

EXECUTIVE OFFICE OF THE PRESIDENT
**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

OFFICE OF PUBLIC & MEDIA AFFAIRS
600 17th Street, N.W.
Washington, D.C. 20508
Phone: 202.395.3230/ Fax: 202.395.7226

**TABLE OF CONTENTS
PRESS RELEASES FOR AUGUST 1997**

August 1, 1997	97-73 USTR Pleased with Congressional Progress on OECD Shipbuilding Agreement
August 4, 1997	97-74 Foreign Share of the Japanese Semiconductor Market Reaches Record High in First Quarter 1997
August 15, 1997	97-75 US and Laos Conclude Bilateral Trade Agreement
August 18, 1997	97-76 WTO Hormones Report Confirms US Win

EXECUTIVE OFFICE OF THE PRESIDENT
**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

OFFICE OF PUBLIC & MEDIA AFFAIRS
600 17th Street, N.W.
Washington, D.C. 20508
Phone: 202.395.3230/ Fax: 202.395.7226

**TABLE OF CONTENTS
PRESS RELEASES FOR SEPTEMBER 1997**

September 2, 1997	97-77 USTR Barshefsky Announces US Sugar Containing Product Re-export Program Will Continue
September 5, 1997	97-78 US Announces Request for WTO Consultations on Mexico's High Fructose Corn Syrup Dumping Order
September 5, 1997	97-79 Statement by USTR Barshefsky
September 5, 1997	97-80 USTR Barshefsky Announces US Victory in WTO Dispute with India
September 17, 1997	97-85 USTR Announces Allocation of the Raw Cane Sugar, Refined Sugar and Sugar Containing Products Tariff-Rate Quotas for 1997-98

EXECUTIVE OFFICE OF THE PRESIDENT
**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

OFFICE OF PUBLIC & MEDIA AFFAIRS

600 17th Street, N.W.

Washington, D.C. 20508

Phone: 202.395.3230/ Fax: 202.395.7226

**TABLE OF CONTENTS
PRESS RELEASES FOR OCTOBER 1997**

October 1, 1997	97-86 US and Japan Agree to Extend and Strengthen the NTT Procurement Procedures Arrangements
October 1, 1997	97-87 USTR Announces Results of Annual "Super 301" Review: Korean Auto Barriers Identified as Priority Foreign Country Practice; and New WTO Disputes Launched on Export Subsidies and Market Access Barriers
October 1, 1997	97-88 Amb. Barshefsky Announces Trade Enforcement Actions of Dairy Products
October 22, 1997	97-89 USTR Barshefsky Announces China Insurance License to be Granted to US Firm
October 24, 1997	97-90 USTR Barshefsky Announces Financial News Agreement with China
October 24, 1997	97-91 Recent Decline in Foreign Computer Manufacturers' Sales to Japanese Public Sector Raises US Concerns
October 27, 1997	97-92 US and China Reach Agreement to Strengthen Space Launch Trade Terms
October 27, 1997	97-93 USTR Barshefsky Announces Results of Special 301 "Out-of-Cycle" Reviews

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
August 1, 1997

97 - 73
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**USTR PLEASSED WITH CONGRESSIONAL PROGRESS
ON OECD SHIPBUILDING AGREEMENT**

U.S. Trade Representative Charlene Barshefsky today issued the following statement with regard to Congressional progress on legislation to implement the OECD Shipbuilding Agreement:

“As the Congress prepares for its August recess, I am pleased that efforts to develop compromise legislation to implement the OECD Shipbuilding Agreement are still actively underway. This Agreement, which is designed to eliminate government subsidies and predatory pricing practices in the shipbuilding sector, will allow our shipbuilding industry to compete on fair and equal terms and capture a share of the huge global commercial shipbuilding market. Recent statements in support of the Agreement and a Leadership commitment to pass implementing legislation this year deserve special recognition. We anticipate that these endeavors will be renewed after the August recess and urge that they brought to a satisfactory outcome as soon as possible to avoid an unraveling of the Agreement.”

Background

The OECD Agreement was concluded in 1995 and legislation to implement it was considered last year by the 104th Congress. This legislation was amended by the House National Security Committee and passed the House of Representatives by a wide margin. Unfortunately, the amended legislation contained a number of provisions that were inconsistent with the OECD Agreement and the legislation did not, therefore, provide a basis for U.S. ratification of the Agreement. Subsequent efforts to develop compromise legislation in the Senate failed and the Congress adjourned without passing implementing legislation.

On April 22 of this year Senator Breaux introduced S. 629, which constituted the Administration's proposal to address the concerns over the implementing legislation expressed by the 104th Congress. A subsequent public hearing on this bill was conducted by Senate Commerce and Transportation Committee Chairman John McCain. Intense Senate discussions were conducted, in particular between Senators Lott, Breaux, Roth and McCain, to identify changes necessary to S. 629 that would meet the needs of the Senate. It is our understanding that these discussions have now progressed beyond the Senate and continue between House and Senate staff.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, August 4, 1997

Contact: 97-74
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**FOREIGN SHARE OF THE JAPANESE SEMICONDUCTOR MARKET REACHES
RECORD HIGH IN FIRST QUARTER 1997**

Foreign share of the Japanese semiconductor market continued its upward trend in the first quarter of 1997, reaching a record 32.6 percent. This surpasses the previous record of 29.6 percent set in the fourth quarter of 1995 and is 3.2 percentage points above the 29.4 percent announced for the fourth quarter of 1996. Increased sales by U.S. companies contributed to the improved foreign share.

"I am pleased by foreign suppliers' continued progress in penetrating the Japanese semiconductor market," said U.S. Trade Representative Charlene Barshefsky. "This is evidence that market forces are at work. We will continue to monitor the situation closely to ensure that the foreign share of the Japanese market remains strong. In addition, I welcome the news that the industries have agreed on a satisfactory program of cooperative activities this Fall, as provided for under the August 2, 1996 semiconductor accords. I look forward to the industries maintaining this momentum in cooperative activities into 1998 and beyond."

Background

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. On May 6 and 7, consultations were held at the government level and included representatives of the United States, Japan, the European Union, and Korea.

The 1996 accord provides a forum to expand international semiconductor industry cooperation into such areas as standards, intellectual property rights, market opening initiatives, 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 Japan and other major markets.

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). Market share for the calendar year 1996 was 27.5 percent, an increase of over two percentage points from the 25.4 percent average recorded in 1995.

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 ¹	27.1%
Q4 1996 ¹	29.4%
Q1 1997 ¹	32.6%

- 30 -

¹Calculated 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.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Friday, August 15, 1997

97-75
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

UNITED STATES AND LAOS CONCLUDE BILATERAL TRADE AGREEMENT

Officials from the United States and Laos concluded negotiations on a bilateral trade agreement and a bilateral investment treaty, USTR announced today. The talks, which concluded on August 13, resulted in comprehensive agreements aimed at normalizing economic relations between the two countries. "These agreements form a solid basis for establishing trade and investment relations between the United States and Laos," said USTR General Counsel Susan Esserman. "They will expand opportunities for U.S. companies wishing to do business in Laos, and send an important signal of Laos' efforts to integrate into the world economy."

The U.S. - Laos bilateral trade agreement is necessary for the granting of normal trade status (i.e., most-favored nation treatment) to Laos. Congress must also enact pending legislation authorizing the granting of normal trade relations to Laos before such status can take effect. The trade agreement comprehensively addresses key trade issues between the two countries, including provisions relating to U.S. market access for goods and services in Laos, and the protection of intellectual property rights. Among the elements of the agreements are limitations on the use of non-tariff impediments to trade, specific commitments to market access in a broad range of services sectors, and comprehensive commitments to protect all forms of intellectual property and enforcement requirements against intellectual property piracy.

The U.S. - Laos bilateral investment treaty guarantees investors of each country the right to invest in the other country on terms no less favorable than those accorded domestic or third-country investors, in most sectors. It also guarantees the free transfer of capital, profits and royalties, freedom from performance requirements that distort trade and investment flows, access to international arbitration, and internationally recognized standards for expropriation and compensation. This is the first bilateral investment treaty concluded with a Southeast Asian nation. The treaty will be transmitted to the Senate for advice and consent.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, August 18, 1997

Contact: 97-76
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

WTO HORMONES 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 import ban on meat produced using growth-promoting hormones. The WTO panel's findings, which uphold the claims of the United States, were issued confidentially to the concerned governments on June 30, 1997. This was the first dispute involving the SPS agreement.

"This final report confirms the value of the new WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to U.S. exports," U.S. Trade Representative Charlene Barshefsky said. "I am pleased that the WTO agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. I am pleased that the panel affirmed the need for food safety measures to be based on science, as they are in the United States."

"The final report issued today by the WTO is welcome news for the U.S. beef industry," Agriculture Secretary Dan Glickman said. "The WTO dispute settlement panel has affirmed what we have known for over nine years: that European consumers are being denied a high quality and safe product due to an import regulation that cannot stand up to the test of good science. The panel drew on advice from eminent scientists from around the world to help it determine that the EU ban on U.S. beef was unjustified. I hope that the EU will now take steps to bring this import regulation into conformity with its WTO obligations and lift the ban on beef from the U.S., Canada and other affected countries. We are prepared to work with EU officials to accomplish this as soon as possible."

The WTO report finds that Europe's ban on the use of six hormones to promote the growth of cattle is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). In particular, the panel's report affirms that the EC's ban is not based on science. It was not based on a risk assessment or on the relevant international

standards, and the EC has arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade.

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

The hormones dispute is the fourth 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>.

Background

On January 1, 1989, the EU imposed a ban on imports of animals and meat from animals treated with hormones to promote the animal's growth. The United States objected to this ban with respect to six specific hormones. These six hormones have been found to be safe for use for growth promotion purposes by all the countries that have reviewed them. Furthermore, the independent experts of the Codex Alimentarius Commission have also reviewed five of these hormones and found them to be safe (they have never been asked to review the sixth, which is not as widely used). In fact, the EU has twice commissioned a scientific study of these same five hormones, and both times those scientists have found them to be safe.

Three of the hormones at issue are naturally present in all meat and in all people. The hormone level in beef from animals to which these hormones have been administered to promote growth are well within the normal levels. In fact, the levels in beef are far less than, for example, the level of these hormones found in a single egg. (For example, an average adult would need to eat 169 pounds of beef from animals to which one of these hormones has been administered in order to equal the amount of that hormone in one egg.)

The U.S. challenge to the EU import ban was based primarily on arguments that the ban breaches provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures ("SPS Agreement"). This was the first dispute involving the SPS Agreement. That agreement clearly preserves the right of governments to apply food safety measures to protect human life and health, but at the same time it requires that such measures must in fact be for that purpose and not for protectionist purposes.

The SPS Agreement establishes rules for determining whether import bans and other trade-restrictive actions that governments may characterize as food safety measures protect public health or provide a competitive advantage for domestic producers. In particular, the SPS Agreement relies on science to distinguish legitimate food safety measures from disguised protectionism. The SPS Agreement provides dispute settlement panels with clear guideposts for their review. It provides that measures must be based on scientific principles, must not be maintained without sufficient scientific evidence, must be based on a scientific assessment of whether there are any risks to human life or health, must not be more trade-restrictive than required to achieve the appropriate level of protection from such risks, and must be based on international standards, guidelines or recommendations, where they exist, except where a more stringent standard is deemed appropriate in order to achieve a different level of protection or where there is a scientific justification.

The SPS agreement also encourages dispute settlement panels to seek advice on scientific issues from experts chosen by the panel in consultation with the parties to the dispute. In making its findings in this dispute, the panel sought the advice of independent scientific experts, the first time a WTO panel has made use of this procedure. The panel report summarizes the advice received from the experts and includes the transcript of the panel's meeting with the experts.

In this case the EU's import ban ignores a vast body of scientific evidence -- including evidence produced by the EU's own reviews -- that it is safe to consume meat from animals to which these drugs have been administered in accordance with good animal husbandry practice.

During the WTO legal proceedings the EU claimed that its ban is based on health concerns. However, when it was first put in place, the EU acknowledged that the ban served the purpose of eliminating competition from imports of hormone-fed beef in EU markets and of leveling the competitive playing field in Europe where, prior to the EU ban, some countries allowed the use of growth hormones for farm animal production and others did not. The United States argued that U.S. meat treated with these six growth promoting hormones is safe and that the EU's attempt to protect domestic production from more competitive imports (and intra-EU competition) is trade protectionism, not protection of health and safety.

This dispute has a long history. The 1989 EU ban cut off U.S. beef exports to the Community valued then at approximately \$100 million annually. The United States tried to challenge the EU measures under the dispute settlement procedures available at the time, but the EU refused to allow a technical experts group to review the case. In response to the EU's blockage of dispute settlement procedures, the United States increased duties on certain products of the EU, pursuant to section 301 of the Trade Act of 1974. The increased U.S. duties remained in effect until the United States succeeded in having a WTO panel established to examine the EU hormone ban.

After the World Trade Organization (WTO) was created, the United States invoked the new WTO dispute settlement procedures to challenge the EU ban. Under the new WTO procedures, the EU cannot block the process, as it was able to do under the prior procedures.

The United States requested consultations with the EU in late January 1996, and in May 1996 the WTO Dispute Settlement Body established a panel to hear the case. Canada later brought a parallel action to challenge the EU ban, and the same panelists were assigned to hear the Canadian case. The panel has issued its final report with similar findings with respect to the challenge by Canada.

The WTO provides for an appeal of final panel reports. The EU is widely reported in the press as intending to appeal this panel report. The United States expects that the WTO Appellate Body would support the panel's conclusions.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
September 2, 1997

Contact: 97 - 77
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY ANNOUNCES U.S.
SUGAR CONTAINING PRODUCT RE-EXPORT PROGRAM WILL CONTINUE**

United States Trade Representative Charlene Barshefsky announced today that the Canadian government has agreed to drop its dispute settlement proceedings against the U. S. Sugar Containing Products Re-export Program. At the same time, the United States agreed to provide Canada with assurances that it would receive access to the U. S. refined sugar and crystal drink mix Tariff Rate Quotas (TRQs) consistent with its historical share of the U. S. market. The U. S. did not increase access in either of these TRQs to reach this agreement. Overall access remains unchanged.

Ambassador Barshefsky noted, "This agreement is an important victory for U. S. producers of sugar containing products because it confirms that Canada will not question the ability of the U.S. to continue to use this program for exporting to Canada."

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Friday, September 5, 1997

97 - 78
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**U.S. ANNOUNCES REQUEST FOR WTO CONSULTATIONS ON
MEXICO'S HIGH FRUCTOSE CORN SYRUP DUMPING ORDER**

U.S. Trade Representative Charlene Barshefsky announced today that the United States has requested WTO dispute settlement consultations regarding actions by Mexico in its antidumping investigation on high fructose corn syrup (HFCS). The United States is concerned that several actions initiated by the government of Mexico appear inconsistent with its obligations under the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Antidumping Agreement).

"Mexico recently imposed provisional antidumping measures on imports of high fructose corn syrup from the United States in a manner which appears to violate its WTO obligations," said Ambassador Barshefsky. "We are concerned about Mexico's actions in several respects, including a failure to determine whether there was sufficient evidence that the original petition was made by or on behalf of the domestic industry, failure to provide proper notification to the United States and failure to provide the U.S. industry timely access to the relevant information needed in the presentation of its case."

The Mexican National Chamber of Sugar and Alcohol Industries (Sugar Chamber), an association of producers of sugar in Mexico, filed a petition against imports of HFCS from the United States on January 14, 1997. On February 27, 1997, the Mexican Commerce Secretariat (SECOFI) published a notice initiating an antidumping investigation. On June 25, 1997, SECOFI published its preliminary affirmative determination of dumping and threat of material injury. Provisional tariffs ranged from \$66.50 to \$125.30 a metric ton for grade 42 fructose and \$63.40 to \$175.50 a metric ton for grade 55 fructose, or a 102.2% dumping tariff for grade 42 fructose and a 61.1% tariff for grade 55 fructose.

The request for consultations was made September 4, 1997. The consultations are expected to be held within 30 days.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Friday, September 5, 1997

Contact: 97-79
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

STATEMENT BY USTR CHARLENE BARSHEFSKY

U.S. Trade Representative Charlene Barshefsky today welcomed the action by Taiwan's Ministry of Finance in approving Allnation Insurance Company's application to set up a branch office in Taiwan. Allnation is a subsidiary company of Blue Cross/Blue Shield of Delaware.

"This decision is a positive step toward further opening Taiwan's insurance sector to U.S. participation," said Ambassador Barshefsky. "USTR will continue to press the Taiwan authorities to resolve problems facing other U.S. insurance companies."

Blue-Cross/Blue Shield of Delaware applied two years ago for a license to market a special health insurance policy in Taiwan. This policy allows cross border insurance coverage of particular interest to expatriates and other frequent travelers.

The approval is effective as of August 15, 1997.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Friday, September 5, 1997

Contact: 97 - 80
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**USTR BARSHEFSKY ANNOUNCES U.S. VICTORY
IN WTO DISPUTE WITH INDIA**

United States Trade Representative Charlene Barshefsky today announced that the United States has won its WTO case against India for its failure to provide intellectual property rights protection as required by the WTO Agreement. This case is the first intellectual property rights dispute to go through the WTO panel process.

“The panel decision sets an important precedent for enforcement of U.S. rights,” said Ambassador Barshefsky. “It serves notice that all WTO members, including developing countries, must carry out their obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The message from the panel is clear: for developing countries benefiting from the phase-in of TRIPS obligations, the phase-in period will not be a free ride.”

In the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement), developing countries that did not provide patent protection for pharmaceutical and agricultural chemicals were given ten years to establish such protection. In the interim these countries were required to establish a “mailbox” system to receive patent applications, and to assign each application a priority date based on the date the application was filed. When patent protection is ultimately provided for pharmaceuticals and agricultural chemicals in these countries, all mailbox patent applications must be examined based on their priority date. For an invention to be given patent protection, it must generally be new, involve an inventive step, and be capable of industrial application. Under the mailbox system, countries must determine whether an invention is new and involves an inventive step as of the priority date of the mailbox application. In addition, the TRIPS Agreement requires that countries grant exclusive marketing rights to certain products that are subject to mailbox applications.

The panel’s final report agreed with the U.S. claim that India failed to implement its obligation to establish mailbox and exclusive marketing rights systems. India’s assertions that an unpublished administrative system qualified as a mailbox system were firmly rejected. All developing countries

are now on notice that they must fully and immediately implement the mailbox and exclusive marketing rights obligations under the TRIPS Agreement.

Background

On July 2, 1996, the United States requested WTO dispute consultations with India regarding India's lack of compliance with Articles 70(8) and 70(9) of the TRIPS Agreement. Article 70(8) requires India to establish the mailbox system for patent applications. In 1994, the Indian Government issued provisional legislation to establish such a mailbox system, but Parliament refused to enact it on a permanent basis and it expired. Article 70(9) requires India to grant exclusive marketing rights to certain products subject to mailbox applications. India has never implemented Article 70(9). After the WTO consultations, held on July 27, 1996, the United States requested a panel, and it was established on November 20, 1996.

During the panel proceedings, India claimed that it was actually receiving mailbox applications through an unpublished administrative system, and that this system fulfilled India's obligations under Article 70(8). The panel rejected India's arguments, finding that the lack of legal security for applications in India's mailbox system was such that it could not meet the requirements of Article 70(8). The panel also concluded that India has failed to meet its obligation to provide exclusive marketing rights under Article 70(9).

In addition, the panel expressed its opinion that India was in violation of Article 63 of TRIPS because it never notified the WTO of the legal basis for its administrative system for the filing of mailbox applications. This portion of the report puts all developing countries on notice that they are obligated under the TRIPS Agreement to notify immediately their implementation of the mailbox and exclusive marketing provisions. In this way, the panel report will strengthen significantly the United States' ability to track TRIPS compliance.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, September 8, 1997

Contact: 97 - 81
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**FORMAL NEGOTIATIONS ON RENEWAL OF THE
NTT ARRANGEMENT TO BEGIN ON SEPTEMBER 9**

The United States and Japan reached agreement today to formally begin negotiations to extend the NTT telecommunications procurement arrangement beyond its September 30 expiration date. Both sides also agreed today to discuss improvements to the current NTT arrangement when the formal talks begin on September 9 in Tokyo.

"I am pleased that the United States and Japan have confirmed their mutual intention to reach a final agreement by September 30 so as to ensure no lapse in coverage of NTT telecommunications procurements," said U.S. Trade Representative Charlene Barshefsky. "This agreement has been instrumental in ensuring that U.S. telecommunications suppliers, among the most competitive in the world, have a fair shot to compete for the sizeable and important procurement contracts offered by NTT."

In addition to issues relating to the NTT arrangement, Japan agreed today to address limitations on foreign investment in NTT and KDD under the Enhanced Initiative on Deregulation and Competition Policy.

As a result of this agreement, USTR, the Department of State and the Department of Commerce have decided to withdraw their request that the Federal Communications Commission delay action on certain applications pending from Japanese telecommunications providers.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, September 8, 1997

Contact: 97 - 82
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**THE UNITED STATES FINALIZES SETTLEMENT AGREEMENT WITH CANADA
ON THE SUGAR-CONTAINING PRODUCTS RE-EXPORT PROGRAM**

United States Trade Representative Charlene Barshefsky announced today that the United States and Canada finalized the terms of the settlement agreement reached on the sugar-containing products re-export program. In reaching this agreement, Canada has agreed not to pursue dispute settlement proceedings with respect to the sugar-containing products re-export program.

Under the terms of the settlement, overall Canadian access to U.S. sugar tariff-rate quotas (TRQ) remains unchanged. The terms of the settlement agreement stipulate that, beginning in the 1997-98 quota period, the United States will allocate to Canada a share of the in-quota quantity of the U.S. TRQ for refined sugar (Additional US Note 5(a) to Chapter 17 of the Harmonized Tariff Schedule) of 10,300 metric tons, raw value, for sugar that is a product of Canada, and a share of the in-quota quantity of the U.S. TRQ for sugar-containing products (Additional U.S. Note 8 to Chapter 17 of the Harmonized Tariff Schedule) of 59,250 metric tons, raw value, for sugar-containing products that are the product of Canada. Canada will also be permitted to compete for any quantity of the refined sugar TRQ that is not allocated among supplying countries and is not reserved for specialty sugar, without regard to whether the share allocated to Canada for that period has been filled. The settlement agreement also allows the United States to transfer any unused quantity of Canada's sugar-containing products allocation to the portion of that TRQ that is not allocated among supplying countries, if Canada informs the United States that it cannot fill its share.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, September 8, 1997

Contact: 97 - 83
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**UNITED STATES TRADE REPRESENTATIVE CHARLENE BARSHEFSKY
ANNOUNCES AGREEMENT WITH CANADA ON BARLEY TRQ**

United States Trade Representative Charlene Barshefsky announced today an agreement with Canada under which Canada agreed to suspend application of its tariff-rate quota (TRQ) on barley and barley containing products from the United States. The Canadian TRQ will remain in place for imports from all other countries.

"Canada's action today is a good first step in addressing the concerns of our grain exporters and in leveling the playing field with Canada," said Barshefsky. "However, many barriers which hinder our farmers' access to the Canadian market remain. We will continue to press Canada to open its market to U.S. agricultural products on reciprocal and fair terms."

In April 1997, Ambassador Barshefsky visited Minot, North Dakota, where local farmers expressed concern about the lack of reciprocal access to the Canadian market, specifically citing, among other issues, their frustration with Canada's TRQ on barley and barley products. Following this visit, Ambassador Barshefsky pressed Canada to eliminate its TRQ on barley and barley products and other measures that restrict US exports to Canada.

"Agricultural products are America's top export, accounting for nearly ten percent of our total merchandise exports, and supporting nearly one million U.S. jobs," said Barshefsky. "This Administration will continue to break down trade barriers to U.S. agricultural goods and ensure that U.S. agriculture producers and workers -- the most efficient, innovative and competitive in the world -- have access to the growing markets throughout the world."

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, September 9, 1997

Contact: 97 - 84
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**Trade Representative Welcomes Appellate Victory in WTO Banana Dispute:
Sees Broader Benefits for U.S. Trade**

The Office of the U.S. Trade Representative announced that the Appellate Body of the World Trade Organization (WTO) has endorsed the conclusions of a WTO panel finding most features of the EU's banana regime inconsistent with its WTO obligations. The appellate report was released to all WTO Members and the public on Tuesday, September 9.

U.S. Trade Representative Charlene Barshefsky commented, "I am pleased that the Appellate Body has upheld the WTO panel's findings confirming that the European Union's banana regime violates many provisions of the WTO agreements on both goods and services." While upholding the panel's findings of WTO-inconsistency, the Appellate Body also made some refinements in legal interpretation.

Because this case represents the first interpretation by a panel and the WTO Appellate Body of the General Agreement on Trade in Services (GATS), the findings also establish important precedent. The panel's and Appellate Body's findings confirm the broad scope of the coverage of the GATS and will be particularly important in eliminating barriers to U.S. exports in distribution and other service sectors. The case also sets important precedents for agriculture trade in the areas of tariff quotas and import licensing.

The formal WTO dispute settlement procedure was initiated last year at the joint request of Ecuador, Guatemala, Honduras, Mexico and the United States, and the panel report was officially released on May 22, 1997. The Appellate Body is the last avenue of appeal under WTO rules. As WTO rules do not permit losing parties to "block" WTO approval of the results, the Appellate Body and panel reports on bananas will be adopted within a month. Once the findings are approved by the WTO, the United States expects the EU to fully conform its regime to WTO rules.

EU measures found to be inconsistent with WTO rules include:

- the EU's assignment 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;
- the EU's assignment of import licenses for Latin American bananas to European banana ripening firms (which had not historically imported bananas), further taking away U.S. company business;
- the EU's actions imposing more burdensome licensing requirements for imports from the Latin American co-complainants than for other countries' bananas; and
- the EU's discriminatory and trade-distorting allocation of access to its market for bananas, which departed from the fair-share standard of the WTO which focuses on past levels of trade

The panel and the Appellate Body also affirmed that the tariff preferences over Latin American bananas which the EU currently provides to Caribbean banana exporting countries are consistent with the terms of a special WTO waiver the EU obtained for certain trade preferences for its former colonies. "The EU designed its banana regime largely to help EU companies and producers. The United States remains committed to supporting the economies of the Caribbean countries, and we are ready to work with the EU on a reform program that allows these countries to continue their traditional exports to the EU market," said Barshefsky.

The Appellate Body Division that heard this appeal was: James Bacchus, Presiding (United States), Christopher Beeby (New Zealand) and Said El-Naggar (Egypt).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Wednesday, September 17, 1997

Contact: 97 - 85
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**USTR ANNOUNCES ALLOCATION OF THE RAW CANE SUGAR, REFINED SUGAR
AND SUGAR CONTAINING PRODUCTS TARIFF-RATE QUOTAS FOR 1997-98**

United States Trade Representative Charlene Barshefsky today announced the country-by-country allocations of 1,200,000 metric tons (1,322,773 short tons) of the raw cane sugar tariff rate quota for Fiscal Year 1998. These allocations are based on the countries' historical trade to the United States.

The 1,200,000 metric tons for raw cane sugar are being allocated to the following countries in metric tons, raw value:

<u>Country</u>	<u>FY1998 Allocation</u>
Argentina	48,101
Australia	92,846
Barbados	7,830
Belize	12,305
Bolivia	8,949
Brazil	162,201
Colombia	26,847
Congo	7,258
Cote d'Ivoire	7,258
Costa Rica	16,779
Dominican Republic	196,878
Ecuador	12,305
El Salvador	29,084
Fiji	10,068
Gabon	7,258

Guatemala	53,694
Guyana	13,424
Haiti	7,258
Honduras	11,186
India	8,949
Jamaica	12,305
Madagascar	7,258
Malawi	11,186
Mauritius	13,424
Mexico	25,000
Mozambique	14,542
Nicaragua	23,491
Panama	32,440
Papua New Guinea	7,258
Paraguay	7,258
Peru	45,864
Philippines	151,015
South Africa	25,728
St. Kitts & Nevis	7,258
Swaziland	17,898
Taiwan	13,424
Thailand	15,661
Trinidad-Tobago	7,830
Uruguay	7,258
Zimbabwe	<u>13,424</u>
Total	1,200,000

This allocation includes the following minimum-quota countries: Congo, Cote d'Ivoire, Gabon, Haiti, Madagascar, Papua New Guinea, Paraguay, St. Kitts & Nevis, and Uruguay.

United States Trade Representative Charlene Barshefsky also announced that 25,000 metric tons (27,558 short tons) of the 50,000 metric tons (55,116 short tons) for refined sugar will be allocated to Mexico in order to fulfill obligations pursuant to the North American Free Trade Agreement (NAFTA). As a result of an agreement reached with Canada, 10,300 metric tons (11,354 short tons) of refined sugar and 59,250 metric tons (65,312 short tons) of the tariff-rate quota for certain sugar-containing products maintained under Additional U.S. Note 8 to chapter 17 to the Harmonized Tariff Schedule of the United States will be allocated to Canada. Separately, an additional 2,954 metric tons (3,256 short tons) of refined sugar will be allocated to Mexico. The remainder of the refined sugar tariff-rate quota will be available on a first-come, first-served basis, including the 4,656 metric tons (5,132 short tons) reserved for specialty sugars. The remainder of the sugar-containing products tariff-rate quota will be available for other countries.

The 25,000 metric tons, raw value, of refined sugar allocated to Mexico pursuant to the NAFTA are subject to the condition that the total imports of raw and refined sugar from Mexico, combined, is not to exceed 25,000 metric tons raw value. The allocations of the raw and refined sugar tariff-rate quotas 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

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Wednesday, October 1, 1997

Contact: 97 - 86
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**U.S. AND JAPAN AGREE TO EXTEND AND STRENGTHEN THE
NTT PROCUREMENT PROCEDURES ARRANGEMENTS**

The United States and Japan reached agreement late last night to extend and improve the NTT Procurement Procedures arrangements. The new agreement improves measures to further open Nippon Telegraph and Telephone's (NTT) procurement procedures ("Improvement Measures"). Under the accord, both sides agreed to meet annually to review progress under the arrangements and to discuss application of the arrangements to NTT after its restructuring in 1999.

"I am pleased that we have agreed to extend and strengthen this important telecommunications agreement which ensures continued coverage of Japan's largest purchaser of telecommunications equipment," said U.S. Trade Representative Charlene Barshefsky. "This agreement is instrumental in providing U.S. telecommunications suppliers, which are the most competitive in the world, with an open and non-discriminatory environment in which to compete for and win contracts in NTT's \$13 billion procurement market. We are pleased that the Government of Japan and NTT recognize that these measures will increase procurement opportunities and can lead to an increase in the foreign value and share of NTT's procurement."

On the heels of the successful World Trade Organization (WTO) Global Basic Telecommunications Agreement (GBT) and the Information Technologies Agreement (ITA), which were concluded earlier this year, the NTT arrangement represents another important telecommunications agreement that will afford U.S. companies additional opportunities in the rapidly expanding global telecommunications market, which is widely recognized as the backbone of modern globally integrated economies.

The extension of the procurement arrangements and adoption of the Improvement Measures commit NTT, among other things, to:

- Provide greater access to technical information necessary to build equipment for NTT's network and provide more information to suppliers on NTT's procurement plans for key equipment;
- Extend coverage of the agreement to NTT's new software subsidiary;
- Convene U.S. and other foreign suppliers to reduce the number of unique standards used by NTT which disadvantage U.S. and other foreign suppliers; and
- Apply principles of openness and non-discrimination to NTT's procurement practices.

BACKGROUND

The extension and improvement of these arrangements are important to the U.S. economy for two reasons. First, the continued application of these procurement arrangements and the adoption of the improvements will provide U.S. telecommunication suppliers with increased access to NTT's \$13 billion procurement market. U.S. companies have a greater opportunity to compete on a equal footing with their Japanese competitors. Secondly, the arrangements and the Improvement Measures enable U.S. telecommunications equipment suppliers to export more high-quality, leading-edge telecommunications equipment to NTT.

Increased telecommunications exports to Japan will create more high-paying, high-skilled jobs which will continue to be one of the engines of strong U.S. economic growth. U.S. and other foreign suppliers sold over \$1.5 billion dollars worth of products of NTT in 1996. U.S. telecommunications firms employ over 225,000 workers.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR PRESS RELEASES ARE AVAILABLE ON THE USTR HOME PAGE AT WWW.USTR.GOV.
THEY ARE ALSO AVAILABLE THROUGH THE USTR FAX RETRIEVAL SYSTEM AT 202-395-4809.

EMBARGOED UNTIL 10/1 PRESS CONFERENCE BEGINS
(Scheduled to Begin at 2pm)

Wednesday, October 1, 1997

97-87
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**USTR Announces Results of Annual "Super 301" Review:
Korean Auto Barriers Identified as Priority Foreign Country Practice; and
New WTO Disputes Launched on Export Subsidies and Market Access Barriers**

United States Trade Representative (USTR) Charlene Barshefsky announced today that USTR has identified Korea's barriers to imported automobiles as a priority foreign country practice under the "Super 301" provisions of U.S. trade law.

"Although some progress was made during recent bilateral negotiations to improve market access in Korea for foreign automobiles," said Ambassador Charlene Barshefsky, "Korea was not prepared to undertake the reforms that are necessary for real opening of their autos market. We continue to hope that we can reach an agreement with Korea that will effectively address U.S. concerns." Korea is the third largest exporter of automobiles. However, in spite of the 1995 U.S.-Korea agreement on autos, imported passenger vehicles represented less than one percent of the Korean market in 1996.

Ambassador Barshefsky also announced today that USTR will take enforcement action involving four other countries' trade practices, challenging them under the World Trade Organization (WTO) dispute settlement process. Three of these WTO cases specifically target foreign government circumvention of rules on export subsidies. With these actions, the United States will have filed 35 complaints with the WTO since it was established less than three years ago.

"Enforcement of international trade agreements and U.S. trade laws underpins our entire approach to trade -- and is critical to our objective of building on the trade agreements we have reached so far to open markets further and expand trade," Ambassador Barshefsky stated. On more than 70 occasions the Clinton Administration has used the trade law tools and dispute settlement mechanisms at its disposal to enforce U.S. rights, outlined in the attached Fact Sheet.

In this year's report, the Trade Representative underscored the importance of fast track procedures for achieving trade expansion goals. "Keeping America growing and creating good high-wage jobs by tearing down foreign barriers to American goods and services continues to be President Clinton's top trade expansion priority. For this reason the President has asked Congress to renew fast track procedures to negotiate tough new trade agreements," the Trade Representative stated. Fast track procedures strengthen the President's ability to eliminate trade barriers and unfair trade restrictions in export areas where we lead, such as in agriculture, telecommunications, medical equipment, environmental technology and services, and the creative power of our entertainment and software industries.

The specific Korean practices of concern with respect to automobiles include an array of cumulative tariff and tax disincentives that disproportionately affect imports; onerous and costly auto standards and certification procedures; auto financing restrictions; and a climate of bias against imported vehicles that Korean officials have not effectively addressed. While some of these barriers were addressed in the 1995 bilateral agreement, implementation of that agreement has been disappointing, especially as new practices have been introduced that undermine the 1995 agreement.

In launching the new WTO cases, Barshefsky said, "One of our top priorities during the Uruguay Round of trade negotiations was to impose greater discipline on the use of subsidies by foreign governments. This year, consistent with the Administration's strategic enforcement strategy, we are using the effective tool of WTO dispute settlement in tandem with Section 301 of the Trade Act to challenge these trade-distorting practices." Two of the cases involve agricultural export subsidies that affect U.S. exports of dairy products and appear to circumvent the rules of the WTO Agreement on Agriculture. She added, "We will not stand by while other governments backslide on their commitments in the agricultural sector, where the United States is a top global competitor."

The four WTO enforcement actions involve:

- **Japan - market access barriers to fruit.** USTR will initiate a section 301 investigation and, in that context, request the establishment of a WTO panel to challenge the Japanese government requirement of separate efficacy testing of certain quarantine treatments for each variety of imported fruit, even where the same treatment has been accepted by Japan as effective for another variety. Although the fruit of immediate export concern is apples, Japan's requirement operates as a significant import barrier to nectarines, cherries, and other fruits that are of export interest to the United States. The United States and Japan have already completed consultations on this matter pursuant to WTO dispute settlement procedures, so the United States will proceed directly to request a panel.

- **Canada - export subsidies and import quotas on dairy products.** USTR will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices that subsidize exports of dairy products from Canada, and Canadian implementation of its import quotas on milk. The U.S. dairy industry has petitioned USTR to initiate this investigation on the grounds that both of these practices are inconsistent with Canada's WTO obligations and adversely affect U.S. exports.
- **EU - circumvention of export subsidy commitments on dairy products.** USTR also will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices by the EU that circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese and adversely affect U.S. exports to third markets. The EU is counting these exports against its limits on powdered milk and butterfat to avoid the limits on subsidies to cheese. USTR will also closely monitor EU compliance with its WTO agricultural subsidy commitments on all other agricultural products.
- **Australia - export subsidies on automotive leather.** Following bilateral and multilateral consultations, Australia agreed to eliminate export subsidies for leather used in automobiles. However, Australia's subsequent package of assistance for its industry (comprised of a sizeable loan and grant), has raised similar concerns regarding consistency with WTO subsidies rules. While some progress has been made in recent months, these concerns have not yet been adequately addressed. Thus, USTR will invoke WTO dispute settlement procedures, but remains hopeful that a solution satisfactory to both countries can be reached during consultations.

Other Enforcement Priorities

Since 1993, the Administration has vigorously enforced its rights by deploying all available trade enforcement tools at its disposal. It has: launched 21 Section 301 investigations into foreign unfair trade practices; used the "Special 301" review of intellectual property rights protection to secure improved protection in at least ten major foreign markets; used U.S. trade laws to gain compliance with telecommunications trade agreements with three major trading partners and to address discrimination in foreign government procurement practices in five cases; and invoked the dispute settlement procedures of the WTO in 32 cases to protect the interests of U.S. producers and manufacturers.

This year's Super 301 report also identifies a number of areas where the Administration is applying U.S. trade laws, WTO dispute settlement procedures, and other provisions to address foreign trade barriers adversely affecting U.S. exports. For example, during the past year, USTR has invoked WTO dispute settlement procedures to challenge a wide variety of foreign government practices, covered by the *broad range* of agreements administered by the WTO, seeking to enforce the rules on tariffs, agriculture, services, intellectual property rights, antidumping measures, and sanitary and phytosanitary measures. Those complaints involve:

- **Argentina's** import duties on footwear, textiles, and apparel that exceed the maximum to which Argentina is committed under WTO tariff rules;

- licensing requirements in **Belgium** that discriminate against U.S. suppliers of commercial telephone directory services;
- **Brazilian** government measures that give certain benefits to manufacturers of motor vehicles and parts, conditioned on compliance with average domestic content requirement, trade-balancing and local content requirements with regard to inputs;
- the failure of **Denmark** to provide adequate measures to enforce intellectual property rights;
- reclassification by the **European Union, the United Kingdom, and Ireland** of certain computers and computer-related equipment to different tariff categories with higher tariff rates;
- import restrictions on more than 2700 agricultural, textile and industrial products imposed by **India** for which India can no longer claim a justification for balance-of-payments reasons;
- **Indonesia's** program granting preferential tax and tariff benefits to producers of automobiles based on the percentage of local (Indonesian) content of the finished automobile;
- **Ireland's** failure to expeditiously bring its copyright laws into compliance with the WTO agreement on intellectual property rights;
- **Japan's** barriers to market access for photographic film and paper, and barriers to distribution and retail services in Japan
- **Korea's** taxes on Western-style distilled spirits that are higher than those assessed on the traditional Korean-style spirit *soju*;
- an antidumping action by **Mexico** of high-fructose corn syrup imports from the United States that does not conform to WTO procedures.
- a licensing system in **the Philippines** that discriminates against U.S. exports of pork and poultry; and
- the failure of **Sweden** to provide adequate measures to enforce intellectual property rights.

Bilateral Priorities

The Super 301 report also discusses priorities in addressing bilaterally a number of serious problems in trade with Japan, China, and Korea. It reports on the status of bilateral negotiations with Japan on market access for telecommunications, autos, auto parts, flat glass, paper, and paper products, which are priority issues on the bilateral U.S.-Japan agenda. It also highlights the priority that the Administration places on negotiations with China, bilaterally and in the context of negotiations on the accession of China to the WTO, where the United States is seeking the elimination of China's multiple and overlapping barriers to U.S. exports of industrial goods, agricultural products and U.S. services. With respect to Korea, the Administration's trade

strategy is premised on the assumption that Korea will take actions and accept the responsibilities commensurate with its new international position as a developed nation. In addition to identifying market access barriers to autos as a priority practice, the report discusses the Administration's goals of achieving systemic changes to trade-restricting procedures and rules in Korea, including those affecting trade in agricultural goods, food and cosmetics, and steel.

"The Administration is increasingly concerned that Japan's progress in opening its market has slowed," the Trade Representative stated, adding: "Market access problems persist and U.S. companies in a wide range of sectors continue to face serious impediments that hinder their ability to compete in the Japanese market. These barriers include a closed distribution system, nontransparent regulations, discriminatory procurement policies, and restrictive business practices."

The report warns that the deregulatory measures implemented by the Government of Japan in the sectors included in the Enhanced Deregulation Initiative agreed to by President Clinton and Prime Minister Hashimoto at the G-8 Summit last June -- including telecommunications, housing, pharmaceuticals/medical technology, and financial services -- will serve as "early indications of the seriousness of Japan's commitment to deregulation."

In addition, the report identifies a number of technical barriers to trade -- such as standards, certification and testing requirements -- and sanitary and phytosanitary measures affecting agricultural products that require special attention and that may warrant enforcement action in the future, particularly measures imposed by the European Union.

WTO Successes

An Appendix to the report describes the successful outcomes achieved by the United States in WTO dispute settlement proceedings during the past year, either through favorable rulings or satisfactory settlements. The United States has won the first five cases that it has taken through the panel process:

- **Japan - liquor taxes.** The United States -- joined by the EU and Canada -- successfully challenged a discriminatory Japanese tax scheme that placed high taxes on whisky, vodka, and other Western-style spirits, while applying low taxes to a traditional Japanese spirit (shochu). This was an important victory for the U.S. distilled spirits industry, whose exports to Japan have reached \$100 million per year even in spite of the heavy Japanese taxes. Japan has already enacted legislation that is a major step toward eliminating the problem. The excise taxes on whisky and other brown spirits are being dramatically reduced, starting in October 1997, and the excise tax on shochu will be increased. The result will be a drastic tax cut for our brown spirits exports.

- **Canada - restrictions on magazines.** The United States successfully challenged a recently enacted Canadian law that placed a high tax on American magazines containing advertisements directed at a Canadian audience. This tax, which was the latest in a series of Canadian government measures designed to protect the Canadian magazine industry from U.S. competition, was specifically calculated to put the Canadian edition of *Sports Illustrated*, published by the Canadian subsidiary of Time Warner, Inc., out of business. By ruling in favor of the United States, this case makes clear that WTO rules prevent governments from using 'culture' as a pretense for discriminating against imports.
- **EU - banana imports.** The United States joined Ecuador, Guatemala, Honduras, and Mexico in challenging an EU import program that gave French and British companies a big share of the banana distribution services business in Europe that U.S. companies had built up over the years. Ruling against the EU, the WTO panel and Appellate Body found that the EU banana import rules violated both the General Agreement on Trade in Services and the General Agreement on Trade in Goods by depriving U.S. banana distribution services companies and Latin American banana producers of a fair share of the EU market.
- **EU - hormone ban.** Both the United States and Canada challenged Europe's ban on the use of six hormones to promote the growth of cattle, and a WTO panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States. In addition to potentially affecting over \$100 million in U.S. beef exports annually, this ruling sets an important precedent that will act to protect other U.S. exporters from unscientific and unjustified trade barriers in the future.
- **India - patent law.** The United States recently obtained a panel ruling against India for failing to provide procedures for filing patent applications for pharmaceuticals and agricultural chemicals, as required by the WTO agreement on intellectual property protection. Besides serving notice that the United States expects all WTO members, including developing countries, to carry out their WTO obligations concerning intellectual property rights, this case also demonstrates that the WTO dispute settlement mechanism can play an important role in protecting American rights and interests in this field.

In addition, the WTO dispute settlement rules have made it possible to enforce WTO agreements without ever having to reach a panel decision. The fact that the WTO can and will authorize the United States to retaliate pays off in earlier settlements opening markets for more U.S. exports. During the past year the United States has used the WTO procedures to obtain favorable settlements in some important cases:

- **Portugal - patent law.** After the United States requested WTO consultations, Portugal agreed to revise its patent law to provide a 20-year term to old, as well as new, patents, as required by the WTO agreement on intellectual property rights.
- **Pakistan - patent law.** After the United States requested the establishment of a WTO panel to

enforce the WTO intellectual property rights agreement, Pakistan implemented the requirements of that agreement to provide procedures for filing patent applications and preserving exclusive marketing rights to protect pharmaceuticals and agricultural chemicals.

- **Turkey - film tax.** The United States has used the WTO dispute settlement process to convince the Government of Turkey to eliminate discriminatory tax treatment currently given to box office receipts from exhibition of foreign films. Turkey has agreed to change its practice.
- **Hungary - agricultural export subsidies.** The United States, joined by Argentina, Australia, Canada, New Zealand, Thailand, and Japan, used the WTO dispute settlement procedures to address Hungary's lack of compliance with its commitments on agricultural export subsidies. The result was a settlement agreement in which Hungary will have to cut its current export subsidy levels by more than 65%.

Background: Super 301

On March 3, 1994, the President signed Executive Order 12901 reinstating for calendar years 1994 and 1995 the "Super 301" provisions of the Omnibus Trade and Competitiveness Act of 1988 (section 310 of the Trade Act of 1974, as amended). On September 27, 1995, the President amended Executive Order 12901 to extend it to calendar years 1996 and 1997.

The executive order requires that within six months of the submission of the annual National Trade Estimate Report, the USTR shall review U.S. trade expansion priorities and identify those priority foreign country practices, the elimination of which is likely to have the most significant potential to increase U.S. exports. The USTR is also required to report to the Senate Finance Committee and the House Ways and Means Committee on any such practices. The USTR may also cite in the report practices that may warrant identification in the future or that were not identified because they are already being addressed and progress is being made toward their elimination. Within 21 days after the report is submitted, the USTR must initiate Section 301 investigations into any priority foreign country practices identified in the report.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C. 20508

MONITORING AND ENFORCING TRADE LAWS AND AGREEMENTS
Fact Sheet
September 30, 1997

"I think nothing would be better for our ability to open markets than to be credible in showing that we will enforce existing laws and agreements"
--President Bill Clinton, Speech at American University, February 1993.

President Clinton's commitment to the enforcement of trade agreements and U.S. trade laws has been clear from the beginning of his Administration. Through vigorous application of U.S. laws, and active enforcement of U.S. rights under the new dispute settlement procedures of the World Trade Organization (WTO), the Administration has effectively opened foreign markets to U.S. goods and services. The President has successfully used the incentive of preferential access to the U.S. market to encourage improvements in workers' rights and reform of intellectual property laws and practices in other countries. These enforcement efforts have resulted in major benefits to U.S. firms and workers.

Under President Clinton's direction, the Office of the U.S. Trade Representative has negotiated more than 220 trade agreements -- including the North American Free Trade Agreement (NAFTA), the World Trade Organization (WTO) agreements, and numerous other market-opening agreements that expand opportunities for U.S. companies and workers. These agreements, combined with aggressive export promotion and enforcement of our trade laws, have helped increase U.S. exports of goods and services since 1992 by 37.4 percent to more than \$848.8 billion in 1996.

Since 1993, the Administration has vigorously enforced its rights by deploying all available trade enforcement tools at its disposal. It has: launched 21 Section 301 investigations into foreign unfair trade practices; used the "Special 301" review of intellectual property rights protection to secure improved protection in at least ten major foreign markets; used U.S. trade laws to gain compliance with telecommunications trade agreements with three major trading partners and to address discriminatory foreign government procurement practices in five cases; and invoked the dispute settlement procedures of the WTO in 32 cases to protect the interests of U.S. producers and manufacturers.

This document outlines the Administration's commitment to and successes with strategic enforcement. Section I addresses the application of trade laws and enforcement of U.S. rights under trade agreements; Section II discusses cases referred to the WTO dispute settlement process by the United States; and Section III outlines improvements in worker rights and intellectual property protection spurred by the incentive of preferential access to the U.S. market.

MONITORING AND ENFORCEMENT ACTIONS

Application of U.S. Trade Laws and Enforcement of U.S. Rights Under Trade Agreements Section 301, Super 301, Special 301, Title VII, Section 1377

Section 301 and "Super 301"

Section 301 of the Trade Act of 1974 is the principal U.S. statute for addressing foreign unfair practices affecting U.S. exports of goods or services. Section 301 may be used to enforce U.S. rights under international trade agreements and may also be used to respond to unreasonable, unjustifiable, or discriminatory foreign government practices that burden or restrict U.S. commerce. "Super 301" refers to an annual process by which the U.S. Trade Representative identifies those priority foreign country practices the elimination of which is likely to have the most significant potential to increase U.S. exports.

- **Canada - periodicals.** Following self-initiation of a section 301 investigation, the United States successfully invoked WTO dispute settlement procedures to challenge Canada's measures that discriminate against imported magazines. A WTO dispute settlement panel and the WTO Appellate Body condemned Canada's ban on imports of such magazines, Canada's discriminatory excise tax on such magazines, and postal rates discriminating against imported magazines. Canada has accepted the reports and has agreed to comply with them.
- **EU - banana imports.** Following the initiation of section 301 investigations against the EU, Colombia and Costa Rica in response to a petition by Chiquita Brands International, Inc., and the Hawaii Banana Industry Association, the United States reached agreement with Colombia and Costa Rica in January 1996 regarding their actions affecting U.S. firms exporting bananas to the European Union (EU). The United States also successfully invoked WTO dispute settlement procedures, joined by Ecuador, Guatemala, Honduras and Mexico, in challenging the EU's import practices that discriminate against U.S. banana distribution companies. The reports of a WTO dispute settlement panel and the WTO Appellate Body, vindicating U.S. concerns and condemning the EU import regime, were adopted on September 25, 1997.
- **Canada - Country Music Television.** As a result of a section 301 investigation of Canadian government practices regarding the authorization for distribution via cable of U.S.-owned programming services, U.S. and Canadian firms reached a settlement in March 1996 that will restore market access.
- **China - intellectual property rights protection.** The credible leverage of carefully targeted section 301 retaliation was used to reach agreement in February 1995 with China on enforcement of its intellectual property protection laws, and again in June 1996 to secure effective compliance with that agreement.

- **EU - enlargement.** When the European Union enlarged to include Austria, Finland and Sweden, U.S. exports of semiconductors and other products suddenly faced higher tariffs. With section 301 authority and WTO compensation procedures as leverage, however, the United States negotiated an agreement with the EU in November 1995 to lower its tariffs on semiconductors and hundreds of other products for the entire EU market. Having reached an agreement that provided a satisfactory resolution of the issues under investigation, in October 1996 USTR terminated the investigation and began monitoring EU implementation under section 306.
- **Korea - auto imports.** As part of the Super 301 process in September 1995, the United States negotiated an agreement with Korea to increase access to the Korean market for U.S. and other foreign passenger vehicles. The agreement reduced by fifteen percent the overall tax burden on autos with larger engines, liberalized many Korean standards and certification procedures, lifted some restrictions on advertising and retail financing, and provided the Korean Government's assurances that it would no longer promote an anti-import bias among consumers. Implementation of that agreement has been disappointing with virtually no improvement in foreign market sales, so this issue will be addressed in the 1997 Super 301 process.
- **Korea - steel pipe and tube exports.** In July 1995, in response to a section 301 petition from the Committee on Pipe and Tube Imports, the United States reached agreement with Korea on a mechanism to discuss Korea's economic trends and data on steel sheet and pipe and tube products, and Korea agreed to notify the United States in advance of Korean government measures that control steel production, pricing or exports.
- **Korea - meat imports.** In response to a section 301 petition filed by the National Pork Producers Council, the American Meat Institute, and the National Cattlemen's Association, the United States negotiated an agreement with Korea in July 1995 on measures to eliminate government-mandated, unscientific shelf-life restrictions, and thereby open the Korean market to U.S. meat and other food products. This agreement was reached through resort to WTO dispute settlement procedures, and requires Korea to notify the WTO as it implements each stage of the agreement.
- **Japan - auto and auto parts imports.** In May 1995 the United States proposed using section 301 to increase tariffs on luxury cars from Japan, after determining that Japanese policies discriminate against imports of U.S. autos and auto parts. The two governments subsequently reached a results-oriented agreement on measures Japan will take in this sector, including deregulation. While the agreement led to positive results during its first year, this progress was slowed or even reversed in its second year. The United States and Japan will hold an annual review meeting on October 8-9, 1997, at which they will discuss additional concrete steps that can be taken to open Japan's market to U.S. and other foreign auto and auto parts exports.

- **Canada - beer imports.** In August 1993 the United States and Canada settled a long-standing dispute over access for imported beer to the Canadian market, after the United States imposed retaliatory duties on Canadian beer pursuant to section 301.

"Special 301" - Intellectual Property Protection

Under the "Special 301" provisions in U.S. trade law, USTR at least annually identifies those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access for persons that rely on intellectual property protection. Countries that have the most onerous or egregious practices and whose practices have the greatest adverse impact on the relevant U.S. products are designated as "priority foreign countries", and are subject to section 301 investigations. Other countries with particular problems of protection or enforcement of intellectual property rights are placed on a "watch list" or "priority watch list" and are monitored closely for progress. China was designated as a priority foreign country in 1994 and 1996. Those designations led to subsequent agreements and/or actions, which are described above under Section 301.

- **Brazil.** In April 1996, Brazil enacted a new, long-awaited industrial property law, providing patent protection and greater market access for products relying on such protection.
- **Argentina.** In contrast to Brazil, Argentina continues to delay in providing adequate patent legislation, particularly for pharmaceutical products. As a result, Argentina has been placed on the priority watch list and, on January 15, 1997, the Administration decided to withdraw 50 percent of Argentina's tariff benefits under the Generalized System of Preferences (GSP).
- **Taiwan.** The Special 301 provisions of U.S. trade law have been used continuously since 1992 to obtain steady progress by authorities on Taiwan in improving the legislative framework available to protect intellectual property rights and the enforcement of those rights in the Taiwan judicial system. In 1994 Taiwan made significant strides in passing intellectual property rights legislation. In April 1996, Taiwan issued an eighteen-point action plan for enhanced protection, which covered all major remaining areas of concern.
- **Thailand.** After the United States identified Thailand as a "priority foreign country" under the Special 301 provisions in 1993, Thailand has made steady progress in its protection of intellectual property, including increased enforcement efforts and the enactment of a new copyright law in 1994. In addition, action on a new law establishing intellectual property law courts has been completed, and amendment of Thailand's patent law continues to be a priority U.S. objective.
- **Hungary.** Hungary, which had been placed on the Special 301 "priority watch list," concluded a comprehensive bilateral agreement with the United States in July 1993, agreeing to provide patent protection to products as well as industrial processes.

- **The Philippines.** The Philippines signed an agreement in April 1993 that included commitments to improve protection of copyrights, patents and trademarks, and to improve enforcement. Since that time, the Philippines has intensified its enforcement efforts, and in June 1997 enacted new legislation intended to bring the country's intellectual property laws into compliance with WTO obligations. Regulations are being drafted to implement the legislation, which is expected to take effect in January 1998.
- **Bulgaria.** The Special 301 provisions of U.S. trade law have been used to obtain steady progress in improving the legislative framework available to protect intellectual property rights and the enforcement of those rights in the Bulgaria. Just prior to the April 1997 Special 301 announcement, Bulgaria adopted amendments to expand the scope of protection for computer software.
- **Russia.** 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, 1997.
- **Indonesia.** Three pieces of intellectual property legislation were approved by the Indonesian Parliament on March 21, 1997, and enacted by the President on May 7, 1997. This legislation amended Indonesia's copyright, patent, and trademark laws with the aim of bringing them into compliance with WTO obligations. This summer, the Indonesian Government began procuring and using legitimate software, thereby signaling the need for eliminating piracy in such copyrighted goods.
- **Mexico.** Mexico passed a new copyright law on December 24, 1996, which addresses a number of inadequacies in the former law.
- **Australia.** Australia has announced a new regime for protection of test data for pharmaceuticals and agricultural chemicals, to be 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.

Telecommunications Trade (Sections 1374 and 1377)

Under Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 the USTR annually reviews, by March 31 of each year, the operation and effectiveness of U.S. telecommunications trade agreements, and takes action where non-compliance is found.

- **Korea.** The Administration has consistently used U.S. trade laws to address discriminatory market barriers in Korea's telecommunications market. In 1996, Korea was identified under Section 1374 of the Trade and Competitiveness Act of 1988 as a *Priority Foreign Country (PFC)*. Year-long negotiations concluded in July 1997 with commitments by Korea to ensure that U.S. equipment suppliers would be treated fairly in

areas including procurement, equipment certification and type approval, protection of intellectual property and technology transfer. Contributing to the decision to revoke Korea's identification as a PFC were Korea's agreement under the Information Technology Agreement to eliminate tariffs on information technology products, and adoption of a more pro-competitive regulatory regime in the context of its WTO commitments. Collectively these actions will greatly enhance competitive opportunities in a market expected to grow to \$100 billion by the year 2000.

- **Mexico.** In the 1996 Section 1377 review, USTR cited Mexico for not fulfilling its NAFTA obligation to accept test data from other parties' laboratories or test facilities relating to product safety to certify telecommunications equipment. An agreement reached in April 1997 established procedures to resolve this issue, which will further facilitate the export of U.S. telecommunications products to Mexico, currently worth \$900 million.

And, in another action related to the telecommunications sector:

- **Japan - Government procurement of telecommunications equipment.** Following a complaint in April 1996 that Japan's National Police Agency (NPA) was discriminating against a U.S. supplier in a wireless telecommunications system procurement, USTR determined that Japan was potentially in violation of both its WTO government procurement obligations and its obligations under the bilateral government procurement agreement. Negotiations over the subsequent months resulted in the NPA agreeing to reopen the procurement. A new Request for Proposals was issued by the NPA in August 1997.

Foreign Government Procurement (Title VII)

Under Title VII of the Omnibus Trade and Competitiveness Act of 1988, USTR annually reviewed compliance by foreign governments with the Government Procurement Code, and identified countries that were discriminating in government procurement against United States goods and services. Pursuant to Section 7004 of the Omnibus Trade and Competitiveness Act of 1988, Title VII expired on April 30, 1996.

- **Germany - electrical equipment.** In April 1996 the Administration identified Germany under Title VII of the 1988 Omnibus Trade and Competitiveness Act for its failure to comply with market access procurement requirements in the heavy electrical equipment sector. The imposition of trade sanctions provided under Title VII was delayed until September 30, 1996, because consultations suggested a resolution might be possible given additional time. On October 1, 1996, then-Acting USTR Barshefsky announced that the German Government had agreed to take steps to ensure open competition in the German heavy electrical equipment market, including reform of the government procurement remedies system as well as outreach, monitoring, and consultation measures. The United

States did not, however, terminate the Title VII action at that time because legislation implementing reform of the procurement remedies system needed to be enacted by the German legislature.

- **Japan - telecommunications and medical technology.** Following identification of Japan under Title VII, in October 1994 the United States and Japan reached agreement on government procurement of telecommunications products and services and medical technology products and services. USTR continues to monitor Japan's compliance with both agreements and to assess tangible progress in Japanese procurement practices in these two sectors.
- **Japan - construction.** Japan was identified under Title VII in April 1993 for discriminatory practices in its public sector construction market and USTR subsequently announced that sanctions would go into effect as of January 20, 1994. However, the sanctions were terminated prior to their imposition when Japan announced a plan to reform its public sector construction market, including measures to expand transparent and non-discriminatory procedures and adopt an open and competitive bidding system. Japan also agreed to monitor foreign access and hold annual consultations.
- **EU - telecommunications.** Title VII trade sanctions were imposed for the first time by the Clinton Administration, against the EU for its discriminatory government procurement practices in the telecommunications sector. These sanctions remain in place.
- **EU - electrical equipment.** Following U.S. announcement of its intention to impose sanctions, the United States and the EU reached a historic agreement in May 1993 on access to EU government procurement of heavy electrical equipment, opening a \$20 billion market to U.S. companies. The agreement was expanded in April 1994 to cover the electrical utility sector and subcentral government entities, doubling to \$100 billion the bidding opportunities available to U.S. and EU firms under the GATT Government Procurement Code.

WTO Dispute Settlement - Enforcing U.S. Rights under the WTO

Compliance with the agreements reached in the Uruguay Round of multilateral negotiations is among the Administration's top enforcement priorities. The United States has invoked formal procedures under the new World Trade Organization dispute settlement mechanism in 32 cases -- more than any other country in the world. Of those 32, the United States has won all 5 cases that have been taken through the WTO dispute settlement panel process so far, and beneficial settlements were reached in 7 others. Of the remaining cases, 7 are at the panel phase, and 13 are the consultation phase. Eleven new cases have been launched since January 1997 alone.

- **Japan - liquor taxes.** In July 1996 the United States won the first case it referred to a WTO dispute settlement panel after requesting consultations with Japan in July 1995. The panel found that Japan's liquor tax law violates WTO rules by taxing the domestic liquor

shochu at rates far lower than Western-style brown and white spirits. The WTO Appellate Body affirmed the panel's finding. On October 1, 1997, Japan will phase in its first tranche of tax changes implementing the panel and Appellate Body reports in this case. Japan is the United States' second largest export market for whisky.

- **India - patent protection.** In July 1996 the United States invoked WTO dispute settlement procedures to challenge India's failure to establish a "mailbox" mechanism for patent applications, as required by the WTO agreement on intellectual property rights (TRIPS). In a major victory for the United States, a WTO dispute panel ruled in July 1997 that India must establish a TRIPS-consistent "mailbox" filing system for patent applications for pharmaceuticals and agricultural chemical products, and that India has not yet done so. It is not yet known whether India plans to appeal this decision.
- **Canada - magazine imports.** The United States invoked WTO procedures in March 1996 to challenge Canada's discriminatory practices that protect its domestic magazine industry. In March 1997, a WTO dispute settlement panel found that two of the three Canadian measures challenged violated various GATT obligations. In June 1997 the WTO Appellate Body reversed the panel concerning the third measure challenged, thus giving the United States a complete victory. Canada and the United States have agreed that Canada will bring its measures into compliance by October 1998.
- **EU - meat imports.** In January 1996 the United States invoked WTO dispute settlement procedures to challenge the EU's restrictions on imports of meat from animals treated with growth hormones. In August 1997 a WTO dispute settlement panel found the EU's ban to be inconsistent with its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. In particular, the panel's report affirmed that the EU's ban is not based on credible science. The EU has appealed this decision. The WTO Appellate Body's decision is expected in late December 1997.
- **EU - banana imports.** After holding consultations with the EU under WTO dispute settlement procedures in 1995, the United States, Guatemala, Honduras and Mexico were joined by Ecuador in February 1996 in challenging the EU's practices relating to the importation, sale and distribution of bananas. In May 1997 a WTO dispute settlement panel found that the EU's banana regime violates WTO rules on sixteen counts. On September 9, 1997, the WTO's Appellate Body largely affirmed the panel's legal conclusions against the EU regime, in particular its finding on agriculture market access measures and its finding regarding the scope of the General Agreement on Trade in Services (GATS). The panel and Appellate Body reports were adopted on September 25, 1997 and accepted by the EU.
- **Korea - shelf-life requirements.** The United States and Korea consulted under WTO dispute settlement procedures in June 1995 and reached a settlement in July 1995 concerning Korea's arbitrary, government-mandated shelf-life restrictions that were a barrier to U.S. exports of many food products, including beef and pork. Under the terms

of the settlement, which was notified to the WTO jointly by Korea and the United States, Korea agreed to convert to a manufacturer-determined shelf-life system for U.S. beef, pork, and other foods. Manufacturer-determined shelf-life systems are used throughout the world. Korea also agreed to remove other barriers to U.S. exports. The United States continues to work with Korea to ensure its implementation of the 1995 shelf-life agreement. Korea is the 4th largest market for U.S. agricultural exports and the 3rd largest for beef exports.

- **EU - grain imports.** In July 1995 the United States invoked WTO dispute settlement procedures to enforce the EU's WTO obligations on imports of grains. In September 1995 the United States requested that a dispute settlement panel be established to review its complaint, but before a panel was established a settlement was reached in conjunction with the U.S.-EU settlement on EU enlargement. The settlement ensures implementation of the EU's Uruguay Round market access commitments on grains, reduces import charges on rice and provides for consultations on the EU's "reference price system." Because the EU failed to implement the settlement agreement, the United States submitted a new request for a panel in February 1997. Thereafter, the EU took steps toward compliance with the settlement, and in April 1997 finally published regulations implementing the agreement. On April 30, 1997, the U.S. withdrew its request for a panel.
- **Japan - sound recordings.** In February 1996 the United States initiated WTO dispute settlement proceedings against Japan for denying protection to millions of dollars' worth of U.S. sound recordings made between 1946 and 1971. In December 1996 Japan amended its laws to provide this retroactive protection. In January 1997 the USTR announced that the dispute had been resolved, and the WTO was notified that a mutually satisfactory solution had been reached.
- **Hungary - agricultural export subsidies.** In March 1996 the United States, joined by Argentina, Australia, Canada, New Zealand and Thailand, began a process of consultations with Hungary under WTO dispute settlement procedures concerning Hungary's lack of compliance with its scheduled commitments on agricultural export subsidies. Although a WTO dispute settlement panel was established in February 1997, an agreement was reached between Hungary and the concerned parties in July 1997. According to the agreement, Hungary will apply to the Council on Trade in Goods for a temporary waiver that will specify a program to bring Hungary into compliance with its commitments.
- **Portugal - patent protection.** In April 1996 the United States invoked WTO dispute settlement procedures to challenge Portugal's patent law, which failed to provide the minimum twenty years of patent protection required by the WTO TRIPS agreement. As a result of the U.S. challenge, Portugal announced a series of changes to its system to implement its WTO obligations. A settlement was notified to the WTO in October 1996.

- **Turkey - box office tax.** The United States requested consultations in June 1996 under WTO procedures concerning Turkey's tax on box office receipts from foreign films. Turkey maintains a discriminatory "municipality" tax on box office revenues from showing foreign films, but not on box office revenues from showing domestic films. In January 1997 the United States requested the establishment of a WTO dispute settlement panel, but panelists were not selected because the Turkish government had made progress in its efforts to equalize the tax. In July 1997 the United States and Turkey notified the WTO that a mutually satisfactory solution had been reached.
- **Pakistan - patent protection.** The United States also used the WTO dispute settlement mechanism to enforce Pakistan's obligation under the WTO intellectual property agreement to establish a "mailbox" mechanism for patent applications. In July 1996 the United States requested that the matter be referred to a panel. The United States and Pakistan subsequently settled this case in February 1997 after Pakistan issued an ordinance bringing its law into conformity with its TRIPS obligations.
- **Argentina - measures affecting imports of footwear, textiles and apparel.** In October 1996 the United States requested consultations with Argentina concerning specific duties imposed on various footwear, textile and apparel items in excess of Argentina's tariff commitments; a 3 percent *ad valorem* statistical tax; and measures relating to the labeling of imports of footwear, textiles and apparel. During consultations, Argentina represented that it had revised its labeling requirements in a manner that satisfied U.S. concerns. However, no progress was made in regard to Argentina's specific duties and the 3 percent *ad valorem* tax. Accordingly, in January 1997 the United States requested the establishment of a WTO dispute settlement panel to examine the specific duties and statistical tax. The panel report is expected in late November 1997.
- **EU, Ireland, and UK - Reclassification of LAN adapter cards and multimedia PCs.** During 1995-1996, customs authorities in certain EU member States reclassified LAN adapter cards and multimedia-equipped PCs to tariff categories with higher duty rates. The United States filed three complaints under WTO dispute settlement procedures in November 1996 to address these actions, and consultations were held in January 1997. Due to inadequate progress during consultations, however, the United States requested the establishment of a single WTO dispute settlement panel in February 1997, and the cases were consolidated. The panel report is expected in late November 1997.
- **Japan - photographic film and paper.** In June 1996, the United States initiated WTO dispute settlement procedures to address various Japanese laws, regulations and requirements inhibiting the distribution, offering for sale and internal sale of imported consumer photographic film and paper. As a result of a U.S. request, a panel was established in October 1996, and the panel report is expected in late 1997 or early 1998. Japan's photographic film and paper market is valued at about \$2.8 billion per year.

- **Indonesia - national car programs.** In October 1996, the United States and the EU each requested consultations with Indonesia concerning its 1996 national car programs, which grant tax and tariff benefits based on local content. At the same time, Japan requested consultations on the national car program. A WTO dispute settlement panel was established in response to a U.S. request in July 1997, and was consolidated with the panel previously established to consider complaints by the EU and Japan.
- **Korea - liquor taxes.** In May 1997 the United States requested consultations under WTO dispute settlement procedures with Korea to address its discriminatory tax regime that assesses higher taxes on Western-style distilled spirits than on the traditional Korean-style spirit *soju*. Consultations took place in May and June, 1997, and both the European Union and the United States have requested that a WTO dispute settlement panel be established to review their complaints. A panel will be established on October 16, 1997.
- **Japan - agricultural imports.** In April 1997 the United States requested consultations under WTO procedures with Japan concerning its testing procedures on certain agricultural products, including apples, nectarines and cherries. In particular, Japan prohibits the importation of each variety of a particular agricultural product until quarantine treatment has been tested for that specific variety, even though the treatment has proven effective with respect to other varieties of the same product. This redundant testing requirement can take up to two years and has proven very costly to U.S. apple producers in particular. Consultations in June proved unsuccessful, and the United States will now request the formation of a WTO dispute settlement panel to address this dispute.
- **Australia - salmon imports.** Australia bans imports of untreated fresh, chilled or frozen salmon from the United States and Canada, allegedly for phytosanitary reasons, even though a draft risk assessment found in 1995 that imports of eviscerated fish are not a basis for concern about the transmission of fish diseases to Australia's fish stocks. In November 1995 the United States invoked WTO dispute settlement procedures and consulted with Australia on these restrictions. In December 1996, the Australian government completed a risk assessment study supporting the continued maintenance of the import ban. In March 1997 Canada requested the establishment of a WTO dispute settlement panel, which has been established. The United States is a third-party participant in this proceeding and has reserved the right to request a panel as well.
- **Japan - distribution services.** In June 1996 the United States initiated WTO dispute settlement procedures regarding measures affecting market access for distribution services, applied by the Government of Japan pursuant to, or in connection with, Japan's Large Scale Retail Stores Law. In September 1996 the United States broadened the scope of the consultations to include additional Japanese measures and legal claims. Consultations have been held with Japan to review the consistency of these laws with Japan's market access and national treatment commitments for retail services under the General Agreement on Trade in Services.

- Korea - import clearance procedures.** Consultations under WTO dispute settlement procedures were requested with Korea in April 1995 concerning its lengthy, burdensome and non-science-based import clearance procedures for agricultural and food products. As a result, Korea revised its inspection procedures for fresh fruit and vegetables, and agreed to make broader reforms to its food inspection and sanitation system by March 1996. After three rounds of WTO consultations on these promised reforms, in May 1996, it became clear that the Korean Government's actions had not resolved the problem. The United States thereafter held further consultations following which Korea made additional changes to its import clearance process. If the Korean Government fails to make further changes and to faithfully implement those to which it has already committed, the United States will take further action under WTO procedures.
- Brazil - local content regime for automotive investment.** In August 1996, the United States requested consultations under WTO dispute settlement procedures concerning Brazil's local content regime for automotive investment. In October 1996 USTR announced that the United States and Brazil had agreed to enter into intensive talks with the aim of removing the discriminatory impact of Brazil's practices on U.S. exports. In addition, in October 1996 USTR initiated a section 301 investigation of this matter. In February 1997, the United States and Brazil held formal consultations to further discuss the Brazilian regime. Settlement negotiations with Brazil have continued since then.
- Australia - Prohibited export subsidies on leather.** As part of a section 301 investigation, in October 1996 the United States requested consultations with Australia concerning subsidies available to leather under the Textile, Clothing and Footwear Import Credit Scheme and any other prohibited subsidies made available to leather. On November 25, Ambassador Barshefsky and Australian Deputy Prime Minister Fisher announced the successful settlement of the complaint, with an agreement by Australia to excise automotive leather from eligibility under the Import Credit Scheme and the Export Facilitation Scheme. Australia, however, has recently announced its decision to provide a new package of subsidies to an Australian exporter of automotive leather. The United States will challenge these new measures under WTO procedures.
- Philippines - measures affecting pork and poultry.** Under the WTO Agreement, the Philippines must 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, in particular by allocating the majority of licenses to domestic producers who have no known interest in importing. Consultations under WTO procedures were held in April 1997. In September 1997, responding to a number of U.S. concerns, the Philippines government issued a revised version of its licensing requirements. We are now evaluating these changes in consultation with our exporting industry.
- Belgium - telephone directory services.** In June 1997 the United States held consultations with Belgium to address certain Belgian government measures which appear

to discriminate against ITT Promedia, N.V., a U.S. supplier of commercial telephone directory services. The Belgian measures include imposition of conditions for obtaining a license to publish commercial directories in Belgium, as well as other measures governing the acts, policies, and practices of ITT Promedia's Belgian competitor, BELGACOM B.V., with respect to telephone directory services.

- **Denmark - intellectual property protection.** In May 1997 the United States requested consultations with Denmark concerning its failure to provide its courts with the power to order unannounced raids and seize allegedly infringing products as evidence, as required by the TRIPS agreement. Although the TRIPS agreement requires that such provisional relief be made available in the context of civil proceedings, this relief appears to be available only in criminal proceedings in Denmark. The availability of such relief in civil proceedings is particularly important to the U.S. software industry because of the ease with which evidence of software piracy can be eliminated if the infringers are forewarned of the right holder's interest in their activities. Consultations are continuing, and the United States will refer this matter to a WTO dispute settlement panel if satisfactory progress is not made.
- **Sweden - intellectual property protection.** In May 1997 the United States also requested consultations with Sweden under the TRIPS agreement to address its failure to provide provisional relief in civil proceedings. Productive consultations were held in June 1997, and the Swedish Government has committed to examine whether it is necessary to amend its law. The United States is continuing to consult with Sweden in this regard.
- **Ireland - copyright laws.** In May 1997 consultations were held under WTO dispute settlement procedures concerning Ireland's failure to expeditiously bring its copyright law into compliance with the TRIPS agreement. As a result, the Irish Government has agreed to amend its copyright law. Its current schedule for doing so, however, is disappointingly slow, and the United States is continuing to consult with the Irish Government to urge it to revise its copyright law in a more expeditious manner.
- **India - import restrictions.** In July 1997 the United States, joined by the EU, Canada, Australia, New Zealand and Switzerland, invoked WTO dispute settlement procedures to address India's restrictive quota regime. Under GATT rules, India was previously allowed to impose quotas for balance of payments reasons. However, India no longer has any balance of payments justification for the quotas. Although India has tacitly recognized this fact and has been negotiating for phaseout time since January 1997, all offers by India to date have been inadequate. Consultations were held in September 1997, and the United States will request the establishment of a WTO dispute settlement panel if the restrictions are not removed.
- **Mexico - corn sweeteners.** On September 5, 1997, the United States requested WTO dispute settlement consultations with Mexico concerning Mexico's antidumping investigation of high fructose corn syrup from the United States. Problems cited include

failure to determine whether there was sufficient evidence that the original petition was made by or on behalf of the domestic industry, failure to provide proper notification to the United States, and failure to provide the U.S. industry timely access to the relevant information needed in the presentation of its case.

Using Preferential Access to the U.S. Market to Encourage Improvements in Worker Rights and Reform of Intellectual Property Laws

The Clinton Administration has used the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI) programs to integrate developing countries into the international trading system in a manner commensurate with their development, and to encourage beneficiary countries 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 intellectual property rights.

- **Argentina.** Because of Argentina's failure to protect intellectual property rights, Argentina's GSP benefits were partially suspended effective May 17, 1997.
- **Pakistan.** As of October 1, 1996, Pakistan's GSP benefits were partially suspended due to child labor and bonded labor problems in Pakistan.
- **Thailand.** GSP benefits were restored to Thailand in 1995 only after Thailand made significant improvements in intellectual property protection.
- **Maldives.** The Administration suspended GSP benefits for the Maldives on August 28, 1995, for failure to provide worker rights.
- **Dominican Republic, Guatemala, El Salvador, and Honduras.** The Administration used GSP country practice reviews to obtain improvements in worker rights.
- **Philippines.** A GSP eligibility review has been initiated resulting from a petition alleging that the Philippines has failed to implement its WTO market access obligation for pork.
- **Belarus, Swaziland, and Thailand.** Active GSP reviews dealing with worker rights are being used to encourage these countries to take steps to correct inadequacies.
- **Honduras, Panama, Paraguay, Turkey.** The GSP review process is being utilized to motivate improved intellectual property rights enforcement or to strengthen legal protections in these countries.
- **Indonesia.** The Administration has used and continues to use GSP eligibility to spur progress on worker rights issues in Indonesia.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Wednesday, October 1, 1997

Contact: 97- 88
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**AMBASSADOR BARSHEFSKY ANNOUNCES TRADE
ENFORCEMENT ACTIONS ON DAIRY PRODUCTS**

U. S. Trade Representative Charlene Barshefsky announced that the United States will launch trade enforcement actions against several foreign trade practices that violate international agreements and adversely affect U.S. dairy exports in foreign markets. "We believe both Canada and the European Union are disregarding their WTO export subsidy commitments on dairy products and that Canada is not providing the market access on dairy products consistent with its trade obligations," said Ambassador Barshefsky. "We will file two cases related directly to dairy trade concerns through the WTO dispute settlement process in order to ensure that Canada and the European Union live up to their trade obligations."

The U.S. case against Canada challenges subsidy practices related to Canada's exports of dairy products and Canadian implementation of its import quotas on milk. The U.S. dairy industry has petitioned USTR to initiate this investigation on the grounds that both of these practices are inconsistent with Canada's WTO obligations and adversely affect U.S. exports. USTR also will invoke WTO dispute settlement procedures in the context of a section 301 investigation to challenge practices by the EU that circumvent the EU's commitments under the WTO to limit subsidized exports of processed cheese and adversely affect U.S. exports to third markets.

"We cannot permit WTO members to circumvent or deny their commitments because it distorts the prices and the normal functioning of world dairy markets," Ambassador Barshefsky stated. "With the phase out of dairy support prices by December 31, 1999, U.S. dairy producers must look increasingly to world markets for their future growth and prosperity. We will do everything we can to ensure they are on a level playing field with their competitors."

BACKGROUND

On August 1, 1995, Canada replaced its export subsidies on dairy products which were financed by a levy on producers with a new permit system which allows Canadian processors to purchase lower priced milk directly from producers for sales to export destinations. Canada claims the new system is no longer an export subsidy.

Canada established an annual tariff-rate quota for fluid milk as part of its Uruguay Round market access commitments. U.S. concerns focus on the fact that Canada has denied access to any commercial shipment of fluid milk. We believe Canada's failure to open its tariff-rate quota for fluid milk is inconsistent with its WTO market access obligations.

Under its inward processing system for dairy products, the EU produces cheese for export from dairy components such as nonfat dry milk and butter. The processor receives a subsidy upon the cheese being exported, but the EU does not count these subsidies against its export subsidy ceiling on cheese. The U.S. contends this is a breach of the EU's export subsidy requirements.

According to the U.S. Department of Agriculture, U.S. dairy product exports were valued at \$735.8 million in 1996 of which Wisconsin accounted for \$169.6 million and Minnesota, \$61.6 million.

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508**

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

**FOR IMMEDIATE RELEASE
October 22, 1997**

**Contact: 97 - 89
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230**

**USTR BARSHEFSKY ANNOUNCES CHINA INSURANCE LICENSE
TO BE GRANTED TO U.S. FIRM**

U.S. Trade Representative Charlene Barshefsky announced today that China granted approval to Aetna to operate a joint venture insurance operation in Shanghai. Confirmation of the action on Aetna's application came at a meeting in New York City by the China Economic and Trade Delegation, a group of high level officials visiting the United States to conclude commercial contracts with U.S. companies.

Aetna's license application, which was pending for several years, makes the company the second U.S. insurer to operate in China. While many U.S. firms have already established representative offices in China, they have not been permitted to engage in business there.

"Aetna is one of a number of U.S. insurance companies which have been seeking a license to enter the large China market for years," explained Ambassador Barshefsky. "While we certainly welcome this news, an economy as large and competitive as China's must undertake further substantial market-opening actions, including in the insurance and financial services sectors."

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
October 24, 1997

Contact: 97 - 90
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**U.S. TRADE REPRESENTATIVE CHARLENE BARSHEFSKY
ANNOUNCES FINANCIAL NEWS AGREEMENT WITH CHINA**

U.S. Trade Representative Charlene Barshefsky announced today an interim agreement with China that secures market access terms for foreign financial information companies such as Dow Jones and Reuters operating in China. The agreement ensures that Chinese companies and financial institutions will continue to have access to information services provided by foreign financial information companies, which is critical to the effective functioning of the global financial system.

"China's agreement is an important and welcome step towards addressing a longstanding problem," stated Ambassador Barshefsky, who intervened to protect the rights of U.S. companies more than a year ago. The agreement provides an interim solution until China commits to expanded market access and national treatment for financial information services as part of its accession to the World Trade Organization.

The agreement with China's official news agency, Xinhua, prevents interference in the operation of foreign information services companies and their customers. The accord provides transparent and uncomplicated procedures for foreign information services companies conducting business in China.

Background

Over the past two years, the U.S. government has raised serious concerns about proposed implementation of a China State Council Circular (December 21, 1995) that authorized the Xinhua News Agency to regulate the release of economic information by foreign news agencies

and their subsidiaries. These regulations would have imposed conditions on foreign firms and their customers that could have clearly impeded the flow of economic information into and out of China.

Under the new agreement no fees will be imposed on foreign companies and foreign information services companies will continue to publish, distribute, market and sell information products, and can upgrade services, equipment and products.

Today's agreement is an interim solution. The United States will continue to seek market access and national treatment commitments in China under the WTO General Agreement on Trade In Services (GATS).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Friday, October 24, 1997

Contact: 97 - 91
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**RECENT DECLINE IN FOREIGN COMPUTER MANUFACTURERS'
SALES TO JAPANESE PUBLIC SECTOR RAISES U. S. CONCERNS**

United States Trade Representative Charlene Barshefsky today expressed concern in response to U.S. computer industry data that reveal a decline in foreign share of Japan's public sector computer market. "This is the first time market share has declined in the non-PC sector since the U.S.-Japan computer procurement agreement was signed in 1992. I find this particularly troublesome given the success of U.S. firms in both the Japanese private sector market and in other public and private sector markets around the world," Ambassador Barshefsky stated.

The market figures, provided by the computer industry's Computer Systems Policy Project (CSPP), show the share of foreign computer manufacturers (FCMs) in the Japanese public sector market for large computers, which includes mainframes, minicomputers, office computers, and work stations, dropped from 13.7 percent in 1994 to 10.2 percent in 1995 (the latest year for which data is available for these categories of computers). There was also a lack of progress in Japanese government purchases of personal computers with FCM share at 11.4 percent in 1995 compared to 10.9 percent in 1996.

"It is particularly troubling that Japanese government purchases of personal computers from foreign manufacturers have failed to keep pace with the overall growth in foreign computer sales in Japan," said Ambassador Barshefsky. "This is especially glaring given the 31 percent share of the private market in Japan held by foreign computer manufacturers."

Representatives of the two governments will meet October 30 in Tokyo to review implementation of the computer agreement. The computer agreement is intended to expand Japanese government procurement of competitive foreign computer products by allowing foreign manufacturers to compete for sales on the basis of clear rules that facilitate open access.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

EMBARGOED UNTIL 3:00pm Signing {10/27/97}
October 27, 1997

97-92
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

U.S. and China Reach Agreement to Strengthen Space Launch Trade Terms

United States Trade Representative Charlene Barshefsky announced today that the United States and China have reached agreement with respect to space launches that will provide effective price disciplines in some of the most rapidly growing areas of commercial space launch activity. Ambassador Barshefsky and Mr. Liu Jiyuan, President of the China National Space Agency, signed the agreement putting the new provisions into effect as part of the overall U.S.-China space launch accord.

"I believe that the document signed today will materially improve the effectiveness of the agreement by placing clear guidelines on the pricing of launch services," Ambassador Barshefsky said. "All elements of commercial space industries in both countries will benefit from these improvements. Today's agreement clarifies conditions included in the pricing of launch services in a manner that provides more information and greater certainty to industries interested participating in this market."

Background

The current U.S.-China Bilateral Agreement on Space Launch Services was signed by the Clinton Administration in 1995, extending an agreement which had been in effect since 1989. It has operated in a mutually beneficial way, facilitating Chinese entry into the international market for commercial space launch services in a non-disruptive manner.

The agreement signed today sets out clear terms regarding Chinese pricing of its space launch services to low earth orbit (LEO). At the time the agreement was negotiated in 1995, there was insufficient experience with commercial activity for launches to LEO to identify pertinent factors which may affect pricing of launches to LEO. As a result, the 1995 Agreement directed the two governments to conduct a detailed examination of the factors affecting the comparability of prices of launches to LEO. The agreement signed today is the result of that detailed examination.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508

USTR Press Releases are available on the USTR home page at WWW.USTR.GOV.
They are also available through the USTR Fax Retrieval System at 202-395-4809.

FOR IMMEDIATE RELEASE
Monday, October 27, 1997

Contact: 97 - 93
Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

**USTR BARSHEFSKY ANNOUNCES RESULTS OF
SPECIAL 301 "OUT-OF-CYCLE" REVIEWS**

United States Trade Representative Charlene Barshefsky today announced "out-of-cycle" review decisions with respect to Italy, Thailand, Panama, Luxembourg, and Ecuador under the U.S. Government's special 301 program, designed to advance the protection of intellectual property rights. Ambassador Barshefsky noted that Luxembourg has recently implemented improved copyright laws and that, as a result, the U.S. would not be pursuing dispute settlement proceedings at this time. In addition, she expressed concern with a new development in Australia regarding potential legislation which will undermine copyright protection for sound recordings.

Today's decision again demonstrates the Administration's continued resolve to press other countries throughout the year to improve intellectual property protection. "We will continue to monitor developments and take appropriate actions wherever warranted to boost enforcement against IPR piracy. In country after country a basic test is whether the laws, enforcement tools, and compliance meet international standards," said Barshefsky.

The Clinton Administration has an unparalleled record of IPR enforcement. Ambassador Barshefsky announced last April that she would, as a result of this year's Special 301 review, initiate WTO dispute settlement actions against Denmark, Sweden, and Ireland. This brings to nine the number of IPR-related WTO cases initiated by the United States since 1996. In addition, she recently announced her intention to take action against Honduras in response to a petition filed by the Motion Picture Association, indicating that the United States would withdraw \$5 million dollars in GSP and CBI trade benefits from Honduras if Honduras does not take action regarding the unauthorized broadcasting of U.S. satellite-transmitted programming.

U.S. copyright industries -- business and entertainment computer software, film, television, book publishing, music and sound recordings -- represent close to 4% of U.S. GDP, more than 3 million jobs, and have contributed \$53 billion in foreign sales and exports to the U.S. economy in 1995. In addition to using the WTO dispute settlement provisions, this Administration is using the

Special 301 process to ensure that other countries provide higher levels of intellectual property protection.

In April 1997, at the time of the last special 301 review, Barshefsky placed Ecuador on the "priority watch list" and Panama and Luxembourg on the "watch list." Italy and Thailand were maintained on the special 301 "watch list." In addition, she announced that she would conduct out-of-cycle reviews regarding the situation in these countries in September.

These out-of-cycle reviews have led to the following determinations:

Ecuador will remain on the priority watch list.

Ecuador was elevated to the priority watch list in April 1997 because it had failed to implement the U.S.-Ecuador bilateral Intellectual Property Rights Agreement by September 1994, as promised, failed to implement the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) by July 1996 (as it committed to do in its protocol of accession to the WTO), and failed to repeal the 1976 Agents and Distributors Protection Law.

Ecuador has recently taken steps toward addressing U.S. concerns. On June 26, Ecuador informed the WTO that it would not, in fact, avail itself of the transition period for developing countries provided for in the TRIPS Agreement. Ecuador also stated that it would draft and seek passage of legislation that reflects the TRIPS Agreement standards directly into Ecuadoran law, though legislation has not yet been introduced. Finally, a law was recently passed by the Ecuadoran Congress to repeal the Dealers Act. However, the U.S. remains concerned with the possible future application of the Dealers Act to existing contracts which may be in violation of the WTO Agreement.

Based on assurances from the Government of Ecuador that implementation of comprehensive IPR legislation will occur this fall, Barshefsky said, "We are encouraged by the steps the Government of Ecuador has taken to address correcting its failure to implement bilateral and multilateral intellectual property obligations. We look to the Government of Ecuador to implement comprehensive legislation that will bring it into full compliance with its bilateral and multilateral commitments this fall. We also urge Ecuador to take steps to clarify the situation surrounding the repeal of the Dealers Act. Should Ecuador fail to achieve these long-overdue goals this year, the United States will be forced to consider whether to designate Ecuador a priority foreign country, which could lead to the imposition of bilateral trade sanctions or the initiation of WTO dispute settlement proceedings."

Italy will remain on the watch list.

Piracy and counterfeiting of American intellectual property in Italy continue to be major problems, particularly with regard to piracy of video and sound recordings. While noting that Italy has stepped-up enforcement actions and has introduced anti-piracy legislation, currently being considered by Parliament on an expedited basis, Barshefsky expressed concern with recent indications that TRIPS-consistent remedies against end-user software piracy may not be available in Italy.

Barshefsky said, "Italy currently has some of the lowest criminal penalties in Europe and one of the highest rates of piracy. Before next April, when the annual special 301 announcement is made, we look to the Government of Italy to enact effective legislation that includes TRIPS-consistent penalties sufficient to provide a deterrent so that this long-standing problem can be brought under control and to have taken steps to ensure TRIPS-consistent remedies against end-user software piracy are available."

Luxembourg will remain on the watch list.

Luxembourg was placed on the watch list in April 1997 because it had not amended its copyright law to comply with TRIPS obligations, which have been in effect since January 1996. Examples of non-compliance included 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. In her April announcement, Ambassador Barshefsky noted that the U.S. Government would initiate WTO dispute settlement procedures if Luxembourg had not complied with its TRIPS obligations by September 1997.

Legislation substantially amending the copyright law in Luxembourg was signed by the Grand Duke on September 8 and went into force on September 19.

Ambassador Barshefsky said, "The United States welcomes Luxembourg's recent actions which seek to implement the WTO TRIPS Agreement and will not pursue WTO dispute settlement procedures against Luxembourg at this time. However, we are concerned that the laws recently passed are unclear in certain respects, including TRIPS requirements regarding protection provided for "live" performances and phonograms. As a result, we will closely monitor the practical experience of our industry in enforcing their rights under these new laws and revisit our decision, if necessary."

Thailand will remain on the watch list.

In April, 1997, Ambassador Barshefsky formally identified lagging enforcement and the lack of deterrent penalties for IP piracy as factors in maintaining Thailand on the watch list as well as the need for Thailand to establish specialized IPR courts and to enact TRIPS-consistent patent legislation. While there have been positive developments in enforcement against copyright and trademark piracy since last April, piracy overall continues to be a serious concern. In addition, opening of the specialized IPR courts has now been delayed on several occasions and there has been no progress toward enactment of TRIPS-consistent patent legislation or abolishing the Pharmaceutical Review Board. In fact, the situation for pharmaceutical patents may be worsening.

Ambassador Barshefsky said, "We welcome the Thai government's recent increase in raids and enforcement actions against IP piracy since April and urge the Thai Government to open the long-delayed IPR courts in order to expedite prosecution of IP infringement cases. We look to the Thai government to move rapidly to enact TRIPS-consistent patent legislation and abolish the

Pharmaceutical Review Board. Continued progress on copyright and trademark enforcement, which results in a noticeable reduction in piracy rates, and enactment of patent legislation would be considered positively.”

Panama will be removed from the watch list, however the following observations were made:

Panama was placed on the watch list because of concerns about its role as a major transshipment point for pirated and counterfeited products and inadequate enforcement of intellectual property laws. Ambassador Barshefsky observed, “While we remain deeply concerned about the Panama’s role in the transshipment of pirated products and the need for more vigorous enforcement, Panama has in the past few months made some visible progress, since being placed on the watch list last April. While we do not believe that Panama has done all that is needed to enforce intellectual property rights and comply with its WTO TRIPS obligations, the level of commitment evident in the last half year is cause for optimism. Nevertheless, it remains incumbent upon the Government of Panama to do more to improve intellectual property protection and demonstrate that recent progress is a first step in a process of fundamental institutional reform.”

Leading up to the next annual special 301 review, USTR will scrutinize Panama's efforts to substantially build upon recent reforms. Specifically, USTR will look to Panama to, among other things, improve enforcement by initiating government-led anti-piracy actions and bring existing cases to conclusion, significantly improve border enforcement, especially in the Colon Free Zone, and ensure that Panamanian law and enforcement practices are consistent with TRIPS obligations now that it has joined the WTO. Should the Government of Panama fail to make significant progress toward these goals, Panama will return to the watch list in the 1998 annual special 301 review.

Australia: While not scheduled for an out-of-cycle review this fall, Australia is highlighted in this announcement because of a recent decision by the Government of Australia to introduce legislation to lift the restrictions on the parallel importation of sound recordings.

“We are deeply troubled by the Government of Australia’s decision to eliminate this critical protection for sound recordings. We have repeatedly expressed our concern about the prospect of such a decision and are gravely concerned about the impact on U.S. industry and our bilateral relationship. Should such legislation be passed into law by the Australian Parliament, we would have no other choice but to review our options for responding to this reduction in the level of protection afforded U.S. copyright interests in Australia.”