *Federal Register* notice was published requesting public comments on which products should be affected by that decision.

The products affected include chemicals, certain metals and metal products, a variety of manufactured products and several agricultural items (list attached). USTR received a number of public comments on products covered by this action, and this advice was carefully considered in developing the list. 1995 GSP duty-free imports from Argentina of these items totaled approximately \$260 million. These products will lose duty-free treatment 30 days after the list is published in the *Federal Register*.

The following items from Argentina will lose duty-free treatment under the Generalized System of Preferences. (Please note that the product descriptions following the Harmonized Tariff Schedule numbers are unofficial descriptions included here for the reader's convenience only. The official complete legal text describing the products can be obtained from the U.S. Harmonized Tariff Schedules).

03037700 Sea bass, frozen, excluding fillets  
04049010 Milk protein concentrates  
07032000 Garlic, fresh or chilled  
16041610 Anchovies, whole or in pieces but not minced, in oil  
17011110 Certain raw cane sugar having no added flavor or color  
28054000 Mercury  
28139050 Sulfides of nonmetals, excluding carbon disulfide  
28323010 Sodium thiosulfate  
28399000 Silicates and commercial alkali metal silicates  
28413000 Sodium dichromate  
28415000 Chromates and dichromates except of sodium, potass.  
28433000 Gold compounds  
28491000 Calcium carbide  
28500050 Hydrides, nitrides, azides, silicides and borides  
29021100 Cyclohexane  
29051200 Propan-1-ol (propyl alcohol) and propan-2-ol ...  
29051300 Butan-1-ol (n-butyl alcohol)  
29052250 Acyclic terpene alcohols, other than geraniol  
29061400 Terpeneols  
29141200 Butanone (methyl ethyl ketone)  
29141300 4-methylpentan-2-one (methyl isobutyl ketone)  
29157000 Palmitic acid, stearic acid, their salts and esters  
29171450 Maleic anhydride, except derived in whole or in part  
29182150 Salicylic acid and its salts, not suitable for medic  
29182210 O-acetylsalicylic acid (aspirin)  
29182250 Salts and esters of o-acetylsalicylic acid  
29291015 Mixtures of 2,4- and 2,6-toluenediisocyanates  
29329090 Certain aromatic compounds  
29334030 Pesticides of heterocyclic compounds with nitrogen  
29339055 Certain drugs, analgesics, anti-inflammatory agents  
32099000 Paints and varnishes based on synthetic polymers

33011910 Essential oils of grapefruit  
33019010 Certain perfume mixtures  
33021010 Mixtures of odoriferous substances  
33021020 Mixtures of or with a basis of odoriferous substance  
33029010 Mixtures of or with a basis of odoriferous substance  
33030030 Perfumes and toilet waters, containing alcohol  
33042000 Eye make-up preparations  
33049900 Beauty or make-up preparations  
33051000 Shampoos  
33059000 Preparations for use on the hair, nesi  
33072000 Personal deodorants and antiperspirants  
33074900 Preparations for perfuming or deodorizing rooms  
34011110 Castile soap in the form of bars, cakes  
35040050 Peptones and their derivatives; protein substances  
35069900 Prepared glues and other prepared adhesives  
37011000 Photographic plates and film in the flat, sensitized  
37021000 Photographic film in rolls, sensitized, unexposed  
37061030 Sound recordings on motion-picture film  
37079032 Certain photographic chemical preparations  
38220050 Composite diagnostic or laboratory reagents, nesi  
39019050 Polymers of ethylene, nesi, in primary forms  
39021000 Polypropylene, in primary forms  
39022050 Polyisobutylene, other than elastomeric, in primary  
39029000 Polymers of propylene or of other olefins, nesi  
39039050 Polymers of styrene, nesi, in primary forms  
39044000 Vinyl chloride copolymers nesi, in primary forms  
39061000 Polymethyl methacrylate, in primary forms  
39069050 Acrylic polymers (except plastics or elastomers)  
39073000 Epoxide resins in primary forms  
39076000 Polyethylene terephthalate in primary forms  
39079900 Polyesters nesi, saturated, in primary forms  
39091000 Urea resins; thiourea resins  
39095050 Polyurethanes, other than elastomeric or cements  
39139020 Polysaccharides and their derivatives, nesi, in prim  
39219050 Nonadhesive plates, sheets, film, foil and strip  
39239000 Articles nesi, for the conveyance or packing of goods  
40111010 Certain radial tires  
42010060 Saddlery and harnesses for animals nesi  
43031000 Articles of apparel and clothing accessories, of fur  
43039000 Articles of furskin, nesi  
44101000 Particle board and similar board of wood  
44111100 Fiberboard of a density exceeding 0.8 g/cm<sup>3</sup>  
48025210 Writing paper, 40 g/m<sup>2</sup> to 150 g/m<sup>2</sup>, cont n/o 10%  
69109000 Ceramic sanitary fixtures other than of porcelain  
70071100 Toughened (tempered) safety glass, of size and shape  
71141160 Articles of silver nesi, for household, table or kit  
72022150 Ferrosilicon containing by weight more than 55%

72023000 Ferrosilicon manganese  
73089095 Some steel structures  
73159000 Parts of chain of iron or steel, nesi  
74091150 Plates, sheets and strip of refined copper, in coils  
74092100 Plates, sheets and strip of copper-zinc base alloys  
74199950 Articles of copper nesi, not coated or plated  
79011100 Unwrought zinc, not alloyed, containing by weight 99  
79011250 Unwrought zinc, other than casting-grade zinc  
82072000 Interchangeable dies for drawing or extruding metal  
84099150 Some engine parts  
84099199 Parts nesi, used solely or principally with spark-ig  
84099991 Parts nesi, used solely or principally with the engi  
84139190 Parts of pumps, nesi  
84223090 Machinery for filling,closing,sealing, capsuling  
84314910 Parts suitable for use solely or principally  
84719252 Some ADP print devices  
84775100 Machinery for molding or retreading pneumatic tires  
84792000 Machinery for the extraction or preparation  
84803000 Molding patterns  
84813020 Check valves of iron or steel for pipes, boiler  
84818030 Taps, cocks, valves & similar appliances for pipes  
84818090 Taps, cocks, valves & similar appliances for pipes  
84819030 Parts of hand operated and check appliances for pipe  
85030065 Some parts for electric generating machinery  
85242210 Pre-recorded video tapes of a width exceeding 4 mm  
85249040 Records, tapes and other recorded media for sound  
85369000 Electrical apparatus nesi, for switching  
85389080 Some electrical switching parts  
87086080 Non-driving axles and parts thereof for vehicles  
87087060 Some parts of road wheels for vehicles  
87089980 Some parts and accessories for motor vehicles  
87169050 Parts of trailers and semi-trailers nesi  
90039000 Parts of frames and mountings for spectacles, goggles  
90189010 Mirrors and reflectors used in medical, surgical  
91131000 Watch straps, watch bands and watch bracelets  
91132060 Parts of watch bracelet of base metal  
94032000 Metal furniture, of a kind not used in offices  
94035090 Wooden furniture  
94036080 Wooden (except bent-wood) furniture

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FOR IMMEDIATE RELEASE  
Wednesday, April 16, 1997

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**U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY  
ANNOUNCES NEW APPOINTEES AT USTR**

U.S. Trade Representative Charlene Barshefsky today announced selections for two key positions at the Office of the U.S. Trade Representative: the nomination of Peter L. Scher to be Special Trade Ambassador for Agriculture and the appointment of Susan G. Esserman as General Counsel.

“Even as our exports of agricultural products hit a new record at nearly \$60 billion last year, I sought to create the position of Special Trade Ambassador for Agriculture to elevate attention to an ever-increasing number of agricultural trade issues,” said U.S. Trade Representative Charlene Barshefsky. “Peter Scher will bring a strong combination of talent and experience to meet a series of critical challenges in opening international markets to our agricultural products. A key priority will be to ensure further opening of China’s market to U.S. agricultural exports. In addition, we will fight every application of trade barriers such as unfair sanitary and phytosanitary standards and ensure that new agricultural products which employ biotechnology are not subject to arbitrary market barriers.”

Mr. Scher most recently held the position of Chief of Staff to Commerce Secretary Mickey Kantor, and previously served as Chief of Staff to Ambassador Kantor at the Office of the U.S. Trade Representative. During his previous tenure with USTR he was a principal advisor to Ambassador Kantor during a number of critical trade negotiations, including negotiations with the EU and the Russian Federation regarding restrictions on agricultural imports. Prior to joining the Clinton Administration, Mr. Scher served as the Chief of Staff to Senator Max Baucus, Chairman of the U.S. Senate Subcommittee on International Trade, and as Majority Staff Director for the U.S. Senate Committee on Environment and Public Works. Before joining government

service, Mr. Scher practiced law with Keck, Mahin and Cate. Mr. Scher holds a J.D. from the Washington College of Law at The American University and a B.A. from The American University.

"I am pleased also to announce Susan Esserman's appointment as General Counsel," Barshefsky said. "I will rely on her as a strategist, as well as her legal skills and enforcement background. She is an extraordinary trade lawyer with a wealth of experience who arrives here at a critical moment when we are expanding our enforcement initiatives at the WTO, bilaterally and through a wide application of our trade laws. The United States has initiated more cases than any other Member of the WTO and we will continue to aggressively utilize the WTO's dispute settlement process to protect U.S. trade interests."

Ms. Esserman most recently served as the Acting General Counsel at the Department of Commerce. Prior to holding that position, she was the Assistant Secretary of Commerce for Import Administration where she was responsible for enforcement and development of policy relating to the U.S. antidumping and countervailing duty laws. She played a lead role on behalf of the Administration in connection with the GATT legislation involving these areas and revamped and streamlined the implementing regulations. Before joining the Clinton Administration in 1993, Ms. Esserman was a Partner at Steptoe and Johnson where she specialized in international trade law, policy, and litigation. She also served as a law clerk for United States District Judge Oliver Gasch. Ms. Esserman holds a J.D. from the University of Michigan and a B.A. from Wellesley College.

"I am pleased that these tremendously talented people have agreed to serve at USTR. They offer important skills toward meeting the trade challenges immediately in front of us. Individually, their depth of knowledge and creativity will complement and enhance an already impressive team at USTR," said Barshefsky.

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### USTR CONCLUDES BILATERAL COPYRIGHT AGREEMENT WITH VIETNAM

U.S. Trade Representative Charlene Barshefsky announced today the conclusion of an Ad referendum bilateral copyright agreement with Vietnam. Ambassador Barshefsky said, "This is a very important agreement, the first trade agreement to be concluded by this Administration with Vietnam. The agreement will provide U.S. copyrighted works the same protection that Vietnamese nationals receive in Vietnam. It is an important first step in establishing intellectual property rights protections for U.S. companies and begins to address key issues necessary for the normalization of trade relations."

The bilateral copyright agreement establishes for the first time a legal framework to protect artistic, musical, cinematic, choreographic, computer software, and other works from copyright infringement in Vietnam. U.S. copyright industries have been increasingly concerned by the growth of copyright piracy in Vietnam. Areas of piracy include the transmission of American movies on state television stations, and the establishment of CD factories in Ho Chi Minh City. The bilateral copyright agreement will provide the basis for protecting U.S. works.

#### Background

The bilateral agreement provides for national treatment of U.S. copyrighted works. It gives right holders exclusive rights to authorize or prohibit the reproduction of a work, public performance of a copyrighted work and the public display of copyrighted works. Furthermore, the agreement provides for full and effective enforcement of copyrights within Vietnam, including civil actions, criminal procedures and penalties, as well as border enforcement.

In 1996, the United States began intensive work on the negotiation of a bilateral trade agreement with Vietnam. The conclusion of such an agreement, and its approval by Congress, would normalize U.S. trade relations with Vietnam and permit most-favored nation (MFN) status. A Presidential waiver of the "Jackson Vanik" emigration requirements is also a precondition for MFN status. In 1996, the United States tabled its proposal for a bilateral trade agreement that would establish equitable and mutually beneficial trade relations between the two countries by addressing such issues as market access for goods and services, intellectual property rights protection, and investment rules.

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FOR IMMEDIATE RELEASE  
Thursday, April 17, 1997

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**WTO Consultations Requested to Address Critical U.S. Agricultural  
Market Access Concerns**

USTR Charlene Barshefsky today announced that the United States has invoked the dispute settlement procedures of the World Trade Organization (WTO) to challenge practices of the governments of the Philippines and Japan that impede U.S. agricultural exports to those two countries.

The Philippines has agreed to the U.S. request for consultations to review the implementation of its agriculture commitments. "We are deeply concerned about the pattern of delay and the restrictive manner in which the Philippines has implemented its pork and poultry tariff-rate quotas," said Ambassador Barshefsky. "Of specific concern is the fact that the Philippines Government still has not authorized imports for 1997 and has established a system for allocating import licenses that serves as an unfair and unacceptable barrier to U.S. farm exports."

The United States also has requested consultations with Japan on Japan's variety-by-variety quarantine testing requirement for agricultural commodities. Barshefsky said, "We are firmly convinced there is no scientific basis for Japan's comprehensive variety-by-variety testing requirements. Japan's requirement that several years be spent duplicating tests for each additional variety is without quarantine significance, blocks market access, and ignores available scientific evidence which demonstrates the efficacy of existing quarantine treatments for a commodity."

**Background:**

**Pork and poultry exports to the Philippines.** Prior to the Uruguay Round, the Philippines effectively prohibited the importation of pork and poultry. Under the WTO agreement on agriculture, the Philippines has committed to provide a minimum level of access for pork and poultry imports by means of tariff-rate quotas. However, the Philippines has established a licensing system for these quotas that imposes barriers to U.S. exports, including by allocating the majority of licenses to domestic producers who have no know interest in importing. Furthermore,

more than three months into the year, the Philippines has still failed to issue any licenses for 1997.

The United States is committed to ensuring that the Philippines implements its WTO commitments. The United States requested WTO dispute settlement consultations on April 1, after months of intensive efforts to urge the Philippines to implement fully its WTO commitments resulted in no progress. Those consultations should be held by May 1.

**Fruit and other agricultural exports to Japan.** Japan prohibits the importation of each variety of an agricultural product until the quarantine treatment for that specific variety has been tested. This requirement is imposed even where Japan has already agreed that the existing treatment is effective for other varieties of that same product.

The U.S. request for WTO consultations cites the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. This Agreement requires that such measures be based on scientific principles, not be maintained without sufficient scientific evidence, be based on a risk assessment, and not arbitrarily or unjustifiably discriminate between WTO members where the same conditions prevail. There is no scientific rationale for a general requirement distinguishing between varieties of an agricultural commodity in terms of the effectiveness of a quarantine treatment for a known quarantine pest

WTO consultations with Japan on quarantine testing were requested on April 7, and should be held by May 7. The complaint against Japan is the 25th complaint that the United States has referred to WTO dispute settlement during the past 24 months -- more cases than any other country has taken to the WTO. Of those 25 complaints, 9 have involved agricultural and fishery products.

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FOR IMMEDIATE RELEASE:  
April 18, 1997

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**USTR BARSHEFSKY AND COMMERCE SECRETARY DALEY COMMEND  
PROGRESS BUT VOICE CONCERN OVER DEREGULATION ISSUES IN  
U.S.-JAPAN AUTOMOTIVE AGREEMENT**

**Washington, DC** -- The Clinton Administration, in a report released today, said progress on U.S. efforts to open Japan's auto and auto parts market to foreign manufacturers has been generally positive since the signing of a 1995 agreement, but declared greater progress was needed in the opening of dealerships and deregulation of the auto parts market.

The report also expressed concern over a recent rapid rise in Japanese imports. The third *U.S.-Japan Automotive Agreement Monitoring Report* was issued by an interagency task force formed to monitor progress of the bilateral auto agreement.

The biannual Report cites increased sales of U.S. vehicles produced by the "Big Three" auto manufacturers (Chrysler, Ford, General Motors), a rise in exports of U.S. made auto parts, and the elimination of some restrictive Japanese government regulations.

But it noted areas where progress fell short of Clinton Administration expectations including dealerships and deregulation of the auto parts market and further underscored the importance of accelerated progress in establishing new dealerships and deregulation of the auto parts market.

"Despite market access gains shown by full-year 1996 data, disturbing trends appeared in the first quarter 1997. We don't want to see a significant increase in the Japanese trade surplus. The overall imbalance in U.S.-Japan auto trade and the first quarter surge in Japanese imports requires that we watch this situation closely," said USTR Ambassador Charlene Barshefsky. "We are disappointed with the slow pace of Japanese deregulation. To this point, deregulation efforts have provided very little in the way of meaningful opportunities for U.S. auto parts exporters. Sustainable market access will depend on genuine reforms that open the Japanese distribution system and provide real choices for Japanese consumers -- by that standard, Japan has a long way

to go in meeting the objectives of this agreement.”

“We are pleased that progress continues to be made under the Agreement. U.S. vehicle sales in Japan jumped 34 percent and exports of U.S.-made automotive parts rose to \$2 billion in 1996, an increase of 20 percent over 1995,” said Commerce Secretary William M. Daley. “We must build on this progress to gain greater access to the world’s second largest automotive market and increase progress on dealerships and deregulation. As one of America’s largest employers, the auto industry contributes significantly to the overall health of the economy. Our efforts to open Japan’s automotive market will continue unabated until full and genuine market access is achieved.”

Highlights of the report include:

- o Sales in Japan of motor vehicles produced by the Big Three in North America increased by 34 percent in 1996, the first full year of the Agreement. This growth rate exceeds that recorded for imports from Europe (14 percent) and overall vehicle import sales in Japan (10 percent). The Japanese market for vehicle sales grew by only 3 percent in 1996.
- o Exports of U.S.-made automotive parts rose to \$2.0 billion in 1996, an increase of 20 percent from 1995. Parts exports were double the level recorded in 1992. Despite these gains, Japan has the lowest foreign market share among developed auto producing countries.
- o On February 20, 1997, the Japanese Ministry of Transport (MOT) revised its regulations to allow the operation of Specialized Certified Garages and Special Designated Garages. If this deregulation is implemented as expected, it will facilitate competition and create new opportunities for U.S. parts producers. Specifically, the action will permit smaller independent facilities to undertake repairs or inspections previously limited to dealerships or other MOT certified/designated repair facilities which almost exclusively use automakers' original equipment replacement parts.

In some other key areas, however, progress has fallen well short of U.S. expectations:

- o Only 114 new dealer outlets have been added by the Big Three U.S. automakers through direct franchise agreements with Japanese dealerships since the signing of the Agreement, a zero net increase since the last report. While 24 new dealership outlets were added during the past six months, discussions between Chrysler and one dealer principal, with which it had earlier signed a letter of intent, were discontinued. This dealer would have opened 24 new outlets. The Big Three continue to seek high-quality, high-volume dealerships, but report ongoing reluctance by many of these dealers to carry foreign models. Real market access will depend on genuine opening of the Japanese distribution system.

- o On February 5, 1997, the Ministry of Transport denied a petition by the four major U.S. auto parts trade associations requesting deregulation of brake system repairs. MOT has not taken any additional significant deregulatory action with regard to the so-called "critical parts" list issue which were not specifically required in the Agreement. However, on March 28, 1997, the Government of Japan announced, as part of the Prime Minister's Deregulation Action Plan, that MOT will commission an examination of these regulations. The U.S. Government believes that broader deregulation of these requirements is needed.

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FOR IMMEDIATE RELEASE  
Tuesday, April 29, 1997

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### USTR HAILS WTO REPORT

An international trade panel has issued a final report upholding the claims of the United States and four Latin American countries against the European Union's banana trade regulations. Following wire service reports of the decision, U.S. Trade Representative Charlene Barshefsky announced, "I am very pleased that the panel has confirmed our view that Europe's banana import regime is protectionist and discriminatory."

"The decision validates what we have been saying all along -- the EU banana rules simply handed French and British companies a big share of the banana distribution business in Europe that our companies had built up over the years," Ambassador Barshefsky stated.

The United States joined Ecuador, Guatemala, Honduras, and Mexico in challenging the EU regime in the World Trade Organization. The joint complaint included charges, which the panel also sustained, that the EU banana import rules deprived Latin American banana producers of a fair share of the EU market.

Once the findings are approved by the WTO, the United States expects the EU to conform its regime to WTO rules. "This is now the third time Europe's protectionist banana policies have been found to violate international trade rules," said Barshefsky. "We are not interested in any alternatives to real reform."

The WTO case challenges EU banana rules, not actions by Caribbean countries or producers. "The United States remains fully committed to robust economies in the Caribbean," said Barshefsky. "We fully support zero-tariff preferences provided to the Caribbean by the EU on banana trade."

News of the release of the final WTO report was reported earlier today.

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FOR IMMEDIATE RELEASE  
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### USTR ANNOUNCES RESULTS OF SPECIAL 301 ANNUAL REVIEW.

United States Trade Representative Charlene Barshefsky today announced the results of the 1997 Special 301 annual review. The review examined in detail the adequacy and effectiveness of intellectual property protection in over 70 countries. Ambassador Barshefsky today announced that she will, as a result of this year's Special 301 review, initiate WTO dispute settlement actions against Denmark, Sweden, Ireland and Ecuador. This brings to 10 the number of IPR-related WTO cases initiated by the United States. Dispute settlement actions against Greece and Luxembourg may be initiated in the near future if TRIPS obligations are not met in the coming months.

"The Special 301 annual review is one of the most effective instruments in our trade policy arsenal," stated Ambassador Barshefsky. "It is much more than an in-depth review. It provides a direct route to press countries to improve their IPR practices."

In addition to announcing these WTO dispute settlement cases, Barshefsky announced placement of 10 trading partners on the "priority watch list," including Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Paraguay, Russia, and Turkey. She also placed 36 trading partners on the "watch list."

#### Accomplishments Over The Past Year

Ambassador Barshefsky noted the substantial progress made during this past year in improving intellectual property protection, including progress in countries whose practices have been major IPR concerns in the past.

Progress has occurred throughout the world, much of it the direct result of U.S. Government pressure. While more needs to be done in many of these countries, progress has occurred in such countries as Japan, Taiwan, Brazil, Portugal, Bulgaria, Russia, Turkey, Mexico, Bolivia, Korea,

Pakistan, Indonesia and most recently Vietnam and the Philippines. An attachment to this release, entitled: Developments in Intellectual Property Rights, identifies the specific progress made with these and other countries.

Significant progress has occurred in China, which has shut down 39 factories and production facilities producing CD's, CD-ROMs and VCDs since September 1996. Twenty-nine of these facilities were in Guangdong province. More than 250 people have been arrested. Prison terms of up to 15 years have been applied to IPR pirates. However, because of the serious and ongoing nature of substantial IPR piracy in China, it is designated for special "Section 306" status to demonstrate the need for continued improvement and to ensure that enhanced enforcement measures are put in place.

Barshefsky stated, "Monitoring China under Section 306 will put us in a position to move directly to trade sanctions if there is slippage in China's enforcement of its bilateral IPR agreements with the U.S." Section 306 of the Trade Act of 1974 directs the USTR to monitor agreements concluded under Section 301 and, if such monitoring reveals that satisfactory compliance with the agreement is not occurring, authorizes USTR to take appropriate action in an immediate fashion without initiating a new investigation.

#### Implementation of the TRIPS Agreement

A major IPR priority for the United States is full and timely implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights--also known as the TRIPS Agreement. This Agreement obligates WTO members to provide in their domestic law and to enforce minimum standards for protecting intellectual property.

The U.S. Government is dedicating substantial resources to monitoring compliance by other countries with this important agreement. In the 1996 Special 301 press release, Barshefsky stated: "We will be monitoring carefully as these obligations come into effect and will not hesitate to use the WTO's dispute settlement provisions if necessary to ensure full compliance." In carrying out this statement, the U.S. Government initiated six IPR-related WTO dispute settlement actions in 1996. Three of these actions--protection of pre-existing sound recordings in Japan, patent term in Portugal and patent "mail-box" in Pakistan were successfully resolved through bilateral negotiations without resorting to establishment of formal WTO dispute resolution panels. Two remain under negotiation -- a discriminatory box office tax in Turkey and discriminatory trademark practices in Indonesia -- and one, a patent "mail-box" problem with India, is now before a WTO panel.

Ambassador Barshefsky takes note of the transition periods in the TRIPS Agreement which defer many TRIPS obligations on developing countries until January 2000. In the past, she has called upon these countries to accelerate implementation of these obligations before 2000. The U.S. is concerned that certain developing countries have not begun the process of reforming their laws and enforcement mechanisms so as to fully implement TRIPS obligations by January 2000. Barshefsky stated: "The five-year transition period is more than adequate for developing countries to prepare for full TRIPS implementation by 2000. I am concerned that many of these countries have not initiated the domestic reform process necessary to meet these obligations. I call upon countries taking advantage

of these transitions to take steps now so that they are fully prepared meet these obligations as they come due. In addition, there are countries in an advance stage of development that do not qualify for the transition and should be in compliance today.”

In 1998 and 1999, the TRIPS Council will begin very important negotiations regarding intellectual property protection for biotechnology products. USTR will launch preparatory activities regarding these negotiations in 1997. The TRIPS Council must conduct a broader review of the implementation of the TRIPS Agreement in 2000.

#### WTO Dispute Settlement

As in the 1996 announcement, Ambassador Barshefsky once again is using the occasion of the annual Special 301 announcement to announce initiation of WTO dispute settlement against countries not meeting their obligations under the TRIPS Agreement.

Barshefsky today announced that she will, as a result of this year's Special 301 review, initiate WTO dispute settlement procedures in the near future against Denmark, Sweden, Ireland and Ecuador. Dispute settlement procedures against Greece and Luxembourg may be initiated if TRIPS obligations are not met in coming months.

These actions can be summarized as follows:

Denmark -- Denmark has not implemented the TRIPS obligation to provide provisional relief in civil enforcement proceedings. Courts must be granted the ability to order unannounced raids to determine whether infringement is taking place, and to either seize allegedly infringing products as evidence or to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. The availability of provisional relief in the context of civil proceedings is of great importance to certain industries dependent upon intellectual property protection.

Sweden: Sweden also does not provide provisional relief in civil proceedings, although Sweden may amend its law to do so. If this occurs, the United States will terminate dispute settlement proceedings regarding this matter.

Ireland: Developed country obligations under the TRIPS Agreement came into effect in January 1996. Ireland has not yet amended its copyright law to comply with TRIPS obligations. Examples of TRIPS inconsistencies include absence of a rental right for sound recordings, no “anti-bootlegging” provision, and very low criminal penalties which fail to deter piracy.

Ecuador: Ecuador acceded to the WTO committing to implement TRIPS obligations within 7 months of accession, by July 31, 1996. Ecuador has failed to do so in a number of areas, including patents (local working requirements, compulsory licenses, exclusions of certain products from patentability); copyright (computer programs not treated as a literary work) and trademarks (denial of national treatment).

USTR has serious concerns about compliance with WTO obligations in certain other countries. However, WTO dispute settlement cases will not be initiated at this time. We hope that by providing additional time, these countries will take the steps necessary to bring them into compliance with their WTO obligations, thereby mitigating the need for the United States to initiate WTO dispute settlement proceedings. These countries include:

Greece: Many Greek TV stations broadcast U.S.-owned movies without authorization or payment of required compensation. Enforcement efforts by U.S. rightholders against such unauthorized TV broadcasts have been thwarted in a manner inconsistent with TRIPS enforcement provisions. However, the Government of Greece has begun taking steps which may correct this problem. The United States will request WTO dispute settlement consultations with respect to this matter by July 1 if TV piracy is not reduced satisfactorily in the interim.

Luxembourg: Similarly, Luxembourg has not amended its copyright law to comply with TRIPS obligations. Examples of non-compliance include absence of an anti-bootlegging provision, an inadequate term of protection for sound recordings, the absence of retroactive protection for sound recordings, absence of a rental right for sound recordings. The U.S. Government will initiate WTO dispute settlement procedures if Luxembourg has not complied with its TRIPS obligations by September 1997.

#### Special 301 Decisions

Under the "Special 301" provisions of the Trade Act of 1974, as amended, Barshefsky today identified 46 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States persons that rely upon intellectual property protection. She listed an additional 11 trading partners that will require monitoring.

In doing so, Barshefsky designated China for "Section 306 monitoring" to ensure that China complies with the obligations it has made the United States in bilateral intellectual property agreements. Section 306 of the Trade Act of 1974, as amended, authorizes the USTR to impose trade sanctions if the commitments of a bilateral agreement are not met. As noted above, significant progress on IPR enforcement is now beginning to occur in China.

Barshefsky announced placement of 10 trading partners on the special 301 "priority watch list." Four of these trading partners -- Ecuador, Greece, Paraguay, and Turkey -- will be subject to review during the course of the year to evaluate progress made in the next several months. Other trading partners on the priority watch list include Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Paraguay, Russia and Turkey.

The USTR also announced placement of 36 trading partners on the special 301 "watch list," and that "out-of-cycle" reviews would be conducted with seven of these trading partners -- Bulgaria, Canada, Hong Kong, Luxembourg, Panama, Thailand and Italy.

Other out-of-cycle reviews may be conducted as necessary.

Details of Ambassador Barshefsky's special 301 decisions are provided in the attached Fact Sheet.

FACT SHEET**"SPECIAL 301" ON INTELLECTUAL PROPERTY RIGHTS**ACTIONS TAKEN

Acting United States Trade Representative Charlene Barshefsky today announced the Administration's decision with respect to this year's review under the so-called "special 301" provisions of the Trade Act of 1974, as amended (Trade Act).

This decision reflects the Administration's continued commitment to aggressive enforcement of protection for intellectual property. Intellectual property protection has been improving in part as a result of the implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). The decision also reflects progress made over the course of 1996 in resolving many longstanding problems.

The decision announced by Ambassador Barshefsky includes the following specific actions:

- monitoring **China** under Section 306 of the Trade Act of 1974, as amended. This means that USTR will be in a position to move directly to trade sanctions if there is slippage in China's enforcement of the bilateral IPR agreements.
- placing 10 trading partners on the "priority watch list" including **Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Paraguay, Russia, and Turkey** and conducting "out-of-cycle" reviews of **Ecuador, Greece, Paraguay and Turkey**;
- placing 36 trading partners on the "watch list" and conducting "out-of-cycle" reviews of **Bulgaria, Canada, Hong Kong, Italy, Luxembourg, Panama and Thailand**.
- initiating WTO dispute settlement procedures with respect to practices in **Denmark, Sweden, Ireland and Ecuador**.
- In addition, the Administration noted growing concerns or highlighted developments in and expectations for progress in 11 trading partners.

Other WTO dispute settlement proceedings and other out-of-cycle reviews will be initiated if necessary.

The Administration reiterates its commitment to ensure full and effective implementation of the "special 301" provisions of the Trade Act and rapid implementation of the WTO's TRIPS Agreement. The Administration will continue to encourage other countries to accelerate implementation of the WTO TRIPS Agreement and, at minimum, to take steps now to ensure full implementation of the Agreement by January 2000. To these ends, the Administration will continue to engage countries in dialogues not only aimed at resolving the problems that brought about their inclusion on the "special 301" lists, but also seeking an improvement in the overall level of intellectual property protection.

## STATUTORY AUTHORITY

The "special 301" provisions of the Trade Act of 1974, as amended, require the USTR to determine whether the acts, policies and practices of foreign countries 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. "Special 301" was amended in the Uruguay Round Agreements Act to clarify that a country can be found to deny adequate and effective intellectual property protection even if it is in compliance with its obligations under the TRIPs Agreement. It was also amended to direct the USTR to take into account a country's prior status and behavior under "special 301."

Once this pool of countries has been determined, the USTR is required to decide which, if any, of these countries should be designated "priority foreign countries." "Priority foreign countries" are those countries that:

- (1) have the most onerous and egregious acts, policies and practices which have the greatest adverse impact (actual or potential) on the relevant U.S. products; and,
- (2) are not engaged in good faith negotiations or making significant progress in negotiations to address these problems.

If a trading partner is identified as a "priority foreign country", the USTR must decide within 30 days whether to initiate an investigation of those acts, policies and practices that were the basis for identifying the country as a "priority foreign country". A "special 301" investigation is similar to an investigation initiated in response to an industry Section 301 petition, except that the maximum time for an investigation under Section 301 is shorter in some circumstances (i.e., where the issues do not involve a violation of the Agreement on TRIPs) than are other Section 301 investigations.

The USTR undertakes a review of foreign practices each year within 30 days after the issuance of the National Trade Estimate (NTE) Report. Today's announcement follows a lengthy information gathering and negotiation process. The interagency Trade Policy Staff Committee that advises the USTR on implementation of "special 301," obtains information from the private sector, American embassies abroad, the United States' trading partners, and the NTE report.

This Administration is determined to ensure the adequate and effective protection of intellectual property rights and fair and equitable market access for U.S. products. The measures announced today result from close consultations with affected industry groups and Congressional leaders, and demonstrate the Administration's commitment to utilize all available avenues to pursue resolution of intellectual property rights issues. In issuing the announcement, Ambassador Barshefsky is expressing the Administration's resolve to take consistently strong actions under the "special 301" provisions of the Trade Act.

## DESCRIPTION BY COUNTRY OF EXISTING SITUATION AND MEASURES TAKEN

### SECTION 306 MONITORING

China: As a result of our Special 301 investigation and the agreement on the June 1996 enforcement

accord, China has begun to take meaningful, serious action to halt CD export piracy. Close to 40 underground production facilities have been closed, over 250 people have been arrested with resulting jail sentences being handed down. In addition, Customs has stepped up raids at the border and seized smuggled CD production equipment. Rewards are now being offered of up to \$75,000 for information leading to the closure of illegal production facilities. Nonetheless, pirate production of CD/CD-ROMs/VCDs continues to be a serious problem and domestic end-user piracy rates remain high. The United States Government will continue to monitor closely China's implementation of the 1995 and 1996 enforcement agreements.

### PRIORITY WATCH LIST

The Administration has decided to place 10 countries on the priority watch list because of the lack of adequate and effective intellectual property protection or market access in these countries is particularly troublesome to U.S. interests. The trading partners are:

Argentina: Argentina's patent regime denies adequate and effective protection to U.S. right holders, particularly in the pharmaceutical industry. As a result, President Clinton recently decided to withdraw benefits for approximately fifty percent of Argentina's exports under the Generalized System of Preferences (GSP) program. This decision was the result of a Special 301 "out-of-cycle" review. Argentina's patent law contains onerous compulsory licensing provisions and pharmaceutical patent protection will not become available until November 2000. Its law does not provide TRIPS-consistent protection for exclusive test data. There is no provision for pipeline protection or protection from parallel imports, which are long-sought U.S. objectives. An additional concern is the ruling by Argentine courts that computer software are sui generis works requiring specific legislation, not protected under copyright law. This ruling contradicts a 1994 Argentine decree and the TRIPS Agreement which specifically states that computer programs are literary works protectable under copyright law.

Ecuador has not yet ratified and implemented the 1993 U.S.-Ecuador Intellectual Property Rights Agreement. In the context of WTO accession, the Government of Ecuador had committed to fully implement TRIPS by July 1996. However, Ecuador has stated that it will not, in fact, abide by this commitment but rather will avail itself of the full transition period in the TRIPS Agreement. Furthermore, Ecuador has not yet repealed a GATT-inconsistent law, the Dealers' Act, which denies national treatment and protection to U.S. investment and U.S. trademarks. We are seriously concerned by Ecuador's apparent disregard for its bilateral and multilateral commitments. We therefore will be pursuing WTO dispute settlement consultations immediately and will conduct an out-of-cycle review of Ecuador's progress toward resolving these issues in September 1997.

Egypt is taking significant steps in improving the legal framework for protection of copyright works. However, because of a lack of sufficient enforcement and the failure to impose deterrent penalties there as not been a significant reduction in piracy, particularly with respect to video, book, and software. In addition, the United States remains seriously concerned about the lack of effective patent protection in Egypt. The United States urges Egypt to enact promptly a modern patent law that provides immediate patent protection for all types of products, including pharmaceuticals, agricultural chemicals and foodstuffs.

The European Union continues to deny national treatment to U.S. intellectual property rightholders with respect to the distribution of revenues collected in association with blank tape levies and public performances. Domestic content restrictions in certain member states deny market access opportunities for U.S. rightholders. The EU's single trademark system is problematic for the U.S. pharmaceutical industry. The reciprocity requirement in the recently approved data base directive also raises concerns. On the positive side, through the European Patent Office, EU countries are taking steps to reduce the extraordinarily high fees associated with filing, issuance and maintenance of a patent over its life which far exceed those in the United States and other countries.

Greece has not yet acted to stop extensive copyright piracy, particularly widespread unauthorized television broadcasts of U.S. motion pictures and other U.S. programming. The United States is pressing Greece to honor its TRIPs obligation to provide effective enforcement of intellectual property rights for all copyright works. Many Greek TV stations broadcast U.S.-owned movies without authorization or payment of required compensation. Enforcement efforts by U.S. rightholders against such unauthorized TV broadcasts have been thwarted in a manner inconsistent with TRIPs enforcement provisions. However, the Government of Greece has begun taking steps which may correct this problem. If Greece has not made satisfactory progress toward reducing television piracy by July 1, the United States will request initiation of WTO dispute settlement consultations.

India was a "priority foreign country" from 1991-1993. India has failed to implement its obligations under Articles 70.8 and 70.9 of TRIPs Agreement. These articles require developing countries not yet providing patent protection for pharmaceutical and agricultural chemical products to provide a "mailbox" in which to file patent applications, and the possibility of up to five years of exclusive marketing rights for these products until patent protection is provided. India has affirmed its intention to pass legislation implementing its TRIPs obligations. India established TRIPs provisions administratively (which have subsequently lapsed) and subsequently has not provided a legal basis for the filing of patent applications for these products. As a result, the United States has initiated WTO dispute settlement procedures with India on this matter. Moreover, India's industrial property laws continue to fall well short of providing adequate and effective protection. In particular, the United States looks to India to enact and enforce modern patent and trademark legislation. India has modern copyright legislation and has begun to take enforcement actions but improvements continue to be necessary in the enforcement area.

Indonesia: While the Government of Indonesia (GOI) has signaled its intent to address government use of pirated software, and the parliament has passed revised IPR laws, serious problems persist in Indonesia on enforcement, protection of well-known trademarks, and market access. At the end of 1996, Indonesian government procurement officials began discussions with U.S. software producers on arrangements for purchasing legitimate product. In March 1997, the Indonesian parliament passed revised copyright, patent, and trademark laws with the stated intent of bringing Indonesia into closer compliance with its TRIPs obligations. Nevertheless, U.S. firms continue to face inadequate enforcement against retail and end-user software piracy and video compact disk (VCD) piracy at the retail level. Although the Government of Indonesia is beginning to develop an enforcement response, enforcement efforts have not yet been regular, aggressive, or comprehensive enough to address effectively the problems of software and VCD piracy. Also, U.S. companies experience serious

problems in Indonesia from counterfeiting and appropriation of their trademarks by local registrants and have problems with the protection of well-known trademarks. Finally, pervasive market access barriers impede the full entry of all copyright-based industries into the Indonesian market.

Paraguay: Last October, Ambassador Barshefsky stated that Paraguay needed to make "significant, meaningful progress in combating piracy and counterfeiting" by the April 1997 review. Since then, the Paraguayan Government taken important initial steps to address Paraguay's serious IPR problems. These steps include the introduction of new intellectual property legislation and the creation of a National Intellectual Property Council. However despite efforts of concerned Government officials, piracy and counterfeiting in Paraguay have reached alarming levels and much more needs to be done. As a result, Paraguay is being placed on the priority watch list. An out-of-cycle review will be conducted before next April to monitor the efforts of the Government of Paraguay in cracking down against piracy and counterfeiting internally and especially at the border and enacting modern intellectual property legislation.

Russia: Russia continues to take steps to address U.S. intellectual property concerns, but a number of serious problems remain including insufficient progress in improving copyright protection and enforcement. Russia is being elevated to the Priority Watch List in large part because it fails to provide protection, as required by international agreements, for pre-existing U.S. copyright works and sound recordings still under protection in the United States. Russia's future placement on Special 301 lists will be determined substantially by its willingness to address this important issue. Extensive piracy of U.S. video cassettes, films, music, books and software remains a serious problem. We recognize increased Russian enforcement efforts, but piracy remains widespread. We welcome the new criminal code, which significantly increases criminal penalties for copyright and trademark infringements. However there are shortcomings in this law that need to be addressed. Finally, Russia maintains a discriminatory registration fee on foreign motion pictures, which discourages the development of a market for legitimate protected products, and increases the market for pirated versions.

Turkey remains on the priority watch list largely because it continues to have inadequate intellectual property laws and its enforcement efforts have been ineffective. As part of Turkey's entry into a customs union with the EU, Turkey has agreed to continue to improve its intellectual property protection. Nevertheless, Turkey's copyright and patent laws remain deficient and TRIPS inconsistent in a number of respects. Moreover, enforcement efforts remain lax and, as a result, copyright and patent piracy is widespread. Turkey also maintains a discriminatory 25 percent municipality tax only on receipts from the showing of foreign films in a manner inconsistent with the national treatment obligations of Article III of the GATT 1994. The Administration is currently pursuing this matter under WTO's dispute settlement procedures. The Administration intends to review Turkey's progress toward resolving these issues in an out-of-cycle review in December 1997.

## WATCH LIST

In reviewing the practices of our trading partners, the USTR has decided that 36 countries should be placed on the "watch list". The Administration uses the "watch list" as a means of monitoring progress in implementing commitments with regard to the protection of intellectual property rights

and for providing comparable market access for U.S. intellectual property products.

Countries placed on the watch list are:

Australia: has begun to provide limited protection for test data submitted to regulatory authorities for the marketing approval of pharmaceutical and agricultural chemical products. However, in the case of marketing approval for new uses of existing products or new formulations, Australia continues to allow later applicants to free ride on the data developed and submitted by the first applicant at great expense, putting the first applicant at a competitive disadvantage. The U.S. Government is also concerned that Australia may decide to expand its current rules regarding the parallel importation of books to permit the parallel importation for sound recordings potentially, software and possibly broader coverage of books. The Australian government is studying the matter of decompilation of computer software. The U.S. Government is pleased that the Government of Australia is considering the grant of patent term extension to account for delays in the regulatory approval process for pharmaceuticals.

Bahrain: The United States recognizes that Bahrain has taken important steps to combat video piracy. The U.S. urges Bahrain to bring its copyright regime into line with its obligations under the Berne Convention and the WTO, and to increase enforcement actions against the piracy of copyrighted works of all types.

Bolivia: Bolivia is being maintained on the watch list because it has not yet taken adequate steps to combat copyright piracy and to revise its national copyright law to conform with international standards. The national treatment obligations of the TRIPS Agreement now require Bolivia to provide full copyright protection for foreign sound recordings which it currently does not. The United States recognizes recent steps taken by Bolivia to enhance IPR protection, such as establishing a special police unit to protect intellectual property. The United States also welcomes Bolivia's recently issued Supreme Decree regulating the protection of software. However we urge Bolivia to move quickly to introduce much needed anti-piracy legislation and step up enforcement actions to combat copyright piracy.

Brazil: The United States looks forward to the full implementation during 1997 of Brazil's modern patent legislation. The U.S. remains concerned that Brazil has not enacted modern intellectual property laws to protect computer software, copyright and integrated circuits. The United States will keep open the option later in 1997 of reviewing progress in enacting these laws and Brazil's special 301 listing.

Bulgaria: The Government of Bulgaria has implemented a substantial portion of its commitments under an April 1995 exchange of letters by adhering to the Geneva Phonograms Convention and publishing a statement in its official gazette confirming copyright protection for U.S. and other foreign sound recordings. Another positive step was passage of a decree establishing a title verification system aimed at preventing and detecting unlicensed production of such CD's and CD-ROMs at the CD plants and other facilities. Most recently Bulgaria passed a much needed amendment to the title verification decree covering CD-ROMS carrying computer software. Notwithstanding these developments, production and export of pirated product --particularly CDs and CD-ROMs --continue to be a serious problem, which requires an expanded enforcement effort

by Bulgarian authorities. An "out-of-cycle" review will be conducted in December to ensure implementation of the amended title verification system and that enforcement efforts are improved. Special attention will be paid to the level of production of pirated CDs and CD-ROMs as well as the export of those products to other markets.

Canada: On April 25, the Canadian Parliament passed copyright legislation that discriminates against the interests of some U.S. copyright holders. The legislation establishes a public performance right for record producers and performers. It also establishes a levy on blank audio recording media, the revenues from which are intended to compensate performers and producers for the performance and unauthorized home-taping of their works in Canada. The United States is extremely concerned that U.S. performers and producers are denied national treatment under the legislation. In response to this recent development, USTR is immediately launching an out-of-cycle review during which time we will examine the legislation in detail and consult with U.S. industry on appropriate next steps.

Chile: Chile's patent term is TRIPS-inconsistent, pipeline protection remains unavailable, and there is inadequate protection for plant varieties and animal breeds. Additional problems are computer software piracy and the absence of protection for semi-conductor mask works and encrypted satellite signals. Copyright protection for computer software and the existence of rental and importation rights remain unclear.

Colombia: Piracy continues to be a significant problem despite continued efforts and cooperation with US industry. Border enforcement also continues to be a problem. Colombia has not yet fully implemented the WTO TRIPS Agreement. Deficiencies in its patent and trademark regime include insufficiently restrictive compulsory licensing provisions, working requirements, inadequate protection of pharmaceutical patents, and lack of protection against parallel imports. Also, in the copyright area, Colombia's TV Broadcast law continues to discriminate against foreign content and Colombia only now is beginning to implement the new TV regulations.

Costa Rica: Costa Rica's patent law is deficient in several key areas. The term of patent coverage is a non-extendable 12 year term from the date of grant. In the case of products deemed to be in the "public interest", such as pharmaceuticals, chemicals and agro-chemicals, fertilizers, and beverage/food products, the term of protection is only one year from date of grant. The U.S. looks to the Government of Costa Rica, as it implements its WTO obligations, to adopt a term of patent protection of 20 years from filing as required by TRIPS.

Denmark: has not implemented the TRIPS obligation to provide provisional remedies, including ex parte actions in civil enforcement proceedings. Courts must be granted the ability to order unannounced raids to determine whether infringement is taking place, and to either seize allegedly infringing products as evidence or to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. The availability of provisional relief in the context of civil proceedings is of particular importance to the software industry, as well as other industries dependent upon intellectual property protection. In addition, Denmark is not providing TRIPS-level protection for exclusive test data submitted in the marketing approval process.

Dominican Republic: has not made sufficient progress to address the lack of adequate and effective intellectual property protection since last year's review and is therefore being included on the Watch

List. Dominican copyright and patent laws do not provide protection consistent with the TRIPs Agreement. The United States is especially concerned that TV piracy and piracy of computer software, video and audio tapes, and compact disc technologies continues with little enforcement action by the Dominican Government. Trademark enforcement is also inadequate, particularly regarding well-known trademarks. In addition, the Dominican patent law continues to be inadequate with respect to term of protection. Patent infringement is also widespread. The Administration urges the Dominican Government to make progress toward addressing this situation before next year's review..

Guatemala does not adequately protect pharmaceuticals and its copyright law is deficient. The United States urges Guatemala to give priority to moving copyright law reform through its legislature and to offer better patent and trademark protection. The United States remains concerned about the interception and unauthorized retransmission of U.S. satellite-carried programming by cable and multichannel microwave distribution systems.

Honduras: has drafted and submitted to the Honduran Assembly amendments intended to address shortcomings found in Honduras' 1993 copyright law. Honduras also needs to improve patent and trademark laws and intellectual property enforcement. The United States Government is concerned that more progress on these issues has not been made since last year's review. The United States urges Honduras to conclude negotiations on a bilateral IPR agreement and to fully implement the TRIPs Agreement.

Hong Kong: Copyright piracy has worsened in Hong Kong over the past year, despite requests from the US Government for action, and greater effort by the Government of Hong Kong to combat this problem. As a result, Hong Kong is being placed on the watch list. Enactment of a new copyright law is expected in the near future which should significantly strengthen Hong Kong's ability to make major inroads in the battle against copyright piracy. An out-of-cycle review will be conducted in the fall to review the results of these efforts, with the expectation that Hong Kong will make significant progress in this regard.

Ireland: Developed country obligations under the TRIPs Agreement came into effect in January 1996. Ireland has not yet amended its copyright law to comply with these obligations. Examples of TRIPs inconsistencies include absence of a rental right for sound recordings, no "anti-bootlegging" provision, and very low criminal penalties which fail to deter piracy, all of which have contributed to high levels of piracy in Ireland. The U.S. Government will initiate WTO dispute settlement with regard to this matter in the near future.

Israel has an inadequate copyright law which, combined with poor enforcement, has led to widespread cable and software piracy. There is also evidence of a rapidly growing rate of audio CD piracy for export. The United States is increasingly concerned by this situation and seeks revision of the copyright law and improved enforcement, and passage of a law governing licensing of satellite signals by cable operators. The United States also remains concerned about continuing Israeli examination of a troubling modification to Israel's patent law.

Italy: Extensive copyright piracy and trademark counterfeiting exist in Italy. The Italian Government stepped-up enforcement efforts over the past year, including several large well-publicized raids,

particularly against copyright piracy. Nevertheless, losses due to piracy remain high. A major impediment to reducing video piracy has been the inadequacy of existing criminal penalties. Italian penalties against piracy and counterfeiting are among the lowest in Europe, providing an inadequate deterrent which may be in violation of the TRIPs Agreement. The U.S. Government and copyright industry continue to urge the Government of Italy to include a provision in the pending legislation to provide significantly higher criminal penalties. An out-of-cycle review will be conducted in the fall to assess the results of Italy's continued efforts against piracy and counterfeiting.

Japan: has taken a number of steps to address U.S. intellectual property concerns. These include corrective legislation to provide TRIPS-consistent protection for pre-existing sound recordings and improvements to Japan's trademark law. Improvements in Japan's patent system have also benefitted certain U.S. patent applicants. Nevertheless, IPR problems continue in Japan, particularly for other U.S. companies which continue to report difficulties in obtaining and enforcing patents in Japan despite the conclusion of two patent-related agreements in 1994. Concerns also remain about the inadequate protection of trade secrets as well as end-user software piracy.

Jordan's 1992 copyright law is cumbersome and falls far short of international standards in most respects. Any protection offered by the law is undermined by a lack of effective enforcement mechanisms and, as a result, piracy is rampant. Jordan intends to revise its copyright law as part of its economic liberalization program and accession to the WTO but insufficient progress has been made. The inadequacies of the patent law, which dates from 1953, have led to a growing problem of patent infringement for pharmaceuticals which are manufactured for both domestic and export markets. Trademark protection is unavailable absent extreme vigilance by U.S. rights holders and revisions in the law are necessary to expand the definition of "trademark" to include services and goods.

Korea: has taken a number of steps to enhance the protection and enforcement of intellectual property rights and to reduce piracy. These include implementation of various parts of the TRIPS agreement, accession to the Berne Convention, the reduction of end-user software piracy, and increased budget allocations for enforcement. Moreover, Korea has recently indicated that it will implement a number of additional steps to further enhance IPR protection, including finalizing establishment of a patent court by March 1998, revision of its Trademark and Industrial Design laws by March 1998, and adoption of the International Classification System for trademarks by July 1998. Korea may provide patent term extensions for pharmaceuticals. Korea also will gradually ease foreign content restrictions applicable to cable programming and may improve market access for intellectual property-content goods, including TV programs. The United States applauds these steps and looks to further cooperation and dialogue to address more complex issues, including full retroactive protection for copyright works, treatment of foreign pharmaceuticals, enhanced protection of well-known trademarks and technology-based telecommunications patents.

Kuwait: Enforcement efforts by the Government of Kuwait to combat piracy of software and audiovisual products have improved following an April 1995 decree issued by the Ministry of Information. However, unauthorized duplication of software continues to be a major problem. Kuwait has been slow to move ahead on adopting copyright legislation. Pharmaceutical patents are not protected under the existing 1962 law, which fails to meet international standards in numerous other regards as well.

Luxembourg: has not amended its copyright law to comply with TRIPS obligations, which have been in effect since January 1996. Examples of non-compliance include absence of an anti-bootlegging provision, an inadequate term of protection for sound recordings, the absence of retroactive protection for sound recordings and an absence of a rental right for sound recordings, all of which have led to substantial piracy in Luxembourg. The U.S. Government will initiate WTO dispute settlement procedures if Luxembourg has not complied with its TRIPS obligations by September 1997.

Oman: Efforts to modernize Oman's IPR regime are progressing slowly. Modifications to its copyright and trademark regime are necessary to conform to international standards. Legal protection for pharmaceutical product patents is also absent. The United States will monitor levels of piracy in Oman and efforts to improve intellectual property protection, including the status of draft legislation to update copyright and patent regimes. Should Oman make sufficient progress toward resolving these issues, the United States will consider conducting an out-of-cycle review this year to evaluate Oman's watch list status.

Pakistan: Pakistan's patent law provides process but not product protection for pharmaceutical and agricultural chemicals. Proving infringement of a process patent is difficult and such patents are easily circumvented. After the U.S. initiated WTO dispute settlement against Pakistan, the Government of Pakistan changed its patent law and regulations to comply with TRIPS obligations to implement Articles 70.8 and 70.9 of TRIPs Agreement, the so-called "mailbox" and "exclusive marketing rights" provisions. Problem areas include piracy of computer software, videos, books, and textile designs. Intellectual property piracy in Pakistan remains widespread. Pakistani authorities have taken steps to strengthen enforcement. However, fines applied to violators have been too small to provide a credible deterrent.

Panama is a major transshipment and assembly point for pirated and counterfeited products. However, the Government of Panama has recently passed and begun to enforce its customs and IPR laws. The United States welcomes the recent enforcement actions, but more is needed to address this serious problem in Panama and especially in the Colon Free Zone. The United States urges Panama to continue improving its intellectual property laws and their enforcement, particularly in the context of its WTO accession, and has scheduled an out-of-cycle review later this year to reassess Panama's continuing efforts.

Peru: Peru's patent law excludes the following areas of innovation from protection: inventions involving elements of nature; process inventions involving existing products; products on the World Health Organization (WHO) Model List of Essential Drugs; and inventions involving computer programs. The United States is also concerned by Peru's imposition of a domestic working requirement in its patent regime, which is satisfied by working in other Andean countries but not by working in other WTO Members. The United States strongly urges Peru to address these issues and to bring its system into conformity with the obligations of the TRIPS Agreement.

Philippines: In 1993, USTR moved the Philippines from priority watch list to the watch list after the Philippines entered into a bilateral agreement to take steps to address U.S. intellectual property concerns. A major part of this commitment is that the Philippine Government will enact modern intellectual property laws. Both chambers of the Philippine Congress have recently approved such

legislation. However, certain significant differences exist between the House and Senate versions which now must be reconciled. Some of these provisions are of great concern to the United States, including the treatment of computer software. We also encourage the Philippines to conduct additional enforcement actions and to publicize these actions in order to deter IPR infringement.

Poland: The United States continues to monitor implementation and enforcement of rights provided under the copyright law enacted in February 1994. While enforcement has steadily improved for most intellectual property, piracy remains a problem and enforcement efforts must be sustained. Furthermore, Poland's copyright law provides protection to sound recordings both Polish and foreign back only to 1974; the international standard provided for in TRIPS is 50 years of protection for pre-existing works. The United States notes that the TRIPS Agreement obligates Poland to provide full protection for sound recordings on a national treatment basis. The United States will monitor carefully to ensure that such protection is provided.

San Marino: has become an important center for the manufacture and distribution of bootleg sound recordings (unauthorized fixations of live musical performances). The United States Government looks to San Marino to strengthen its domestic legislation and to take strong enforcement actions against those engaging in these illicit practices.

Saudi Arabia has made progress in improving its enforcement activities against copyright piracy, particularly for motion pictures and sound recordings. However, serious copyright problems remain particularly regarding computer software piracy, including end-user piracy. Saudi Arabia's copyright law contains deficiencies making it incompatible with international standards, including an inadequate term of protection. The United States is concerned about the slow pace of implementation and enforcement of IPR legislation. It is important that existing efforts be maintained and that further improvements occur, particularly in terms of software enforcement. At the conclusion of an out-of-cycle review last December Saudi Arabia was maintained on the watch list because more enforcement actions were needed against pirated products. We urge the Saudi Government to conduct additional enforcement actions and to publicize these actions in order to deter piracy.

Singapore: Although Singapore has a good record of protecting intellectual property, its copyright law is not TRIPS consistent. Outstanding issues include lack of rental rights for sound recordings and software, inadequate protection against making bootleg copies of musical performances, the scope of copyright protection for cinematographic works and overly broad exceptions from copyright protection. Singapore's level of economic development is sufficiently advanced to expect TRIPS implementation as a developed country. We would reconsider this designation if Singapore modified its copyright law to comply with TRIPS and maintained adequate enforcement against piracy and counterfeiting.

Sweden: has not implemented the TRIPS obligation to provide provisional relief in civil enforcement proceedings. Courts must be granted the ability to order unannounced raids to determine whether infringement is taking place, and to either seize allegedly infringing products as evidence or to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. The availability of provisional relief in the context of civil proceedings is of particular importance to the software industry as well as other industries dependent upon intellectual property protection. In addition, Swedish law permits official institutions such as Government Ministries and the Parliament

to provide copies to the public of documents that are filed with them, even though such documents may be unpublished and protected by copyright law.

Thailand: Although Thailand is poised to strengthen its intellectual property protection by launching an intellectual property and international trade court and by enacting a TRIPS-consistent patent law, the United States is seriously concerned about the continued decline in enforcement activity. Since the end of enforcement campaigns in 1993-1994, the numbers of arrests and seizures of illicit goods has plummeted. To date, no pirate nor counterfeiter has served time in prison for copying or selling protected goods, and fines and sentences remain too low to deter offenders. Thailand is still in the process of amending its patent law to comply with the TRIPS Agreement. We will again review Thailand's intellectual property protection efforts in an out-of-cycle review to be conducted in the fall of 1997.

UAE (United Arab Emirates): Piracy of motion pictures and sound recordings has been largely eliminated in the UAE. Efforts to reduce software piracy have increased and the industry looks forward to continued progress. Nevertheless, efforts have not been sufficient enough to significantly reduce the level of illegal activity. UAE patent law exempts medicines and pharmaceutical compounds from protection and contains onerous compulsory licensing provisions. Concerns remain about reports of the unauthorized production of pharmaceutical products.

Venezuela: Enforcement of copyright law has improved over the past year with the creation of a special anti-piracy police unit, but overall IPR enforcement remains inadequate. Piracy and lack of border enforcement continue to be significant problems. Deficiencies in the patent and trademark regime include overly restrictive compulsory licensing provisions, working requirements, inadequate protection of pharmaceutical patents, and lack of protection against parallel imports. The United States will continue to monitor the implementation and enforcement of IPR provisions, patent and trademark application processes and implementation of the WTO's TRIPS Agreement.

Vietnam: Copyright piracy is the most pressing intellectual property problem in Vietnam. Industry concerns have been expressed about the rapidly growing nature of this problem. A recently concluded copyright agreement between the United States and Vietnam establishes copyright relations between the two countries for the first time, which will give U.S. copyright holders a legal remedy for protecting their intellectual property in Vietnam. This is an important step in bringing Vietnam's copyright system into line with international standards. We look forward to continuing our work with Vietnam to further improve the protection of all forms of intellectual property, including both the grant of rights and their enforcement.

#### OTHER OBSERVATIONS

In addition, the USTR wishes to note developments in the following countries.

Austria: In 1996, the Government of Austria amended its copyright law. One of these amendments created a compulsory license for the public performance of films in hotels. This compulsory license may violate both the Berne Convention on the Protection of Literary and Artistic Works and TRIPs Agreement administered by the World Trade Organization (WTO). Austria is a member of both

these agreements and is obligated to be in full compliance with them both. The U.S. Government will continue to consult with Austria about this matter in the expectation that Austria will amend its copyright law to remove the compulsory license provision.

Cyprus The current patent regime in Cyprus is inadequate as well as inconsistent with TRIPs. USTR expects that the Government of Cyprus will act expeditiously to implement fully its TRIPs obligations, especially with regard to patent protection for pharmaceuticals and enforcement against piracy. USTR is troubled by recently proposed amendments which might further weaken patent protection.

Czech Republic: The Czech Republic has taken action to improve its copyright laws, however, enforcement efforts have lagged and U.S. firms experience widespread copyright and trademark piracy. Unfortunately, police activity, even where it has been increased, has thus far not led to a notable increase in prosecution of IPR crimes.

Germany: While Germany has made notable progress in enforcement since last year's review and is credited by industry with doing an effective job in combating video and audio piracy, industry concerns are increasing regarding the role of German firms in manufacturing and/or exporting throughout Europe pirated "smart cards" and other "descrambling" devices used to steal encrypted satellite, cable and broadcast transmissions, particularly of U.S. motion pictures.

Hungary: The United States is concerned by what appear to be persistent problems in the Hungarian judicial system which make it difficult to prevent patent infringement. U.S. interests have not been able to obtain injunctive relief prohibiting the marketing of products the courts have determined to be infringing. The United States urges the Government of Hungary to undertake the necessary reforms to address this problem.

Lebanon: The United States is concerned that copyright piracy dominates the Lebanese market and that progress in legal reform toward meeting world standards is slow. The Broadcast Law enacted in November 1996, however, has helped reduce IPR infringement. Television piracy remains a serious problem. The most urgent needs in Lebanon include: 1) judicial reform of administrative processes; 2) full implementation of licensing under the Broadcast Law; 3) and the completion of the copyright law reform process. Although Lebanon has a copyright law that adheres to the 1928 text of the Berne Convention and to the Universal Copyright Convention, this legislation must be amended to meet TRIPS standards, and penalties for copyright infringement should be increased.

Mexico: has committed to implement and enforce high levels of intellectual property rights protection. Notable achievements have been Mexico's signing (but not yet ratifying) the UPOV Convention and the Patent Cooperation Treaty, and reactivating its Interministerial Commission for the protection of IPR. Nevertheless, piracy remains a major problem in Mexico, with U.S. industry loss estimates increasing. The Government of Mexico passed a new Copyright Law in late 1996, which substantially increases protection for several types of copyright material and increases criminal penalties in several areas. Problems and ambiguities remain, but the Mexican Government is in the process of taking legislative and regulatory actions designed to address these concerns. Despite this progress, the Government of Mexico has not taken adequate actions or imposed penalties sufficient to reduce very high piracy levels.

Nicaragua: Nicaragua's current copyright law, which dates from 1904, does not explicitly protect computer software, which contributes to endemic piracy of these products. Piracy of video recordings, unauthorized video and sound recordings, and piracy of U.S. satellite signals is also widespread. The current patent law, which dates to 1899, fails to meet international standards for term of protection and for subject matter subject to patentability. However, Nicaragua did make substantial progress in 1996 toward concluding a Bilateral Intellectual Property Rights Agreement with the United States and has indicated a desire to complete this negotiation in 1997. The United States urges Nicaragua to successfully conclude these negotiations as soon as possible.

Qatar: enacted a copyright law in July 1995, which came into force in October 1996, but Qatar lacks legal protections for pharmaceutical patents. The copyright law only provides for protection of foreign works on the basis of reciprocity. However, Qatar is a member of the WTO, which obligates it to protect works from all other WTO members. In addition, despite enactment of the copyright law, no judicial enforcement has yet taken place. Because there is no legal protection for pharmaceutical product patents, numerous unauthorized copies of US-patented pharmaceuticals are registered in Qatar.

Romania: passed a new copyright law on March 13, 1996 which appears to meet international standards. Regrettably it appears that after Romania undertook an initial anti-piracy campaign following implementation of the law, it relaxed its efforts and piracy has returned to the market. Romania continues to fail to provide pipeline patent protection for pharmaceuticals despite assurances under the U.S.-Romania Trade Agreement to "exert best efforts" to enact such legislation by December 1993. The Administration is concerned that little progress was made over the past year to ensure that the new law is effectively implemented and enforced in order to end (1) the piracy of U.S. motion pictures by TV stations in Romania, (2) the production of pirated audio cassettes and (3) piracy of American books. The United States urges the Government of Romania to do more to address this situation in 1997.

Uruguay: Revision of Uruguay's copyright and industrial property legislation has been underway for years. These revisions are needed to bring Uruguay into compliance with international obligations. The United States encourages Uruguay to accelerate its efforts to enact TRIPS-consistent legislation and to continue its IPR enforcement efforts.

**DEVELOPMENTS IN INTELLECTUAL PROPERTY RIGHTS**1996**MAY**

- o A religious edict was issued by the highest religious authorities in Saudi Arabia on May 19 on the subject of software piracy. The edict must be used by all courts in Saudi Arabia as guidance in deciding cases involving software piracy.
- o On May 10, the Panamanian Legislative Assembly enacted a new industrial property law (Law 35).
- o Brazil enacted a new industrial property law on May 14, which improves many aspects of Brazil's industrial property regime, but some problems remain. It will enter into force in May 1997.
- o The Korean Supreme Prosecutor's Office published a manual of guidelines for IPR enforcement which help address the difficulties caused by Korea's inconsistent application of its various laws.
- o Estonia becomes party to Nice Agreement Concerning International Classification of Trademarks.

**JUNE**

- o Oman promulgated a new copyright law (Royal Decree No. 47/96) on June 8, 1996.
- o Amendments to Japan's trademark law, which are designed to simplify the trademark registration procedure and increase protection for well-known marks, were enacted by the Diet.
- o A special unit was created in the El Salvadoran Attorney General's Office that now coordinates intellectual property rights investigations and seizures.
- o The EU Council of Ministers reached a common position that essentially reaffirmed the flexibility of the 1989 Broadcast Directive as regards the quota provision and rejected efforts to expand the scope of the directive to include new audiovisual services.
- o The U.S. and China concluded a report on Chinese enforcement actions on June 17. The report announced the closure of 15 CD factories and over 5,000 laser disc cinemas nationwide.
- o Israel becomes party to the Patent Cooperation Treaty.
- o Panama becomes party to the Berne Convention.

- o A new copyright law enacted by Kazakstan takes effect.
- o A Romania copyright law enacted on February 20 takes effect.

## JULY

- o A Hong Kong district court concluded the first piracy case tried under the enhanced penalty provisions enacted in May 1995. Two defendants were convicted, fined, and sentenced to short prison terms.
- o Nicaragua becomes a party to the Paris Convention.
- o A new Belarussian copyright law takes effect.
- o The Venezuelan Government formed a special anti-piracy unit (COMANPI) to act as an enforcement arm of the copyright office.
- o A Singapore court sentenced two counterfeit software resellers to long prison terms, the longest sentences ever handed down in a copyright infringement case in Southeast Asia, for possession of counterfeit CD-ROMs.
- o A July 12 Panamanian Supreme Court decision provisionally suspended portions of Panama's 1994 copyright law that empower the Panamanian Copyright Office to conduct *ex officio* seizures of counterfeit foreign works.
- o On July 2, USTR initiated a Section 301 investigation and requested WTO dispute settlement consultations with India for its failure to fulfill the "mailbox" and "exclusive marketing rights" obligations of the TRIPs Agreement.

## AUGUST

- o Czech Republic became party to Trademark Law Treaty.
- o China's State Administration of Industry and Commerce (SAIC) issued provisional regulations on the confirmation and administration of well-known trademarks on August 14.
- o Portugal amended its Industrial Property Code (Decree Law 141/96) on August 23 to make it consistent with the WTO TRIPs Agreement.
- o The Taiwan Ministry of Justice issued two letters to Prosecutor Offices to instruct them to (1) accept Power-of-Attorneys executed in conformance with the law of the state in which the foreign company is located when submitted by the foreign copyright owners or Taiwan agent and; (2) investigate and seek indictments of Taiwan nationals whose conduct on mainland China constitutes copyright piracy/counterfeiting of works protected in Taiwan.
- o Korea becomes party to the Berne Convention.

- o Santa Lucia becomes party Patent Cooperation Treaty

## SEPTEMBER

- o The Thai legislature enacted a long-awaited law establishing an intellectual property and international trade court. The new court should begin operations in 1997.
- o The President of Paraguay issued a decree on September 26 (Presidential Order No. 14.870) creating the National Anti-piracy Council which is responsible for developing and executing a national anti-piracy campaign.
- o Colombia accedes to the Paris Convention for the Protection of Industrial Property and the UPOV Convention.
- o Bosnia and Herzegovina become parties to the Patent Cooperation Treaty.
- o Estonia becomes party to the Budapest Treaty on the International Recognition of the Deposit of Microorganisms.
- o A new Uzbeki law on copyright and neighboring rights takes effect.
- o The UAE becomes party to the Paris Convention.
- o China becomes party to the Locarno Agreement.
- o Monaco, Moldova, Sri Lanka, Ukraine and the UK become parties to the Trademark Law Treaty.

## OCTOBER

- o The U.S. and Portugal jointly notified the WTO Dispute Settlement Body on October 3 that a mutually satisfactory solution to the patent term extension case had been reached.
- o Qatar's 1995 copyright law (Law no. 25) went into effect on October 20, 1996.
- o A U.S. - Cambodia Bilateral Trade Agreement was signed on October 4 that contains intellectual property commitments. The Government of Cambodia is required to draft legislation protecting copyrights, trademarks and patents within 18 months of the Agreement's entry into force, and to use best efforts to enact and implement such legislation within 24 months of entry into force.
- o Mexico's new plant variety protection law went into effect on October 26. However, formal ratification of the UPOV Agreement has not been completed.
- o A new Azerbaijani law on copyright and neighboring rights comes into force.

- o Slovenia becomes a party to the Geneva Phonograms Convention.
- o Panama becomes a party to the Paris Convention.
- o Estonia becomes a party to the Locarno Agreement Establishing an International Classification of Industrial Designs.

#### NOVEMBER

- o The China Multimedia Association (CMA) and six of Taiwan's thirteen CD manufacturers signed a "CD-making copyright protection agreement" on November 25, to protect their products from counterfeiters.
- o Vietnam issued implementing regulations for its 1994 copyright ordinance (codified in Vietnam's Civil Code in July 1996). However, the regulations did not clarify a "point of attachment" for foreign works.
- o The U.S. requested the formation of a panel at the November 20 meeting of the WTO Dispute Settlement Body on the India "mailbox" case.
- o Guinea becomes a party to Nice and Locarno Agreements.
- o Trinidad and Tobago become party to the Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite. This is a requirement of the U.S.-Trinidad and Tobago bilateral IPR Agreement.
- o Colombia issues regulations implementing a Television Law.

#### DECEMBER

- o The Japanese Diet enacted amendments to its copyright law to grant fifty years of retroactive protection to sound recordings on December 17. The amendments will go into effect on March 25.
- o Mexico passed a new copyright law on December 24 which address a number of inadequacies in the former law, but contains certain provisions that are not consistent with Mexico's obligations under NAFTA, particularly regarding the lack of criminal penalties for sound recording piracy, the absence of civil remedies, and the possible decriminalization of computer software.
- o Australia announced that it would impose a new regime for the protection of test data for pharmaceuticals and agricultural chemicals, effective January 1, 1998. Under the new system, data for "new chemical entities" will receive protection for five years from the date of registration of the originator product.
- o WIPO Copyright Treaties on electronic transmissions concluded.

- o Mozambique becomes party to WIPO.

1997

## JANUARY

- o Russia's new Criminal Code took effect on January 1. The new Code provides for stiffer penalties for violations of intellectual property rights. The Criminal Code was signed on June 13.
- o Spain approved implementing regulations for the 1994 cinema law.
- o Effective January 1, all Taiwanese CD manufacturers must, in accordance with the Commodity Labeling Law, use a unique identification number on their products during CD production.
- o The Chinese State Council IPR Executive Conference issued the regulations, "Publication Management Measures."
- o The U.S. and Japan jointly notified the WTO Dispute Settlement Body that a mutually satisfactory solution to the sound recordings case had been reached.

## FEBRUARY

- o Pakistan issued Ordinance No. XXVI of 1997 on February 4 that implements its obligations under articles 70.8 and 70.9 of the TRIPs Agreement to establish a mailbox and exclusive marketing rights system.
- o Amendments to the 1982 Honduran Penal Code, published in the Official Gazette on February 8 under Decree Number 191-96, include stiffer new penalties for violators of intellectual property rights.
- o U.S. and Pakistani officials notified the WTO on February 28 that the mailbox and exclusive marketing rights matter had been resolved.
- o The Philippines' Senate ratified the Berne Convention for the Protection of Literary and Artistic Works on February 27.
- o Oman and Nepal become parties to WIPO
- o Lithuania becomes a party to the Nice Agreement.
- o Ghana becomes party the Patent Cooperation Treaty.

## MARCH

- o On March 21, the Indonesian Parliament approved three pieces of intellectual property legislation, amending Indonesia's copyright, patent and trademark laws aimed to bring them into compliance with the WTO TRIPs Agreement.
- o Bahrain became party to the Berne Convention on March 2.
- o Bolivia issued a Supreme Decree to regulate the protection of software and adopted penal Code amendments to make intellectual property piracy a "public" crime.
- o Colombia issued new pay-T.V. regulations on March 31. The regulations do not contain penalties for unauthorized T.V. signal transmissions.
- o Poland becomes party to the Nice Agreement.

#### APRIL

- o The Bulgarian Government adopted amendments on April 17 to a 1996 title verification decree to expand its coverage to computer software.
- o On April 16, Taiwan's Legislative Yuan (LY) enacted eighteen pieces of legislation which will implement commitments undertaken in the course of Taiwan's World Trade Organization (WTO) accession process. Included in this legislative package are a trademark law and a patent law. Taiwan has not yet announced when these laws will come into effect.
- o Mexico enacts technical amendments regarding copyright law.
- o Bolivia issues regulations covering protection of computer software.
- o Peru creates new intellectual property enforcement unit within the National Police.
- o Japan becomes party to the Trademark Law Treaty.

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FOR IMMEDIATE RELEASE  
Wednesday, April 30, 1997

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**STATEMENT BY USTR CHARLENE BARSHEFSKY**

U.S. Trade Representative Charlene Barshefsky today welcomed Japan's removal of its import ban on U.S. tomato exports.

"We are very pleased with Japan's decision to permit the importation of 25 varieties of U.S. tomatoes. While it is disappointing that resolution of this issue took so long, the United States applauds Japan's use of scientific principles in making this decision. This is an important precedent in Japan that should be applied to other sanitary and phytosanitary issues, including Japan's variety-by-variety testing requirement for other agricultural products, as well."

Ambassador Barshefsky noted that the Administration has worked hard to resolve this issue, and particularly commended Agriculture Secretary Dan Glickman and his staff for their efforts. USDA officials have been working with their Japanese counterparts for nearly six years to prove to the Government of Japan that tomatoes are not a host for the disease tobacco blue mold.

Japan's decision to lift the import ban will open the door to an estimated \$50 million market for U.S. tomato exports.

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FOR IMMEDIATE RELEASE  
Thursday, May 1, 1997

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**SEMICONDUCTOR FOREIGN MARKET SHARE IN JAPAN REACHES 29.4%  
IN THE FOURTH QUARTER**

Foreign share of Japan's semiconductor market jumped to 29.4% in the fourth quarter of 1996, the second-highest foreign share ever recorded. Foreign share for 1996 averaged 27.5%, an increase of more than two percentage points over the 25.4% average for 1995.

"I am pleased that foreign suppliers maintained their strong position in the Japanese semiconductor market in the fourth quarter of 1996," said Ambassador Charlene Barshefsky. "Last year was the most successful thus far for foreign semiconductor suppliers in the Japanese market. It demonstrates the market-opening gains that can be sustained when industries and governments work together toward a common goal.

"Progress in market access for foreign semiconductor suppliers in Japan will continue to be important for this Administration and is underscored by our 1996 U.S.-Japan Semiconductor Agreement," Barshefsky continued. "Cooperative activities are the key to achieving improved market access. We will continue to watch the situation closely to ensure that terms of the 1996 agreement continue to be fulfilled."

On August 2, 1996, the United States and Japan reached a new agreement on semiconductors which is designed to ensure continued progress on market access and industry cooperation and to solidify the market-opening gains of recent years. The heart of the new accord is an industry-to-industry agreement coupled with government oversight. Consultations at the government level to include representatives of the United States, Japan, the European Union, and Korea will occur next week in Honolulu, Hawaii, May 6 to 7.

The 1996 accord provides a forum to expand international semiconductor industry cooperation into such areas as standards, intellectual property rights, trade liberalization,

environmental and safety issues and market development. The agreement also provides for industries to collect a broad range of market data, including foreign market share, and to prepare a quarterly report that will be presented to governments. Governments will then review these activities and reports and monitor the situation in the Japanese and other major markets. Industry representatives are still working out the technical details of this program.

During the five-year period of the 1991 Arrangement second quarter, foreign market share increased from 14.3 percent in the third quarter of 1991 to an average 27.3 percent over the last full year of the agreement (third quarter 1995 through second quarter 1996).

Foreign Market Share

Q3 1991	14.3%
Q4 1991	14.4%
Q1 1992	14.6%
Q2 1992	16.0%
Q3 1992	15.9%
Q4 1992	20.2%
Q1 1993	19.6%
Q2 1993	19.2%
Q3 1993	18.1%
Q4 1993	20.7%
Q1 1994	20.7%
Q2 1994	21.9%
Q3 1994	23.2%
Q4 1994	23.7%
Q1 1995	22.8%
Q2 1995	22.9%
Q3 1995	26.2%
Q4 1995	29.6%
Q1 1996	26.9%
Q2 1996	26.4%
Q3 1996 <sup>1</sup>	27.1%
Q4 1996 <sup>1</sup>	29.4%

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<sup>1</sup>Calculated by U.S. Government only. Earlier figures calculated by U.S. Government and Government of Japan in accordance with the 1991 U.S.-Japan Semiconductor Arrangement.

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FOR IMMEDIATE RELEASE  
Friday, May 2, 1997

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**USTR ANNOUNCES TERMINATION OF GSP REVIEW OF GUATEMALA  
AND INITIATION OF REVIEWS OF BELARUS AND SWAZILAND**

U.S. Trade Representative Charlene Barshefsky announced today that the United States has terminated the Generalized System of Preferences (GSP) worker rights review of Guatemala. She also announced the initiation of two new worker rights reviews, dealing with Belarus and Swaziland.

In 1992, following the receipt of several petitions alleging that Guatemala was not providing internationally recognized worker rights, USTR initiated a GSP eligibility review. Throughout the review, USTR held numerous bilateral consultations with the Guatemalan Government to encourage the government to take the necessary steps to protect workers rights. These discussions intensified with the election of President Arzu. The most noteworthy progress during the review has been accomplished during his presidency, which has been characterized by a dramatic reduction of the intimidation of workers and their leaders.

The Guatemalan Government also has developed administrative remedies, such as the suspension of export licenses and the withdrawal of various tax benefits and operating permits to deal with labor law violations. Procedures for the registration of unions have been simplified. The Labor Ministry has doubled the labor inspection corps and improved training. A series of pre-emptive inspections of work sites in rural areas has resulted in significantly higher levels of compliance with the minimum wage laws.

The Ministry of Labor has endeavored to change the traditional confrontational and politicized relationship between labor, business and government. Part of this effort has been the establishment of a Tripartite Commission to discuss items of common interest, including labor law reform - which we hope will move forward expeditiously.

Of continuing concern is the inefficiency of the judiciary in dealing promptly with labor cases. The number of courts dealing with labor issues is being increased and decentralized which should help remedy this situation.

"While significant progress has been made in the implementation of Guatemala's labor laws, further advances are needed," said Barshefsky. "We will continue to monitor the treatment of workers in Guatemala and will self-initiate a new GSP review if there is serious retrogression in the areas the case has addressed."

The new reviews involving Belarus and Swaziland respond to petitions filed by the AFL-CIO. In announcing the initiation of these reviews Ambassador Barshefsky said, "The GSP eligibility of Belarus must be reviewed since the Government of Belarus appears to be imposing major obstacles that impede the right of association among workers. Reports of intimidation of independent union members are particularly disturbing."

The allegations related to Swaziland include the use of force by the government to break up legitimate strikes and demonstrations by workers. The 1995 Industrial Relations Bill also has troubling features.

The Generalized System of Preferences (GSP) is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. GSP is designed to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise and enforce exclusive intellectual property rights.

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FOR IMMEDIATE RELEASE  
Tuesday, May 6, 1997

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**U.S. Trade Representative Charlene Barshefsky  
Announces Personnel Actions at USTR**

USTR Charlene Barshefsky today announced five new senior career assignments: Robert B. Cassidy as Assistant U.S. Trade Representative (AUSTR) for China, Donald M. Phillips as AUSTR for Asia and the Pacific, Donald Abelson as Chief Negotiator for Communications and Information, Nancy Adams as Senior Trade Representative at the U.S. Mission to the EU, and James Murphy as AUSTR for Agriculture.

Barshefsky said, "The team of negotiators at USTR is second to none. These assignments will strengthen our ability to address vital U.S. trade interests."

- o **Robert B. Cassidy**, AUSTR for Asia and the Pacific since July 1992, has been named AUSTR for China. Mr. Cassidy is an experienced senior trade negotiator who has worked on a range of complex bilateral and multilateral trade negotiations and has worked extensively with the Chinese government through the APEC process. During the last two years, Mr. Cassidy has worked with China in the APEC process and has participated in a number of bilateral discussions between Ambassador Barshefsky and Chinese Trade Minister Wu Yi. Mr. Cassidy is well-known and respected throughout the Asia/Pacific region; he has played key roles in developing support for the Information Technology Agreement among APEC countries in 1996, in negotiating an auto market opening agreement with Korea in 1995, and in negotiating IPR agreements with Taiwan, the Philippines and Thailand in 1992-4.
- o **Donald M. Phillips**, AUSTR for Industry since July 1988, will serve as AUSTR for Asia and the Pacific. Mr. Phillips is a senior negotiator who has served as an advisor and negotiator in such critical trade areas as semiconductors, aerospace, shipbuilding, telecommunications and steel. Mr. Phillips started with USTR in 1980 as Director for

Commodity Policy, where he worked on a broad range of agricultural and commodity issues and later served as AUSTR for Policy Coordination. He offers hands-on knowledge of the Asia region and in-depth experience in both bilateral and multilateral negotiations involving Asian countries.

- o **Donald Abelson**, Chief Negotiator for Communications and Information, will remain in his position to lead USTR's effort focused on facilitating global electronic commerce over the internet. Mr. Abelson headed the U.S. interagency team that successfully negotiated the WTO basic telecommunications agreement in February 1997. During his more than twenty years with USTR, Mr. Abelson has served as Assistant U.S. Trade Representative for Services, Investment & Intellectual Property, Acting AUSTR for Services, Investment and the Environment, Deputy Assistant U.S. Trade Representative for both Latin America and Mexico and as Director of Technical Trade Barriers.
- o **Nancy Adams**, AUSTR for APEC Affairs since 1993, served for the past year as Executive Director of the Presidential Commission on U.S.-Pacific Trade and Investment Policy. Ambassador Barshefsky recently nominated Ms. Adams as Senior Trade Representative at the U.S. Mission to the European Union in Brussels. She will depart for Brussels in the near future. Ms. Adams has been with USTR since 1977 serving in the Office of Policy Development as Director of Middle East, Africa and South Asian Affairs, Chief Market Access Negotiator for the Uruguay Round and Deputy Assistant U.S. Trade Representative for Asia and the Pacific.
- o **James Murphy**, AUSTR for Europe and the Mediterranean, will serve as AUSTR for Agriculture. In his seventeen years at USTR, Mr. Murphy has served successively as AUSTR for Japan, for Europe and the Mediterranean, and for Latin America, the Caribbean and Africa. Mr. Murphy has also led the U.S. delegation to the OECD Trade Committee. From 1978-79, Mr. Murphy served as Deputy Director in the Treasury Department's Office of International Trade. From 1974-78, he served as Assistant Director for the Council on International Economic Policy at the White House. In these various capacities, Mr. Murphy had hands-on experience with agriculture issues, particularly in negotiations with the EU and Japan. Ms. Suzanne Early will continue to hold the position as Special Advisor for Agriculture.

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FOR IMMEDIATE RELEASE  
Saturday, May 10, 1997

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**APEC Charts New Course in Opening Global Markets to Trade**

**Montreal** -- Building on President Clinton's leadership on APEC trade issues last year, Trade Ministers from the 18 APEC economies agreed today to measures that expand APEC's role as a catalyst for global market-opening initiatives. Motivated by last year's success in spurring the Information Technology Agreement (ITA), APEC Trade Ministers agreed to take the lead in pursuing an "ITA II" initiative to expand trade in this area. Additionally, APEC Ministers agreed to push for a financial services trade agreement in the WTO, and established an expedited process for identifying and pursuing new sectoral market-opening initiatives.

"We have seen a sea-change in APEC over the past year," said U.S. Trade Representative Charlene Barshefsky. "After our success in bringing the ITA on line, there is now a recognition of APEC's ability to set an agenda for trade expansion initiatives using a sectoral market-opening strategy. These initiatives are the 'building blocks' in opening-up global markets on reciprocal terms. This new direction builds directly on President Clinton's vision for APEC as truly dynamic force in the global economy."

At the Montreal meeting, APEC Ministers decided that APEC should adopt the ITA model and take it to another level. Specifically, trade ministers agreed that APEC should lead the way in pursuing an "ITA II" trade agreement which would go beyond tariffs, encompassing non-tariff trade barriers, and look at increasing product scope and the number of participating countries. Ministers also agreed to give a strong push to WTO financial services negotiations, with a view toward concluding a global agreement with significantly improved market access and national treatment commitments by December 1997.

APEC Ministers also established an expedited process for launching new market-opening sectoral initiatives. Such initiatives are to be developed by trade officials this summer, and presented to trade ministers for consideration this November in Vancouver, Canada. Ministers will then provide recommendations to APEC Leaders with regard to launching market-opening initiatives in a new sector or sectors. These sectoral initiatives could encompass goods as well as services, and cover tariffs, non-tariff measures, trade facilitation measures, and technical cooperation.

"In developing these sectoral initiatives, we agreed to build a critical mass of support among APEC members," said Ambassador Barshefsky. "The participation of non-APEC members would also be sought in this process. Ultimately, as in the case of the ITA, we would turn these initiatives into binding global commitments."

In 1993, President Clinton reinvigorated the APEC process by stressing that APEC could be a market-opening force for the world. A radical idea at the time, it was adopted by other APEC economies, and expanded on in the following year in Indonesia, with the "Bogor vision" of establishing free and open trade in the region. The 18 APEC economies account for over 50 percent of world trade.

At last year's Leaders meeting, President Clinton also set a bold new direction for APEC. The President, noting that information technology represents the critical infrastructure for all APEC economies, advanced the ITA within APEC as a catalyst to open markets in this sector throughout the world. Thus, the critical mass of 13 APEC members turned into 28 WTO members by the Singapore WTO Ministerial, and now comprises 41 countries representing 93% of world trade in these products.

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FOR IMMEDIATE RELEASE  
Monday, May 12, 1997

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**USTR ANNOUNCES ALLOCATION OF THE 200,000 METRIC TON  
INCREASE IN THE AMOUNT AVAILABLE UNDER  
THE RAW CANE SUGAR TARIFF-RATE QUOTA**

United States Trade Representative Charlene Barshefsky today announced the country-by-country allocations for the 200,000 metric ton (220,462 short ton) increase in the amount available under the raw cane sugar tariff-rate quota for Fiscal Year 1997. This allocation is based on the countries' historical trade to the United States.

The 200,000 metric ton increase in the amount available for the raw cane sugar tariff-rate quota is being allocated to the following countries in metric tons, raw value:

<u>Country</u>	<u>Current FY 1997 Allocation</u>	<u>Additional Allocation</u>	<u>New FY 1997 Allocation</u>
Argentina	78,505	8,731	87,236
Australia	151,533	16,853	168,386
Barbados	11,359	0	11,359
Belize	20,083	2,234	22,316
Bolivia	14,606	1,624	16,230
Brazil	264,727	29,442	294,169
Colombia	43,817	4,873	48,690
Congo	7,258	0	7,258
Cote d'Ivoire	7,258	0	7,258
Costa Rica	27,386	3,046	30,431
Dominican Republic	321,324	35,736	357,060
Ecuador	20,083	2,234	22,316
El Salvador	47,468	5,279	52,748

Fiji	16,431	1,827	18,259
Gabon	7,258	0	7,258
Guatemala	87,634	9,746	97,380
Guyana	21,908	2,437	24,345
Haiti	7,258	0	7,258
Honduras	18,257	2,030	20,288
India	14,606	1,624	16,230
Jamaica	20,083	2,234	22,316
Madagascar	7,258	0	7,258
Malawi	18,257	2,030	20,288
Mauritius	21,908	2,437	24,345
Mexico	25,000	0	25,000
Mozambique	23,734	2,640	26,374
Nicaragua	38,340	4,264	42,604
Panama	52,945	5,888	58,834
Papua New Guinea	7,258	0	7,258
Paraguay	7,258	0	7,258
Peru	74,854	8,325	83,179
Philippines	246,470	27,411	273,881
South Africa	41,991	4,670	46,661
St. Kitts & Nevis	7,258	0	7,258
Swaziland	29,211	3,249	32,460
Taiwan	21,908	2,437	24,345
Thailand	25,560	2,843	28,403
Trinidad-Tobago	12,780	1,421	14,201
Uruguay	7,258	0	7,258
Zimbabwe	<u>21,908</u>	<u>2,437</u>	<u>24,345</u>
Total	1,900,000	200,000	2,100,000

Allocations to countries that are net importers of sugar are conditioned on receipt of the appropriate verifications.

Conversion factor: 1 metric ton = 1.10231125 short tons

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FOR IMMEDIATE RELEASE  
Tuesday, May 13, 1997

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### U.S. GRAPE PRODUCERS GAIN MARKET ACCESS IN CHINA

Ambassador Barshefsky announced today that the United States and China concluded a protocol and work plan which will open the Chinese market to U.S. exports of grapes.

"This is one step in a continuing process of expanding U.S. agricultural exports to China by eliminating sanitary and phytosanitary barriers," said Ambassador Barshefsky. "We remain concerned about a wide range of market access issues in China and will continue to work vigilantly to open China's market in agriculture trade and overall goods and services. Secretary Glickman and I sent a delegation to Beijing this week with the explicit purpose of addressing remaining barriers affecting our agriculture exports."

The protocol and work plan, effective immediately, will allow U.S. exporters of grapes from four counties in California -which represent the major share of U.S. production of table grapes - to ship to China. Other counties would be added at a later date following further exchange of scientific data. U.S. exports of grapes potentially could amount to \$45-50 million within two to three years.

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**FOR IMMEDIATE RELEASE**  
Saturday, May 17, 1997

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**STATEMENT BY USTR BARSHEFSKY**

U.S. Trade Representative Charlene Barshefsky announced today that the Trade Ministers of the Western Hemisphere at their Third Ministerial meeting in Belo Horizonte, Brazil, on May 16, 1997, agreed that the Free Trade Area of the Americas (FTAA) negotiations should be launched at the Santiago Summit of the Americas in March 1998 and will recommend that Hemispheric leaders do so at that time. To this end, the Trade Ministers established a formal Preparatory Committee which will take all the necessary steps to prepare for comprehensive negotiations early next year addressing a full range of issues from tariff reduction to agriculture to structural issues such as IPR and government procurement.

The Ministers stressed the importance of the participation in the FTAA process of all affected interests, including business, labor and environmental groups. Barshefsky said, "We are building a zone of prosperity in our Hemisphere, and in doing so it is essential to take account of the views of all interested parties."

The vision of the Free Trade Area of the Americas originated at the Miami Summit of the Americas, which President Clinton hosted in December 1994. The FTAA will expand opportunities for U.S. exports of goods, services, and agricultural commodities in the fastest-growing market in the world for U.S. exports. U.S. exports to Latin America and the Caribbean reached \$109 billion last year and are expected to surpass our exports to the European Union by mid-next year.

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FOR IMMEDIATE RELEASE  
Tuesday, May 20, 1997

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**USTR ANNOUNCES AGREEMENT BETWEEN THE UNITED STATES  
AND MEXICO ON EXCHANGE OF PRODUCT SAFETY TEST DATA  
FOR TELECOMMUNICATIONS EQUIPMENT**

United States Trade Representative Charlene Barshefsky announced today the conclusion of an agreement with the Government of Mexico on an exchange of product safety test data for telecommunications equipment. The agreement was finalized through an exchange of letters between Ambassador Barshefsky and the Mexican Secretary of Commerce and Industrial Development, Herminio Blanco Mendoza which confirmed an understanding reached in negotiations last month.

"The NAFTA continues to prove its value as an effective agreement in opening markets and providing new opportunities for U.S. exports," Ambassador Barshefsky said. "This agreement will help expand our export opportunities in telecommunications trade with Mexico."

The North American Free Trade Agreement requires that parties have procedures in place to accept test data relating to telecommunications equipment from other parties' laboratories or test facilities. In order to establish this procedure for test data exchanged between the United States and Mexico, both governments agreed to allow for private sector agreements between Mexican and U.S. testing laboratories which will permit the exchange of test data between the participating partner laboratories in each country.

With the completion of this agreement, laboratories in the United States and Mexico may test telecommunications equipment in accordance with the other's testing procedures for conformity with their product safety standards. For example, after reviewing the data received from a U.S. partner laboratory, a laboratory in Mexico will present the results to a certifying body for the purpose of obtaining necessary certification approvals. For data produced by a Mexican laboratory, the U.S. laboratory is similarly responsible for completing the certification processes

necessary for approval.

Thus, the agreement guarantees that certifying bodies will accord national treatment to test data. All certification procedures and product safety standards of the Occupational Safety and Health Administration in the United States and of the Sistema Nacional de Acreditamiento de Laboratorios de Pruebas in Mexico will be recognized.

The United States exported approximately \$900 million to Mexico in telecommunications equipment last year. It is expected that telecommunications trade will grow even further with this agreement which expedites and simplifies procedures for gaining product safety certification for telecommunications equipment.

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FOR IMMEDIATE RELEASE  
Thursday, May 22, 1997

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### USTR INITIATES REVIEW OF PHILIPPINES GSP ELIGIBILITY

United States Trade Representative Charlene Barshefsky announced today that USTR will conduct a review to determine whether the Philippines continues to qualify for benefits under the U.S. Generalized System of Preferences (GSP). The initiation of the review responds to a petition filed by the Meat Industry Trade Policy Council on behalf of several associations, including the National Pork Producers Council.

The petitioners allege that the Government of the Philippines is not respecting commitments it made during the Uruguay Round of multilateral trade negotiations. During those negotiations, the Philippines agreed to a tariff rate quota (TRQ) on pork. However, the petitioners charge that the market access they achieved has been subverted by Philippine government allocation procedures. For example, last year 85% of the TRQ was allocated to domestic hog producers.

"This Administration expects our trading partners to adhere to commitments made in trade agreements with the United States," said Barshefsky. "We have already initiated consultations with the Philippines Government at the World Trade Organization about this particular situation. While we are pursuing the matter in the WTO, we will consider the petitioners' concerns on a parallel track under our GSP statute."

The Generalized System of Preferences (GSP) is a program that grants duty-free treatment to specified products that are imported from more than 140 designated developing countries and territories. The premise of GSP is that the creation of trade opportunities for developing countries is an effective, cost-efficient way of encouraging broad-based economic development and a key means of sustaining the momentum behind economic reform and liberalization. GSP is designed to encourage beneficiaries to eliminate or reduce significant barriers to trade in goods, services, and investment, to afford all workers internationally recognized worker rights, and to provide adequate and effective means for foreign nationals to secure, exercise and enforce exclusive intellectual property rights.

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FOR IMMEDIATE RELEASE  
Thursday, May 22, 1997

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### WTO BANANA REPORT CONFIRMS U.S. WIN

The World Trade Organization (WTO) released to the public today the final dispute settlement panel report on the European Union's banana trade regulations. The WTO panel's findings, which uphold the claims of the United States, Ecuador, Guatemala, Honduras, and Mexico, were issued confidentially to the concerned governments on April 29.

"This final report sets important precedent for all U.S. exporters of services and agricultural goods," U.S. Trade Representative Charlene Barshefsky said. "I am gratified that the WTO has denounced a variety of egregious non-tariff barriers that impede U.S. exports. This is a promising sign that the WTO dispute settlement system can handle even the most entrenched barriers facing U.S. exports."

The WTO report finds that Europe's banana import regime is protectionist and discriminatory, violating WTO rules on sixteen counts. EU measures found to be inconsistent with WTO rules include:

- distribution of import licenses for Latin American bananas to French and British companies (whose previous business had been limited to the distribution of European, Caribbean and African bananas), taking away a major part of the banana distribution business U.S. companies had developed over this century;
- distribution of import licenses for Latin American bananas to European banana ripening firms (which had not historically imported bananas), also taking away U.S. company business;
- the imposition of more burdensome licensing requirements for imports from the Latin American co-complainants than those applied to other countries' bananas;
- the discriminatory allocation of access to the EU market into shares not based on past levels of trade (which creates trade distortions).

The United States expects the WTO report to lead to a new EU banana trade policy that is fully consistent with the EU's international trade obligations.

The WTO report does not address the zero-tariff preference for Caribbean banana imports predating the 1993 European regime, which the United States has not challenged. "This Administration has made it clear that this case must be resolved in a manner which allows WTO-consistent tariff preferences for traditional Caribbean bananas. This will provide more certainty to countries as they prepare for the future and allow the Caribbean to begin working towards more efficient banana production and economic diversification," said Barshefsky.

The banana dispute is the third case brought successfully by the United States through the WTO panel process.

*Note: The full text of all WTO panel reports is on the WTO's World Wide Web site at <http://www.wto.org>.*

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FOR IMMEDIATE RELEASE  
May 24, 1997

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**TALKS SUSPENDED ON UNITED STATES - EUROPEAN UNION  
MUTUAL RECOGNITION AGREEMENTS (MRAs)**

United States Trade Representative Charlene Barshefsky issued the following comment regarding the suspension of negotiations today on a package of mutual recognition agreements intended to facilitate market access between the European Union (EU) and the United States:

"We have suspended negotiations on a package of mutual recognition agreements today," said U.S. Trade Representative Charlene Barshefsky. "Our position is clear: We have been ready to move forward with a balanced package for some time -- a package already welcomed by the U.S. and European business communities' that would also encourage further cooperation between U.S. and EU regulatory agencies. At the same time, we take our obligation seriously to protect the health and safety interests of the American public."

The MRAs would allow qualifying bodies in the EU and the United States to perform certain procedures -- e.g., testing, inspection, certification -- in the United States to EU requirements, and vice versa. Areas being negotiated include pharmaceuticals, medical devices, telecommunications, information technology and sports craft. The Commerce Department estimates the value of trade in these areas between the U.S. and the European Union is approximately \$40 billion.

Ambassador Barshefsky also outlined the importance of the anti-bribery agreement reached last night among the twenty-nine member countries of the OECD, saying, "This is an agreement the Clinton Administration has been working on for some time. Bribery and corruption are among the most pernicious trade barriers encountered by U.S. companies abroad. The OECD accord is a step toward a more open and accountable international standard on how governments' conduct business which subjects our competitors to the same terms we expect of U.S. concerns. We welcome the opportunity to build on this agreement in the WTO."

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**FOR IMMEDIATE RELEASE  
Tuesday, May 27, 1997**

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**PROGRESS REPORTED ON US-EU MRA TALKS**

U.S. Trade Representative Charlene Barshefsky today made the following comment at the close of talks on the US-EU MRA package: "We have made substantial progress on MRAs, but it remains unclear whether both sides can resolve all issues necessary to reach agreement at this juncture."

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FOR IMMEDIATE RELEASE  
Wednesday, May 28, 1997

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**U.S.-EU ACHIEVE BREAKTHROUGH ON MRA NEGOTIATIONS**

United States Trade Representative Charlene Barshefsky and Commerce Secretary William J. Daley today indicated that outstanding issues with the European Union on a package of Mutual Recognition Agreements (MRAs) have been largely resolved and that overall agreement is expected soon.

"We have achieved a major breakthrough on MRAs and are very hopeful we will conclude an agreement in the next few days," said U.S. Trade Representative Charlene Barshefsky. "The MRA package continues the Administration's emphasis on expanding trade and opening markets in areas where the United States leads the world."

"The Trans-Atlantic Business Dialogue, in partnership with the Administration, made it possible to reach this point," said Secretary Daley. "This package would serve to increase U.S. exports by saving manufacturers up to 10% of the cost of delivering U.S. exports to Europe."

The MRA package covers trade in telecommunications equipment, information technology products, medical devices, pharmaceuticals, and sportscraft. Mutual Recognition Agreements allow products or processes to be assessed for conformity (e.g. testing, inspection, and certification) in the U.S. to EU standards, and vice versa.

The fifteen EU member countries represent the largest market for U.S. goods and services and the MRAs encompass more than \$47 billion in two-way trade.