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FOR IMMEDIATE RELEASE  
May 1, 1998.

Contact: Jay Ziegler

**USTR ANNOUNCES RESULTS OF SPECIAL 301 ANNUAL REVIEW**

United States Trade Representative Charlene Barshefsky today announced the results of the 1998 "Special 301" annual review which examined in detail the adequacy and effectiveness of intellectual property protection in over 70 countries. Ambassador Barshefsky also announced that she will, as a result of this year's Special 301 review, initiate WTO dispute settlement consultations with Greece and the European Union, though she took note of recent developments in Greece. This brings to 10 the number of IPR-related WTO complaints filed by the United States. The report also addressed developments in Taiwan and Mexico.

"The progress we have achieved as a direct result of this year's Special 301 annual review underscores the fact that Special 301 is one of the most effective instruments in our trade policy arsenal," stated Ambassador Barshefsky.

In addition, Ambassador Barshefsky announced placement of 15 trading partners on the "Priority Watch List," including Israel, Macao, Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Russia, Turkey, Bulgaria, Italy, Dominican Republic, and Kuwait. She also placed 32 trading partners on the "Watch List."

Actions Previously Announced in 1998

Earlier this year, on January 16, Ambassador Barshefsky announced out-of-cycle review decisions with respect to Paraguay and Bulgaria.

At that time Paraguay was identified as a Priority Foreign Country because of its failure to take effective action against alarming levels of piracy and counterfeiting and failure to implement adequate and effective intellectual property laws. In announcing this decision, Ambassador Barshefsky noted that a section 301 investigation would be initiated within 30 days and failure by the Government of Paraguay to address U.S. concerns prior to the close of the investigation could lead to the imposition of bilateral trade sanctions. With respect to the situation in Bulgaria, Ambassador Barshefsky stated that, "should Bulgaria fail to make substantial progress toward

combating the piracy of CDs and software compilations on CD-ROMs, it will be identified as a priority foreign country as early as April 1998."

Today, Ambassador Barshefsky stated, "We have actively engaged both Paraguay and Bulgaria in negotiations to address our concerns. We are pleased that both governments have begun to recognize their responsibilities and have made some limited progress toward resolving our concerns this year. However, to avoid further action by the Administration, it is essential that both governments, over the next several months, take significant, effective, and sustained enforcement actions to substantially reduce piracy and provide adequate and effective intellectual property protection."

Also this year, on March 30, Ambassador Barshefsky announced that the Administration suspended a portion of Honduras' benefits under the Generalized system of Preferences (GSP) and Caribbean Basin Initiative (CBI) because of its failure to control piracy of TV satellite signals. Today, Ambassador Barshefsky noted that, "On April 23, the Government of Honduras took its first steps toward resolving this dispute by taking action against two pirate stations. We are encouraged by this action, and look forward to additional actions to fully resolve our concerns."

#### Accomplishments Over The Past Year

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

Progress has occurred throughout the world, much of it the direct result of U.S. Government pressure. While more needs to be done in many of these countries, progress has occurred in such countries as China, Brazil, Russia, Turkey, Bolivia, Korea, Ireland, Sweden, Panama, Cyprus, San Marino, and Luxembourg, and most recently in Bulgaria and Singapore. An attachment to this release, entitled Developments in Intellectual Property Rights, identifies the specific progress made with these and other countries.

China: There has been continued progress in China. Through 1995, China was the world's leading exporter of pirated optical media products --compact discs (CDs), video discs (VCDs), software CD-ROMs (containing software and video games) --where illegal exports of optical media products cost U.S. industry over a billion dollars. In contrast, losses from optical media exports in 1997 were down very significantly according to industry estimates. Since the 1996 agreement, China has shut down 64 CD production lines and largely reduced exports of pirated IPR products. According to Chinese Government statistics, more than 800 individuals have been imprisoned in China as a result of illegal IPR piracy activities.

Ambassador Barshefsky stated, "We have seen continued progress in reducing illicit IPR

production, and are beginning to see the legitimate licensing of film and music production in China. But, China must demonstrate a greater resolve to address illegal importation of CD and VCD products, as well as other IPR violations including the illegal reproduction of software products, retail piracy, and trademark counterfeiting. Consistent with our approach of enforcing all of our trade agreements, we will continue to work to ensure that China strengthens its enforcement against illegal importation, distribution, reproduction and sale of all illegitimate IPR products.”

Bulgaria: Progress has also occurred in Bulgaria since the January announcement that Bulgaria would be identified as a priority foreign country as early as April 1998. Today Ambassador Barshefsky said, “Bulgaria’s stated commitment and the recent steps it has taken toward addressing piracy are a welcome indication of the Government’s resolve to enforce its intellectual property laws. While initial reports of Bulgaria’s efforts to address pirate CD production are encouraging, given the magnitude of the problem, Bulgaria must demonstrate its ability to substantially eliminate copyright piracy over the long term. We will closely monitor the level of piracy in Bulgaria and review the situation in September 1998. Should Bulgaria fail to maintain significant enforcement efforts against pirate production of CDs and software compilations on CD-ROMs, it will be identified as a priority foreign country as early as September.”

On January 28, Bulgaria announced a CD manufacturing plant licensing decree which aims to address the alarming increase in pirate CD production. Under this decree plants are not allowed to operate without a manufacturing license or without a specific license for titles that are being produced. As a result, Bulgarian officials reported that all CD production facilities were closed pending the issuance of manufacturing licenses. Some plants have since been issued licenses and resumed production under this decree. This production must be closely monitored as there have been unconfirmed reports of additional piracy. Bulgaria has also committed to place CD plants under 24 hour surveillance and immediately address any evidence of illegal production, establish a specialized enforcement unit to deal with CD piracy, and introduce regulations on the importation of CD manufacturing equipment and raw materials. Bulgarian officials report that the Ministry of Interior has carried out 174 operations resulting in the seizure of 120,000 pirate CDs thus far in 1998.

Brazil: Over the past year, the Government of Brazil has enacted modern laws to protect computer software and copyrights. This complements Brazil’s May 1997 implementation of modern patent legislation. In recognition of these significant developments, Brazil is removed from the Watch List. However, Brazil must take further significant steps to combat piracy. We look forward to issuance of a significant number of pharmaceutical “pipeline” patents in the very near future.

Taiwan: Taiwan authorities have worked diligently over the last five years to improve intellectual property laws and regulations; however, more work needs to be done in the implementation and enforcement of these laws and regulations. Taiwan-origin pirate and counterfeit products --CDS, CD-ROMs, and video games -- are being seized in the United States and Latin America,

specifically in Paraguay and Brazil. The effectiveness of the patent enforcement system in Taiwan is of concern. The United States is also concerned that judicial procedures dealing with powers of attorney are preventing effective prosecution of copyright violations. Nevertheless, the United States believes that the Taiwan authorities, at the highest levels, are dedicated to implementing specific new measures that will prove successful in rapidly increasing the level of IPR protection. Ambassador Barshefsky stated, "We welcome Taiwan authorities' recent assurances and we will closely monitor implementation of the specific measures over the next several months."

### WTO Dispute Settlement

As in previous years, Ambassador Barshefsky once again is using the occasion of the annual Special 301 announcement to announce the initiation of WTO dispute settlement proceedings against countries not meeting their obligations under the TRIPS Agreement. The TRIPS Agreement obligates WTO members to provide minimum standards in their domestic law for protecting intellectual property and to enforce those standards.

#### *Greece and the European Union*

Ambassador Barshefsky today announced the initiation of WTO dispute settlement proceedings against Greece and the European Union regarding the high rate of television piracy in Greece. The United States is concerned that the failure to take action against TV stations that routinely broadcast U.S. movies and other programming without authorization represents a violation of the enforcement obligations of the TRIPS Agreement. This brings to 10 the number of IPR-related WTO complaints -- out of a total of 36 -- initiated by the United States:

"Approximately 150 Greek TV stations continue to broadcast U.S.-owned motion pictures and television programming without authorization and without any payment of compensation to U.S. copyright holders," said Ambassador Barshefsky. "We look to Greece and the European Union to recognize their obligations and to move quickly to end piracy of U.S. copyrighted works."

In 1996 the Government of Greece made a commitment to the United States to implement an "action plan" to address the problem of television piracy. As part of this "action plan," the Government of Greece committed, by April 30, 1997, to license Greek television stations, to deny licenses to stations that engaged in piracy, and to force unlicensed stations to stop broadcasting. Although the licensing process has been plagued by repeated delays, the Government of Greece finally completed the first stage of the process on March 23, 1998. The Government of Greece has stated in recent days that it has begun the process of closing down stations that have failed to submit applications for a license.

The requests for WTO consultations with Greece and the European Union were made yesterday and consultations are expected to be held within 30 days.

### *On-going WTO TRIPS Cases*

Over the past year, significant results have been achieved in several of the dispute settlement cases previously announced by Ambassador Barshefsky. In 1997, Ambassador Barshefsky announced cases against Sweden, Ireland and Denmark. Sweden has now committed to amend its law to provide provisional relief in civil enforcement proceedings, and Ireland has committed to accelerate its work on a new copyright law and to pass expedited legislation addressing two pressing enforcement issues. The United States welcomes these actions by our trading partners to move toward compliance with their TRIPS obligations.

By contrast, the United States' case against Denmark has not moved quickly toward settlement. Ambassador Barshefsky stated, "We are concerned that the Government of Denmark does not appear to appreciate the importance of the availability of effective provisional measures in protecting intellectual property rights."

### *Other Developments in the Past Year*

Ambassador Barshefsky expressed satisfaction with the recent conclusion of the United States' case against India. In December 1997, the WTO Appellate Body upheld a panel ruling in favor of the United States in this case involving patent protection for pharmaceuticals and agricultural chemicals and India's failure to provide a patent "mailbox" system. On February 13, 1998, India committed to implement the results of the dispute settlement proceedings. On April 22, 1998, India pledged to amend its law to comply with its TRIPS obligations as soon as possible, and no later than April 19, 1999.

The United States' WTO case against Turkey was also successfully resolved during the past year. In December 1997, the Government of Turkey issued regulations equalizing its tax on box office revenues for foreign and domestic films. This action could save the U.S. film industry millions of dollars in the coming year.

### 1998 Special 301 Decisions

Under the Special 301 provisions of the Trade Act of 1974, as amended, Ambassador Barshefsky today identified 48 trading partners that deny adequate and effective protection of intellectual property or deny fair and equitable market access to United States persons that rely upon intellectual property protection. She noted IPR developments or growing concerns in additional 15 trading partners.

In doing so, Ambassador Barshefsky noted the identification earlier this year of Paraguay as a Priority Foreign Country and again designated China for "Section 306 monitoring" to ensure that China complies with the commitments it has made to the United States in bilateral intellectual property agreements. Section 306 of the Trade Act of 1974, as amended, authorizes the USTR to

impose trade sanctions if the commitments of a bilateral agreement are not met. As noted above, significant progress on IPR enforcement is now beginning to occur in China.

Ambassador Barshefsky announced placement of 15 trading partners on the Special 301 Priority Watch List. One of these trading partners -- Bulgaria -- will be subject to review during the course of the year to evaluate progress made in the next several months. Other trading partners on the Priority Watch List include Israel, Macao, Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Russia, Turkey, Italy, Dominican Republic, and Kuwait.

The USTR also announced placement of 32 trading partners on the Watch List, and that "out-of-cycle" reviews would be conducted with four of these trading partners -- Hong Kong, Colombia, Jordan, and Vietnam

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

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

FACT SHEET"SPECIAL 301" ON INTELLECTUAL PROPERTY RIGHTSACTIONS TAKEN

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

This decision reflects the Administration's continued commitment to aggressive enforcement of protection for intellectual property. Intellectual property protection has been improving in part as a result of the implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement). The decision also reflects progress made over the course of 1997 in resolving many longstanding problems.

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

- continuing the section 301 investigation of Paraguay following on its identification as a Priority Foreign Country on January 16, 1998.
- initiating WTO dispute settlement procedures against **Greece and the EU**.
- monitoring **China** under Section 306 of the Trade Act of 1974, as amended. This means that USTR will be in a position to move directly to trade sanctions if there is slippage in China's enforcement of the bilateral IPR agreements.
- placing 15 trading partners on the Special 301 Priority Watch List including **Israel, Macao, Argentina, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Russia, Turkey, Bulgaria, Italy, Dominican Republic, and Kuwait** and conducting an "out-of-cycle" review of **Bulgaria**.
- placing 32 trading partners on the Watch List, and conducting out-of-cycle reviews of **Hong Kong, Colombia, Jordan, and Vietnam**.
- In addition, the Administration noted growing concerns or highlighted developments and expectations for progress in 15 trading partners.

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

### STATUTORY AUTHORITY

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

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

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

If a trading partner is identified as a Priority Foreign Country, the USTR must decide within 30 days whether to initiate an investigation of those acts, policies and practices that were the basis for identifying the country as a Priority Foreign Country. A Special 301 investigation is similar to an investigation initiated in response to an industry Section 301 petition, except that the maximum time for an investigation under Special 301 is shorter in some circumstances.

Today's Special 301 announcement follows a lengthy information gathering and negotiation process. The interagency Trade Policy Staff Committee that advises the USTR on implementation of Special 301, obtains information from the private sector, American embassies, the United States' trading partners, and the National Trade Estimates report.

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

## DESCRIPTION BY COUNTRY OF EXISTING SITUATION AND MEASURES TAKEN

## PRIORITY FOREIGN COUNTRY

Paraguay: Paraguay was identified a Priority Foreign Country on January 16, 1998, as a result of an out-of-cycle review called for in the 1997 Special 301 announcement. In making this decision, Ambassador Barshefsky noted that in the absence of effective enforcement actions by the Government, piracy and counterfeiting have reached alarming levels in Paraguay. The United States has persistently urged the Government of Paraguay to take effective action to crack down against piracy and counterfeiting internally and especially at its borders with Argentina and Brazil. We have also urged the Government to enact adequate and effective intellectual property legislation, covering patents, copyrights and trademarks. Despite the efforts of some concerned Government officials, the enforcement actions taken to date have been insufficient to halt rampant production and export of pirate and counterfeit goods. Paraguay also remains a major transshipment point for such products to the rest of the region. Since the initiation of the section 301 investigation on February 17, Paraguay has made limited progress toward addressing U.S. concerns. Bilateral consultations in March identified some immediate actions that the Government of Paraguay needed to take and other longer-term measures that are necessary to address U.S. concerns. The GOP has made some progress toward meeting these immediate action items and we look to the government to increase its efforts in the near future. Of note, we understand that the trademark and copyright laws are now nearing passage. We also look to the Government of Paraguay to take significant and effective enforcement action, internally and at the border, toward substantially eliminating piracy and counterfeiting and to enact adequate and effective intellectual property legislation without further delay.

## SECTION 306 MONITORING

China: Based on the 1995 and 1996 Bilateral IPR Agreements and extensive follow-up work with Chinese officials, China now has a functioning system to protect intellectual property rights (IPR). As an integral part of this national effort, numerous laws, regulations and circulars were issued during 1997. However, we are concerned with end-user piracy of business software, continuing retail piracy, growing trademark counterfeiting and problems in obtaining administrative protection for pharmaceuticals. In addition, the trademark registration process is inconsistent, a problem exacerbated by the lack of judicial review of decisions made by the trademark office. U.S. officials will continue to work to ensure that China strengthens its enforcement against illegal importation, distribution, reproduction and sale of all illegitimate IPR products.

### PRIORITY WATCH LIST

The Administration is placing 15 countries on the Priority Watch List because of the lack of adequate and effective intellectual property protection or market access in these countries is particularly troublesome to U.S. interests. The trading partners are:

Argentina: Argentina's patent regime denies adequate and effective protection to U.S. right holders, particularly in the pharmaceutical industry. As a result, in 1997 President Clinton decided to withdraw benefits for approximately fifty percent of Argentina's exports under the Generalized System of Preferences (GSP) program. Argentina's patent law contains onerous compulsory licensing provisions and pharmaceutical patent protection will not become available until November 2000. Its law does not provide TRIPS-consistent protection for exclusive test data. There is no provision for pipeline protection or protection from parallel imports, which are long-sought U.S. objectives. An additional concern is the ruling by an Argentine court that computer software is not protected under the copyright law. This ruling contradicts the TRIPS Agreement which requires computer programs to be protected as literary works under copyright law. We are extremely concerned that a pending bill that would criminalize software piracy was substantially weakened by amendment in a Senate Committee recently and returned to the Chamber of Deputies. The amendment allows for unlimited reproduction of software by public educational entities, a provision that is clearly incompatible with international agreements. We look to the Argentine Government to obtain quick passage of this bill in its original form and to take further action to come into compliance with its international obligations.

Bulgaria: Bulgaria has established a modern legal framework which should enable the Government of Bulgaria to crack down against copyright piracy. However, until recently, Bulgaria failed to take effective enforcement actions to address a rampant pirate CD and CD-ROM export problem. Ambassador Barshefsky announced on January 16 that Bulgaria would be identified as a priority foreign country, as early as April 1998, without substantial progress toward combating piracy. Some important progress has occurred since that announcement. On January 28, Bulgaria announced a CD manufacturing plant licensing decree to address the alarming increase in pirate CD production. Under this decree plants are not allowed to operate without a manufacturing license or without a specific license for titles that are being produced. In Washington, DC, on February 10, 1998, President Clinton and President Stoyanov announced a U.S. - Bulgaria work program. As part of this program, President Stoyanov committed to seek strict enforcement of Bulgarian legislation and strengthen cooperation among relevant Bulgarian institutions in the fight against piracy. While initial reports of Bulgaria's efforts to address pirate CD production under the plant licensing regime are encouraging, Bulgaria must demonstrate its ability to substantially eliminate copyright piracy over the long term. We will closely monitor the level of piracy in Bulgaria and review the situation in September 1998. Should Bulgaria fail to maintain significant enforcement efforts against pirate production of CDs and software compilations on CD-ROMs, it will be identified as a priority foreign country as early as September.

The Dominican Republic is being elevated to the Priority Watch List because it continues to have inadequate enforcement of its existing laws and a legal regime that does not meet international standards. The government's actions to date to enforce the copyright law have not been sufficient to stem widespread piracy of video and audio tapes, compact discs, and software. While larger cable TV systems generally pay royalties to U.S. right holders, smaller ones continue to pirate satellite signals, and the Government has not responded to requests from U.S. industry for more effective enforcement. Trademarks — particularly of apparel and athletic shoes — are commonly counterfeited and sold locally. The patent law still contains broad exceptions from patentability, and provides an inadequate term of protection. In the next year, we look to the Government of the Dominican Republic to enforce its existing laws more aggressively and bring its legal regime into conformity with TRIPS on or before the January 1, 2000 deadline.

Ecuador. For the past several years, the U.S. Government has repeatedly expressed concern regarding Ecuador's failure to comply with its international intellectual property obligations, failure to act on pending pipeline applications, and failure to address continuing U.S. concerns regarding the onerous Dealers' Act. On April 22, the Ecuadoran Congress passed a new comprehensive IPR law. We understand that President Alarcon has not yet signed the legislation.

We have not yet received a copy of the final version of the law and will need time to translate and analyze its contents before we can comment on it. We further understand that on April 29 the Government of Ecuador issued the first approvals of pending pipeline applications, but that the great majority remain pending. U.S. companies also continue to face problems caused by the Dealers' Act. We are, therefore, deferring an announcement for 45 days. All of these issues will be factors in the U.S. Government's review of its options.

Egypt lacks adequate patent protection for pharmaceuticals. The current law excludes pharmaceutical products from patentability and contains overly broad compulsory licensing provisions. President Mubarak has indicated his intention to delay pharmaceutical product protection until the year 2005, despite substantial assistance from the U.S. Government to help Egypt prepare modern legislation. The Egyptian trademark law is not enforced strenuously; fines amount to less than \$100 per seizure, not per infringement, although criminal penalties are theoretically available. The resumption of enforcement against software piracy in September 1997 was a significant step forward, and there is reason to hope that Egypt will continue to recognize the importance of good copyright enforcement. In the coming year, we look to Egypt to move toward quick enactment of a patent law and to strengthen the enforcement of the copyright and trademark laws.

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

and maintenance of a patent over its life which far exceed those in the United States and other countries. The decision to reduce filing and issuance fees was made in December 1996 and became effective July 1, 1997.

Greece: Ambassador Barshefsky today announced the initiation of WTO dispute settlement consultations with Greece and the European Union regarding the high rates of television piracy in Greece. In doing so, Ambassador Barshefsky nevertheless applauded the recent steps taken by the Government of Greece toward addressing this problem, including the recent closure of a number of television stations. She noted, however, that approximately 150 Greek TV stations continue to broadcast U.S.-owned motion pictures and television programming without authorization. We look to Greece and the European Union to recognize their obligations and to move quickly to end piracy of U.S. copyrighted works.

India was a Priority Foreign Country from 1991-1993. India has failed to implement its obligations under Articles 70.8 and 70.9 of the TRIPS Agreement. These articles require developing countries not yet providing patent protection for pharmaceutical and agricultural chemical products to provide a "mailbox" in which to file patent applications, and the possibility of up to five years of exclusive marketing rights for these products until patent protection is provided. As a result, the United States initiated WTO dispute settlement procedures with India on this matter. In December 1997, the WTO Appellate Body upheld a panel ruling in favor of the United States in this case. On February 13, 1998, India committed to implement the results of the dispute settlement proceedings. On April 22, 1998, India elaborated on this commitment and pledged to amend its law to comply with its TRIPS obligations as soon as possible, and no later than April 19, 1999. While this commitment is welcome, India's patent and trademark laws continue to fall well short of providing adequate and effective protection. India has enacted modern copyright legislation, but improvements continue to be necessary in the enforcement area.

Indonesia has a wide range of serious and continuing deficiencies in its intellectual property regime: software, book, video, VCD, drug, and apparel trademark piracy; audiovisual market access barriers; inconsistent enforcement and ineffective legal system; and amendments to the copyright, patent and trademark laws that are not completely TRIPS consistent. There have been some improvements in the past year, however: the easing of distribution restrictions on the recording industry, the elimination of video import quotas, liberalization of the video import license provisions, the creation of a "Team of Control for the Distribution of Video Recordings," progress in updating the copyright law and more-closely adhering to treaty standards; and a number of successful copyright enforcement actions. We are recommending a series of steps the Government of Indonesia could take in the next six months that would materially improve the protection of intellectual property and we will review the situation if the changes warrant. Several of these steps involve progress toward resolving long-standing problems specific U.S. companies have faced in protecting their trademarks.

Israel's copyright law is inadequate and antiquated, enforcement and penalties are ineffective, and there is a rapidly growing problem of pirate audio CD production. We are elevating Israel to the

Priority Watch List because of the Knesset's repeated failure to make good on promised legislative reforms and the absence of serious attempts by Israel to rein in piracy of intellectual property. Much of the 50-60 million unit capacity of Israel's five CD plants is believed to be employed in unauthorized duplication of CD's for export. A new draft copyright law intended to meet international standards has been pending for several years, but has not passed and still falls short of international standards. In February 1998, the Israeli Knesset amended the patent law to allow non-patent holders to manufacture and export patented pharmaceutical products prior to the expiration of the patent to seek foreign and Israeli marketing approval when the patent expires. The law also contains a provision allowing a relatively short term of patent extension. Now pending are draft regulations that would allow parallel importation of pharmaceuticals. We urge the Israeli government to take effective steps to control CD piracy and to reconsider its pending parallel import regulations.

Italy is being elevated to the Priority Watch List because the Government of Italy has failed to enact effective anti-piracy legislation that includes TRIPS-consistent penalties sufficient to provide a deterrent to piracy and counterfeiting. In announcing the results of an out-of-cycle review of Italy in October 1997, Ambassador Barshefsky noted that the U.S. looked to the GOI to pass such legislation prior to this year's annual review. We are extremely concerned that Italy has failed to pass such legislation especially because Italy currently has some of the lowest criminal penalties in Europe and one of the highest rates of piracy. Piracy and counterfeiting of American intellectual property in Italy continue to be major problems, particularly with regard to piracy of video, sound recordings and books. While noting that Italy has stepped-up enforcement actions, we are concerned with recent indications that TRIPS-consistent remedies against end-user software piracy may not be available in Italy. We are also alarmed by recent passage of a new television law that increases restrictions on U.S. television programming.

Kuwait has been formulating copyright legislation since 1989, but has not yet enacted it. Elevation to the Priority Watch List is the result of our heightened concern at the tardiness of Kuwait's action. A new draft law has been circulating since October 1997; the U.S. government provided comments to make this draft TRIPS compatible — particularly with regard to rental rights, protection of sound recordings, and protection of computer programs and databases. There has been little tangible progress made on implementing adequate and effective patent protection. Kuwait has claimed the developing-country transition period to bring its intellectual property regime into compliance with its TRIPS obligations, but the pace of work thus far has not been sufficient to complete the needed steps by January 1, 2000. We will develop an Action Plan with Kuwaiti authorities to make it possible to meet those obligations in a timely manner.

Macao is being elevated to the Priority Watch List because of an explosion of illegal CD, CD-ROM and VCD manufacturing in Macao which causes economic losses to U.S. business. Macao has taken initial enforcement actions, including the seizure of production lines. We look to the Government of Macao to intensify cooperation with the representatives of the legitimate copyright holders, prosecute vigorously copyright violators, and enact a strong new copyright law. We also look to Macao to reinforce its system for the regulation and monitoring of

production equipment. We welcome recent assurances from the Government of Macao to address these issues, as well as new legislation to take effect May 1 that will license the import and export of compact discs and CD production equipment. We look forward to the implementation of an anti-piracy program that will quickly yield tangible results.

Russia remains one of the largest pirate markets. As required by our bilateral trade agreement, Russia has adopted a legal framework that with some exceptions meets international standards. However, enforcement of those laws has been limited. Russia strengthened enforcement efforts somewhat in 1997, particularly around Moscow. In July 1997, a Russian Anti-Piracy Organization was established by the Russian film industry with the cooperation of U.S. industry to press for increased enforcement and to assist in enforcement training. Seizures of pirated products have increased, but few prosecutions have ensued and fines levied are too low to be effective deterrents. We have proposed a program of comprehensive enforcement assistance to further this effort in which U.S. industry is prepared to take an active part, and are now moving forward with it. Russia still does not provide retroactive copyright protection for U.S. works and sound recordings, but has acknowledged that it must do so. We will look for Russia to take the steps necessary to bring its intellectual property laws into full compliance with TRIPS no later than its accession to the World Trade Organization, without transition.

Turkey: On January 16, as a result of an out-of-cycle review, Ambassador Barshefsky announced that Turkey would be maintained on the Priority Watch List but that the United States would not consider requests to augment Turkey's benefits under the U.S. Generalized System of Preferences (GSP) until long-sought improvements were made in Turkey's intellectual property regime. Since that announcement, Turkey made progress on several of the six benchmarks identified in last year's Special 301 announcement, but much remains to be done. Taxes on the showing of foreign and domestic films have been equalized; the Prime Minister issued a directive to all government agencies to legalize the software used in their offices; and a public anti-piracy campaign was begun. However, amendments to the copyright and patent laws have not yet been passed and, therefore, these laws remain deficient and TRIPS inconsistent in a number of respects. Penalties for copyright piracy need to be increased, and effective enforcement actions must be taken to address widespread piracy. Turkey's future benefits under the Generalized System of Preferences (GSP) will depend on progress on the remaining benchmarks. The Administration intends to closely monitor Turkey's progress toward resolving remaining U.S. concerns and is hopeful that recent progress is an indication of Turkey's commitment to provide improved intellectual property protection.

## WATCH LIST

Australia: The Australian Government has introduced legislation to allow the parallel importation of sound recordings. Australia has also introduced legislation that would remove protection from parallel imports for copyrighted labeling and packaging materials associated with other goods. The United States is seriously concerned by efforts to weaken intellectual property protection in Australia and has made these concerns clear to the Government on several occasions. In 1997, the Australian government also announced a new regime governing the protection of test data for pharmaceuticals and agricultural chemicals to come into effect on January 1, 1998. However, legislation setting out these changes has not been passed by Parliament. The United States is concerned that in the case of marketing approval for new uses of existing products or new formulations, Australia continues to allow later applicants to free ride on the data developed and submitted by the first applicant at great expense, putting the first applicant at a competitive disadvantage. The Australian Copyright Act and its interpretation by Australian courts in certain instances has created costly and burdensome obstacles to the enforcement of intellectual property rights against piracy. The U.S. Government is pleased that efforts are being made to address these burdens and that the Government of Australia is considering the grant of patent term extension to account for delays in the regulatory approval process for pharmaceuticals.

Although Bahrain is a member of the WTO, it has not brought its copyright law into compliance with TRIPS and Berne Convention standards. The patent law does provide for pharmaceutical product protection, but only through re-registration of patents filed in the UK. There has been a notable decline in video piracy, but end-user piracy of business software is still almost 90%, according to U.S. industry estimates. The Government announced January 1 that dealers had until the end of February to clear their shelves of pirated product, but the results of that announcement are still unclear. We urge Bahrain to update its intellectual property laws and increase enforcement of them, and to bring them into conformance with its TRIPS obligations by January 1, 2000.

Canada: The Government of Canada has adopted amendments to its copyright law that discriminate against the interests of some U.S. copyright holders. Canada has established a public performance right for record producers and performers. It also has established a levy on blank audio recording media, the revenues from which are intended to compensate performers and producers for the performance and unauthorized home-taping of their works in Canada. The United States remains extremely concerned that U.S. performers and producers are denied national treatment with respect to these provisions and will closely monitor any future reform of Canada's copyright laws.

Chile: While generally strong, Chile's IP laws are not fully consistent with international standards in a number of respects. For example, the term of protection in Chile's patent law is not consistent with TRIPS. In addition, Chile's copyright law does not protect computer software as a literary work and the trademark law is deficient in a number of areas. Enforcement, particularly against counterfeit products remains ineffective. A copyright reform bill to address some of these

deficiencies has been pending since 1996. However, we note that operation of Chile's Department of Industrial Property has improved and look forward to progress in 1998 on processing patent applications regarding pharmaceutical products.

Colombia needs to take an active role in the Andean Community to bring Decisions 344, 345 and 351 into conformity with TRIPS before the January 1, 2000 deadline. The lack of adequate pharmaceutical patent protection costs the U.S. industry substantial sums each year. The Government of Colombia also needs to license cable TV operators. It currently prohibits U.S. program owners from selling to unlicensed stations, but has not approved the licenses needed to meet demand. The Colombian Government has increased copyright enforcement in recent years, but more stringent border controls are needed to bring importation of pirate CD's under control. We will conduct an out-of-cycle review of Colombia's progress toward addressing these problems in December 1998.

Costa Rica improved its copyright laws in 1994, but enforcement is inconsistent. While piracy of satellite transmissions by the domestic cable television industry had been somewhat curtailed, hotels continue to pirate signals. Piracy of video recordings and software is also widespread, although some limited progress has been made in reducing such practices. Patent protection does not comply with a number of Paris Convention and TRIPS requirements. Costa Rica must offer full protection for all products, including pharmaceuticals, chemicals, and agricultural chemicals, by January 1, 2000. We encourage Costa Rica to continue efforts to improve enforcement, and to bring its laws into conformity with TRIPS. As part of those efforts, the government needs to take measures to ensure that its own ministries use only legitimate software.

In the Czech Republic, laws have been brought substantially in line with U.S.-Czech bilateral obligations and with the Czech Republic's TRIPS obligations (the Czech Republic waived the developing country transition for implementation of TRIPS). Enforcement, while improving, remains weak. Czech enforcement efforts through 1997 lagged, with a notable lack of success in securing effective deterrent penalties from the judiciary. The Czech authorities undertook structural reforms that had some effect against "retail" pirates, but were much less effective in combating more sophisticated forms of piracy. Unauthorized retransmission of encrypted satellite and broadcast signals by Czech cable companies are significant problems. The three CD plants in the Czech Republic reportedly produce far more than could be required to meet domestic demand. Much of the excess output allegedly is exported to the EU and former Soviet Union. Industry in 1997 noted the alarming spread of unauthorized "smart cards" and other anti-piracy technology-defeating devices. We urge the Czech Republic to explore, in cooperation with industry as appropriate, regulatory methods to stop production of pirate optical media, and to work with police, customs, and judicial authorities to improve the effectiveness of the enforcement system.

Denmark: In 1997, the United States initiated WTO dispute settlement proceedings against Denmark because of concern that Denmark had not implemented the TRIPS obligation requiring provisional remedies, including ex parte procedures in civil enforcement proceedings. Courts

must be granted the ability to order unannounced raids in appropriate cases to determine whether infringement is taking place and to preserve evidence of infringements as well as the ability to order that allegedly infringing activities be stopped pending the outcome of a civil infringement case. The availability of provisional relief in the context of civil proceedings is of particular importance to the software industry, as well as other industries dependent upon intellectual property protection. We are concerned that Denmark has made little progress toward resolving this issue over the past year.

Guatemala's Congress passed a new copyright law on April 28. This law, which the Government of Guatemala strongly supported, facilitating its passage so that it could be considered during this year's Special 301 review, represents an important step forward in Guatemala's efforts to provide improved protection to intellectual property, and we look forward to reviewing this important piece of legislation. The United States encourages President Arzu to sign this bill into law shortly and the Government of Guatemala to vigorously pursue effective enforcement of the new law. However, we note that many changes are still needed to bring Guatemala's intellectual property laws into compliance with TRIPS by January 1, 2000. For example, a 1992 law authorized regulation of cable television operators to protect international right holders, but no implementing action has been taken and the regulatory entity has not been established; a 1995 agreement between cable TV operators and the U.S. Motion Picture Association failed because the cable operators continued to pirate the U.S. signals. We understand that a bill being developed by the Guatemalan Government would address some of the deficiencies of the 1992 law. Also, the patent law does not meet international standards, and Guatemala has not yet met even the minimal TRIPS requirements that already apply in this regard. We hope that the copyright bill's passage is indicative of the Guatemalan Government's commitment to improving intellectual property rights protection and that we will see further evidence of the government's dedication to addressing its IPR obligations.

Honduras saw a portion of its trade preferences under the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative (CBI) suspended on April 20 because of its failure to control broadcast piracy. In the past week, Conatel — Honduras' telecommunications regulatory agency — has ordered the shutdown of the two television stations that had been broadcasting pirated programming. While this represents a positive first step, much remains to be done before the United States can restore trade preferences. Honduras will remain, for the present, on the Watch List as we look for indications it has taken adequate measures to prevent the resumption of broadcast piracy. In addition to broadcast piracy, there is widespread piracy of many forms of copyrighted works — movies, sound recordings, software — and illegitimate registration of well-known marks is a persistent problem. The term of protection in the patent law does not meet international standards, it contains overly broad compulsory licensing provisions, and no protection for products in the pipeline. The Government of Honduras needs to address these shortcomings in legal structure and in enforcement before the TRIPS deadline of January 1, 2000. We hope the recent efforts on the part of the Government of Honduras to address broadcast piracy indicate a willingness to move forward on other areas of inadequate IPR protection.

Hong Kong: The United States is encouraged by the progress Hong Kong has made in the few months since the results of the out-of-cycle review were announced in January. However, despite significant steps forward, the piracy situation has continued to worsen. Retail distribution of pirated products continues to flourish, and illegal production of optical media is increasing rapidly. The United States is pleased that new anti-piracy legislation requiring licensing and inspection of CD production sites passed earlier this year and that a licensing requirement for the import and export of machinery and equipment used for production of compact discs, video compact discs, or CD-ROMs was implemented in late 1997. Hong Kong officials also improved cooperation with the copyright industries, leading to the initiation of a reward system for information concerning commercial pirate operations, and are taking increasingly significant enforcement actions. We look forward to full implementation of the anti-piracy legislation later this year, effective enforcement actions, and to a significant reduction in piracy rates in 1998. We will review Hong Kong's progress toward these goals in an out-of-cycle review in September.

Ireland: In 1997, the United States initiated dispute settlement proceedings against Ireland because Ireland has not yet amended its copyright law to comply with its TRIPS obligations. Developed country obligations under the TRIPS Agreement came into effect in January 1996. Examples of TRIPS inconsistencies include the absence of a rental right for sound recordings, no "anti-bootlegging" provision, and very low criminal penalties which fail to deter piracy, all of which have contributed to high levels of piracy in Ireland. We are pleased that Ireland recently committed to accelerate its work on a new copyright law, to pass expedited legislation addressing two pressing enforcement issues, and has increased enforcement actions against piracy. We look forward to enactment of a TRIPS-consistent copyright law and additional progress on enforcement in 1998.

Jamaica is three years late in passing legislation it committed to enact in our bilateral intellectual property agreement in 1994. Pending legislation, while not halted, has been moving very slowly through the legislature. The Bilateral Investment Treaty that accompanied the IPR agreement is already in force, so Jamaica enjoys the benefit of the BIT while failing to meet its commitments. We understand that the Jamaican Government has developed a time line for the progression of the IPR bills through the Congress, and look to the Jamaican Government to move quickly to move the pending IPR legislation in order to meet Jamaica's obligations.

Japan continues to present a number of concerns in its protection of software and trade secrets, and in the operation of its patent system. U.S. computer software groups remain concerned about end-user piracy in Japan. The Japanese Government should strengthen its enforcement of anti-piracy laws. The amendment of Japan's Civil Procedures Act to award punitive damages rather than actual damages would be an important step toward increasing the deterrent against software piracy. Japanese law limits the ability of judges to seal court records or otherwise protect proceedings from disclosure. This puts owners of trade secrets, in cases involving misappropriation, in the untenable position of being unable to protect a trade secret without disclosing it. We encourage the Government of Japan to amend the civil procedure act to correct this anomaly. Over the years, Japan has been receptive to U.S. concerns regarding narrow

claim interpretation before the Japanese Patent Office and narrow patent claim interpretation in the courts. The February 1998 decision of the Japanese Supreme Court to permit an infringement finding under the "doctrine of equivalents" represented a positive step toward broadening Japanese courts' generally narrow interpretation of patent claims. Intellectual property rights issues continue to be the focus of U.S.-Japan discussions in a number of multilateral, regional and bilateral fora.

Jordan provides no patent protection for pharmaceutical products and copyright piracy is estimated at 100 percent. Jordanian companies market more than 50 pirated U.S. pharmaceuticals in Jordan and export approximately \$35 million of pirated pharmaceutical products to other countries in the region. Jordan's 1992 copyright law falls short of internationally accepted norms. In 1997, the Jordanian Parliament failed to pass proposed amendments which would have addressed some of the law's inadequacies. In April, Jordan presented an Action Plan designed to bring it into conformity with TRIPS within two years. We will conduct an out-of-cycle review in December to examine the progress made on the Action Plan and the prospects for speedy action on the remaining steps.

Kazakhstan has several remaining steps to take to fulfill the IPR commitments under our bilateral trade agreement. It needs to adhere to the Berne Convention for the Protection of Literary and Artistic Works and the Geneva Phonograms Convention, provide full-term retroactive protection for U.S. copyrights, specify protection for sound recordings under the copyright law, license television broadcasting stations, and increase copyright enforcement. Piracy of all copyrighted products is reportedly widespread and there have been no known enforcement measures to date. We look to Kazakhstan to begin significant enforcement measures to reduce piracy rates, to complete its bilateral IPR obligations, and to move toward making its IPR regime consistent with the TRIPs Agreement before it accedes to the WTO.

Korea: The Government of Korea has taken a number of steps to enhance the protection and enforcement of intellectual property rights and to reduce piracy in the past year. These include increasing budget allocations for IPR protection efforts, opening a Patent Court on March 1, 1998, and introducing legislation to extend the term of protection for patents. In addition, revised trademark law and industrial design laws went into effect on March 1, 1998. The United States applauds these steps and will continue to work with the Government of Korea to address other IPR issues, including full retroactive protection for copyrighted works and other aspects of TRIPS compliance, market access restrictions for motion pictures and cable TV programming, and the need for adequate protection of well-known trademarks and trade secrets and patents.

A 1996 Royal Decree enacted Oman's first copyright law, but it has major shortcomings, has not yet been implemented, and, in its current form, does not protect U.S. works. The U.S. has proposed a bilateral copyright agreement to protect U.S. works in Oman. Oman also does not provide patent protection for pharmaceutical products. Because its intellectual property protection remains minimal, while neighbors strengthen their regimes, Oman increasingly appears to be attracting pirates, who reportedly are smuggling significant amounts of pirated product

across the border with the U.A.E. The U.S. Government has made clear to Oman as part of its WTO accession process that it must become TRIPS-consistent by the time it becomes a member of the WTO.

Pakistan took the steps necessary in 1997 to implement its patent mailbox obligations under the TRIPS Agreement; however, other problems remain. Intellectual property piracy in Pakistan remains widespread. Piracy of copyrighted textile designs and reprinting of books (especially computer books, business titles and medical texts) without authorization continue to be significant problems. There are reports that virtually all of Pakistan's demand for software is being supplied by pirated products. The Government has taken steps to strengthen enforcement efforts regarding copyrighted works, but the fines applied to infringers have been too low to provide a credible deterrent. Pakistan lacks patent protection for pharmaceutical products and, the term of protection under its patent law for processes is not consistent with TRIPS. Finally, instances of trademark infringement which need to be remedied. We look to Pakistan to move quickly to improve protection for intellectual property.

Peru: Although Peru has relatively strong IPR legislation in place, it is not yet TRIPS-consistent in a number of respects, due to reliance on the Andean Pact Decisions on Intellectual Property which fall short of TRIPS standards. While enforcement actions have been brought, the INDECOPI Appellate Tribunal's pattern of reducing fines it initially assesses seriously hinders enforcement efforts against piracy and counterfeiting. Piracy also continues due to problems with lax border enforcement and a cumbersome and slow judicial process. We will continue to monitor progress in these areas. Finally, we look to Peru, and other members of the Andean Community to complete the important work of modifying Andean Pact decisions to make them consistent with the requirements of TRIPS and also look to Peru to take a leadership role in meeting TRIPS obligations in a timely manner.

In June 1997, the Philippines enacted a comprehensive IPR Code which represents a major step toward TRIPS compliance for copyrights, patents, and trademarks, and created a new Intellectual Property Office within the Department of Trade and Industry. Unfortunately, the law contains a number of ambiguous or problematic provisions, principally an exception for the decompilation of computer programs and overly broad restrictions on technology licensing. Enforcement remains weak, due to court backlogs that pose a particular problem. A Presidential Directive requiring all government agencies to use only legitimate software has had some effect. In January 1998, the Government of the Philippines issued organizational and procedural regulations to implement the IPR Code, but the troublesome substantive issues remain unaddressed. We look to the Government of the Philippines to address these shortcomings quickly.

In Poland, while enforcement has continued to improve for most copyright industries, the Government does not provide adequate protection for U.S. sound recordings. Industry estimates that losses to piracy fell by \$80 million between 1996 and 1997, principally due to a reduction in software piracy. It appears that Poland is not providing national treatment for protection of foreign sound recordings, which would violate its TRIPS obligations. With respect to

enforcement, although raids occur in Poland, prosecution usually fails. We look to Poland to provide retroactive protection of sound recordings expeditiously and to increase enforcement generally.

Qatar is being raised to the Watch List because it has not enacted a patent law and therefore does not protect pharmaceutical products. In addition, its copyright law is not TRIPS-consistent, and is inadequately enforced. Pirated motion pictures crowd virtually all legitimate product from the market, and most end users of business software do not buy legitimate software. As a WTO member, Qatar's TRIPS obligations will come into effect on January 1, 2000; we have not seen significant movement toward implementing those obligations. In the coming year, we will look to Qatar to legalize the software used in government offices, improve copyright enforcement, implement its TRIPS obligations, and move rapidly toward providing product patent protection for pharmaceuticals.

Saudi Arabia's existing laws, regulations, and procedures fall short of international standards in several key areas. While the Saudi Government needs to make its laws consistent with TRIPS to gain WTO membership, the most pressing need is for better enforcement of existing laws. There was, however, some improvement in enforcement in 1997. Industry noted a significant drop in the use of illegal software and in video piracy. However, business software is still widely pirated and the Government needs to control the use of illegal software in its own offices. We urge the Saudi Government to move quickly to bring its laws into conformity with TRIPS as part of its WTO accession process, to increase effective IPR enforcement, and to adopt an effective management plan to eliminate illegal software from government offices.

Levels of IPR protection in Singapore exceed those of other countries in the Asia-Pacific region. However, recent trends indicate that piracy (particularly CD-based copyright infringement) and transshipment are growing. A notable deficiency is Singapore's "self-policing" copyright enforcement policy, which is outdated and ineffective. The Government has shown a willingness in recent months to enforce the copyright laws itself rather than leave the responsibility to right holders. We will closely monitor developments to determine whether this trend continues and whether a proposed new voluntary industry code of conduct for CD producers reduces piracy. In February 1998 the Singaporean Parliament amended the copyright law to eliminate some TRIPS inconsistencies. The Government of Singapore is drafting legislation to implement its TRIPS obligations to protect trade secrets.

South Africa amended its Medicines Act in December 1997. The new law appears to empower the Minister of Health to abrogate patent rights for pharmaceuticals. It also would permit parallel imports. Implementation of the law has been suspended pending the resolution of a constitutional challenge in the South African courts. Undisclosed data also is not adequately protected under South African Law. The need to provide such protection quickly is demonstrated by the approval in South Africa of a generic copy of a medicine which still has undisclosed data protected from competitors' use in many countries. South Africa took the welcome step of amending its intellectual property laws in 1997 to criminalize trading in counterfeit goods, though

TRIPS deficiencies remain. South Africa should strengthen enforcement of intellectual property laws. U.S. industry estimates that losses to copyright piracy increased by 26% between 1996 and 1997. During the coming year, we look to the Government of South Africa to enact TRIPS-consistent legislation protecting undisclosed information, to make clear in regulations or legislation that the powers granted in the Medicines Act are consistent with its international obligations and to clarify what actions may be taken pursuant to that Act and under what circumstances. We are committed to working with the South African Government to achieve these ends while addressing serious health care concerns in South Africa.

Sweden: Swedish law permits official institutions such as Government Ministries and the Parliament to provide copies to the public of documents that are filed with them, even though such documents may be unpublished and protected by copyright law. Despite the leadership demonstrated by certain concerned government officials who have attempted to address the situation in a mutually satisfactory manner, ultimate resolution of U.S. concerns continues to be frustrated. We look to the Government of Sweden to take the steps necessary resolve this bilateral irritant without further delay. In contrast, significant progress has been made toward resolving the WTO dispute settlement case initiated by the United States in 1997 regarding provisional relief in civil enforcement proceedings. The Government of Sweden recently published amendments to the copyright law which may address U.S. concerns. The United States looks to Sweden to make substantial progress in the near term toward resolving both of these issues and will review Sweden's Special 301 status in that context.

Thailand: Thailand has taken a number of positive actions over the past year -- in particular, establishment of a IP court and strengthening of their enforcement system. Nonetheless, significant deficiencies remain in Thailand's intellectual property regime. Piracy rates -- particularly for videos and software -- remain unacceptably high. We will monitor the decisions of the newly-established intellectual property court to see if sentences are sufficient to reduce piracy rates. Thailand also needs to pass a TRIPS-consistent patent law (including abolition of the Patent Review Board), and to take steps to ensure that all Government offices use only legitimate software.

Ukraine needs to strengthen its IPR regime and enforcement. Copyright piracy is extensive and enforcement against pirates of U.S. copyrighted works is minimal. Piracy of audiovisual, broadcast, software and music and sound recordings are causing substantial losses to U.S. industry. Ukraine does not grant protection to U.S. works created prior to 1973, and it does not provide retroactive protection for sound recordings, both of which are required by our 1992 bilateral trade agreement. Ukraine does not provide adequate criminal penalties, including prison terms, for piracy, and apparently no criminal penalties for copyright infringements involving sound recordings, performers or broadcasters. We will look for Ukraine to take the steps necessary to bring its intellectual property laws into full compliance with TRIPS no later than the date of its accession to the World Trade Organization.

The United Arab Emirates has made significant strides in reducing copyright piracy and some progress toward tightening trademark protection. However, there is still little progress toward enacting a new patent law, and the need for "pipeline protection" of new products in the research and development cycle is critical. An adverse court ruling in Dubai in October 1997 leaves in doubt the applicability of the copyright protection for foreign works. We urge the United Arab Emirates to move quickly to enact TRIPS-consistent copyright and patent laws, to clarify that U.S. copyrighted works are protected, and to provide patent protection for pharmaceutical products. We also urge the U.A.E. to ensure that its entire intellectual property regime is TRIPS-consistent before the end of the transition period for developing countries.

Venezuela has played a constructive role in moving the Andean Community toward making the changes needed to bring Community Decisions relating to intellectual property into conformity with TRIPS before the January 1, 2000 deadline. The government created a new intellectual property office (SAPI) in March 1997, which is expected to focus and improve enforcement efforts. It is slated to become operational in May 1998. The decisions under review are not fully TRIPS-consistent with respect to patents, trademarks, copyright, plant varieties, and enforcement of rights. Despite significant improvements — especially in the enforcement of its copyright law — Venezuela does not yet provide adequate and effective protection of intellectual property rights. There is still widespread infringement of well-known trademarks, videos, satellite signals, and other protected works. We look to Venezuela to move quickly to bring its laws into conformity with TRIPS before January 1, 2000 and to continue to increase the effectiveness of the enforcement of its laws.

Vietnam: The Government is still in the formative stages of drafting, enacting and enforcing intellectual property laws. Copyright piracy is the most pressing problem, though there is some record of trademark enforcement. Vietnam's 1996 civil code provides a general framework for an intellectual property system. However, problems persist. Copyright piracy is the most pressing problem, though there is also some unchecked trademark counterfeiting. Vietnam's patent law excludes protection for pharmaceutical and agricultural chemical products, and lacks regulations or additional amendments that would make patent protection fully consistent with international standards. Although U.S. copyrighted works remain unprotected in Vietnam, the Government has begun the process of issuing guidance to enable officials to begin to take actions to protect U.S. works. After our bilateral copyright agreement comes into effect, we look to the Government of Vietnam to enforce its new copyright regime vigorously to reduce piracy levels measurably. We also expect the Government of Vietnam to address intellectual property rights issues in the contexts of negotiations on a bilateral trade agreement and its accession to the WTO, where compliance with TRIPS without transition will be required before the date of accession. We will conduct an out-of-cycle review in December to evaluate progress toward the goals of improving IPR protection and reducing the level of piracy and counterfeiting.

## **OTHER OBSERVATIONS**

Austria: In 1996, the Government of Austria amended its copyright law. One of these amendments created a compulsory license for the public performance of films in hotels. This compulsory license may violate both the Berne Convention on the Protection of Literary and Artistic Works and TRIPS Agreement. Austria is a member of both these agreements and is obligated to be in full compliance with them both. The U.S. Government will continue to consult with Austria about this matter in the expectation that Austria will amend its copyright law to remove the compulsory license provision.

Copyright piracy in Belarus is extensive and enforcement efforts are insufficient. Piracy of audiovisual, software and recorded works is causing substantial losses to U.S. industry. It is unclear whether Belarus protects pre-1973 works; Belarus does not provide retroactive protection for sound recordings. We look to Belarus to reduce the level of copyright piracy through better enforcement and to take the steps necessary to bring its intellectual property laws into full compliance with TRIPS no later than its accession to the World Trade Organization.

Bolivia signed an Investment Treaty with the U.S. on April 17, 1998. In conjunction with that agreement, the Government of Bolivia committed to become TRIPS-consistent within 12 months, and to notify the WTO of its commitment to implement its obligations within that time. In September 1997, the Government created a single new agency responsible for patent, trademark and copyright issues. Currently, protection of IPR in Bolivia suffers from both inadequate laws and weak enforcement mechanisms. Bolivia needs to work with other members of the Andean Community to address shortcomings in Decisions 344, 345 and 351. Stronger enforcement of existing laws is needed to reduce piracy in Bolivia. We applaud Bolivia's commitment to accelerate its implementation of TRIPS and look forward to seeing the fruits of that commitment.

Estonia provides no protection to foreign sound recordings. Piracy of sound and video recordings destined for both the local market and export is extensive. Software piracy is also a problem. Enforcement has been weak at all levels. Estonia's copyright law is not TRIPS-compatible in several important respects. Because Estonia's application to join the World Trade Organization is at a relatively advanced stage, it is particularly important for the Government to take the steps necessary to bring its intellectual property laws into full compliance with TRIPS quickly and to better enforce those laws before it accedes to the World Trade Organization.

Germany: Concerns remain regarding a major audiovisual piracy problem and the role of German firms in manufacturing and/or exporting throughout Europe of pirated "smart cards" and other "descrambling" devices used to steal encrypted satellite, cable and broadcast transmissions, particularly of U.S. motion pictures. Progress was made with respect to the availability of civil ex parte search orders in 1997 and we look forward to further progress on this issue.

Hungary has made some notable progress in improving legal protection for intellectual property rights in the last year. As a result of effective raids and seizures, the U.S. industry's losses due to piracy of motion pictures and computer programs have been reduced compared to 1996 and 1995 levels. Nevertheless, piracy rates are still high, and enforcement activity to date has failed to

provide sufficient deterrence. The fines imposed are generally too low to be effective. Hungary also needs to comply with its TRIPs obligations by providing full retroactive protection for sound recordings and by providing for civil *ex parte* search procedures. Hungary also needs to refine the law on pipeline protection for patents. In the next year, we look to Hungary to increase the effectiveness of its prosecution of intellectual property offenses, meet the above-noted TRIPs obligations, and address our concerns on pipeline protection.

Kazakhstan has several remaining steps to take to fulfill the IPR commitments under our bilateral trade agreement. It needs to adhere to the Berne Convention for the Protection of Literary and Artistic Works and the Geneva Phonograms Convention, provide full-term retroactive protection for U.S. copyrights, specify protection for sound recordings under the copyright law, license television broadcasting stations, and increase copyright enforcement. Piracy of all copyrighted products is reportedly widespread and there have been no known enforcement measures to date. We look to Kazakhstan to begin significant enforcement measures to reduce piracy rates, to complete its bilateral IPR obligations, and to move toward making its IPR regime consistent with the TRIPs Agreement before it accedes to the WTO.

Lebanon has widespread copyright piracy and an inadequate copyright law. A new law is under consideration, with the Government hoping for passage soon. The Government has actively opposed amendments to allow compulsory licensing of software in educational institutions because they are inconsistent with internationally-accepted standards. Unauthorized use of software is pervasive among private firms and government ministries. There also are concerns that Lebanon is considering allowing the registration of generic copies of drugs still protected by patents. During the next year, we look to the Government of Lebanon to pass a TRIPs-consistent copyright law, to take effective measures to eliminate use of unauthorized copies of software in Government offices, and reduce the rate of video piracy.

Mexico: Mexico has committed to implement and enforce high levels of intellectual property rights protection consistent with its international obligations. Nevertheless, piracy and counterfeiting remain major problems, with U.S. industry losses increasing annually. Only a small percentage of raids and seizures have resulted in court decisions and the levels of penalties assessed when court decisions are made are inadequate to deter future piracy. As a result, manufacturers and distributors of pirated products continue to operate largely unfettered. In 1996, the Government of Mexico passed a new Copyright Law which was a step forward; problems and ambiguities in the law remain to be resolved. To address these concerns in the near term, the United States and Mexico have recently agreed to engage in intensive bilateral consultations which will take place over the next several months.

Netherlands: The United States has repeatedly expressed concern that the Government of the Netherlands fails to provide protection for proprietary data submitted to the Government for gaining marketing approval of pharmaceuticals in a manner consistent with its obligations under TRIPs Article 39.3. However, we note with satisfaction that a Dutch Court recently reversed an earlier Government decision which was inconsistent with these obligations.

On January 7, Nicaragua signed a bilateral IPR Agreement with the United States — the first such agreement in Central America and the fourth in the hemisphere. The agreement calls for full implementation by mid-1999. Currently, piracy of video recordings, unauthorized video and sound recordings, and U.S. satellite signals by local cable television operators remain widespread. The copyright law does not explicitly protect computer software. The patent law fails to meet international standards for term of protection and for patentable subject matter, and the trademark law is inadequate, particularly for well-known marks. We look to Nicaragua to update its legal structure, to reduce piracy rates affecting all forms of intellectual property, and to bring its IP regime into compliance with the obligations of the IPR agreement quickly.

Recent legislation has strengthened Panama's IPR regime, but inadequate enforcement continues to be a major problem. U.S. companies have complained about the failure of the Government of Panama to seize illegal products in the Colon Free Zone (CFZ). The Government of Panama has only recently begun to organize its IPR enforcement efforts in the CFZ by establishing an intellectual property enforcement unit in the CFZ. As the unit becomes operational, we expect reductions in piracy and counterfeiting in the zone. A new Industrial Property Law should provide better protection for trade secrets. Over the past several months, Panamanian authorities have shown more commitment to enforcing the laws, especially outside the CFZ. We look to them to devote sufficient resources to IP protection and to continue to fulfill their action plan devised last year.

Romania has made some notable progress in improving legal protection for intellectual property rights in the last year. Romania recently enacted a pipeline protection law and the Romanian Parliament has reportedly passed legislation providing for accession to the Berne Convention for the Protection of Literary and Artistic Works and the Geneva Phonograms Convention, which now must be approved by the President. Romania, however, needs to increase the effectiveness of prosecutorial enforcement to ensure that government raids and seizures result in actual prosecutions. It also needs to increase border controls to keep infringing products out of Romania. During the next year, we look to Romania to increase the level of enforcement of its IP laws, allocate adequate resources to the agencies responsible for enforcement measures, increase border enforcement measures, ensure efficient and fair implementation of the pipeline protection legislation, and finalize its accessions to the Berne and Geneva Conventions.

Spain has growing piracy of business software. Despite having low levels of copyright piracy generally, Spain has some of the highest levels of business software piracy in the European Union. The United States is concerned that judicial proceedings are frequently delayed and that penalties assessed against infringers are inadequate to serve as a deterrent against piracy.

In Tunisia, the lack of patent protection for pharmaceutical products means that dozens of unauthorized copies of top-selling medicines are in the market. Once a medicine is manufactured in Tunisia, its importation is restricted, hindering access to the market for U.S. firms. Trademarks such as those associated with apparel, and copyrighted works such as software, recordings, and movies, suffer from infringement. We look to Tunisia to improve enforcement of its copyright

and trademark laws, and to move toward providing patent protection for pharmaceutical products.

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

In Yemen, U.S. industry has raised serious concerns over ongoing trademark violations. Local producers, particularly in the household goods sector, appear to be intentionally designing their products to be confusingly similar to well-known U.S. brands. The court system can be slow in addressing intellectual property cases, although U.S. firms have prevailed in the past. We look to Yemen to address these serious trademark concerns quickly.

## Developments in Intellectual Property Rights

1997

**May**

- Indonesia approved amendments aimed at bringing the country's copyright law into compliance with the standards of TRIPs. The amendments include the establishment of exclusive rental rights for computer programs and sound recordings and the extension of the term of protection of computer programs to 50 years.
- The Government of Indonesia ratified the Paris text of the Berne Convention (Decree No. 18 of 1997) on May 7.
- Indonesia ratified the new WIPO Copyright Treaty (Decree No. 19 of 1997) on May 7.

**June**

- The Government of the Philippines enacted a comprehensive IPR Code (Republic Act 8293) on June 8.
- The Hong Kong Special Administrative Region (HKSAR) passed a new copyright law addressing software decompilation and parallel imports, and also granted customs enhanced authority to seize suspected pirated goods.
- On June 24, the San Marino Parliament approved a new law concerning bootlegging and other IPR issues, such as the mark of origin system on molds for locally manufactured CDs.

**July**

- Hungarian law on trademarks and geographic indications became effective July 1st. This law greatly enhances the possibility of obtaining injunctions for trademark infringement.
- A Russian Anti-Piracy Organization was established by the U.S. and Russian film industries to assist in enforcement training.

**September**

- WTO Panel ruled in favor of the United States in our case against India regarding India's failure to establish a "mailbox" system for filing patent applications for pharmaceuticals

and agricultural chemicals, and failure to establish a system of exclusive marketing rights for these products.

- Indonesia became a party to the Berne Convention.
- The Government of Luxembourg implemented amendments to the copyright law that brought it into compliance with TRIPs and substantially increased penalties.
- Bolivia created a National Service of Intellectual Property. This new agency is responsible for protecting all IPR -- the first time patents, trademarks and copyright issues will be the responsibility of one agency.
- Egypt resumed enforcement efforts against software piracy.

#### October

- The People's Republic of China's criminal law codifying the nature of copyright infringement took effect on October 1.
- The Government of Bulgaria established an Intellectual Property Council.
- Panama's Supreme Court restored the Copyright Office's power to conduct *ex officio* seizures of counterfeit foreign works.

#### November

- In Uruguay, a judge issued an eight-month prison sentence to a notorious local software pirate; this is the first time that a judge used the sentencing provisions of the 1937 copyright law.

#### December

- The Government of Hong Kong imposed a licensing requirement for the import and export of machinery and equipment used for production of compact discs, video compact discs, or CD-ROMs. The HKSAR also proposed legislation calling for registration and licensing for current and future optical media production facilities, with tough penalties for non-compliance.
- The WTO Appellate Body ruled in favor of the United States on India's appeal of the Panel's decision in *India - Patent Protection for Pharmaceuticals and Agricultural Chemicals Products*.

- Trinidad and Tobago proclaimed IPR legislation to finish implementing our bilateral IPR agreement.
- The Government of Taiwan passed amendments to the copyright law on December 30.
- Thailand opened an Intellectual Property and International Trade Court.
- Vietnam ratified the Bilateral Copyright Agreement negotiated with the United States.
- Poland's Central Board of Customs announced that customs authorities will enforce copyright laws utilizing a new customs code (in force in 1998). According to Customs officials, the new code will simplify customs procedures and make it easier for authorities to seize infringing goods.
- On December 26, Mexico passed an amendment to its 1994 Industrial Property Law, adding a chapter protecting the layout design of integrated circuits.
- Belarus became a member of the Berne Convention on December 12.
- The Dominican Republic became a member of the Berne Convention on December 24.
- The Government of Turkey issued regulations equalizing taxes on domestic and foreign films.

1998

## January

- Philippine's new IPR Code took effect on January 1.
- Two laws came into effect in South Africa on January 1: the Intellectual Property Laws Amendment Act - which amended several acts, including the Patent Act, the Copyright Act, and the Trademarks Act - and the Counterfeit Goods Act.
- The Government of Bulgaria adopted a CD plant licensing scheme.
- Government of Romania passed the Pipeline Protection Ordinance on January 30.
- Romania acceded to the agreements establishing international classifications in the industrial property field and the Trademark Treaty Law on January 8. The Romanian Parliament also ratified the Madrid Agreement.

- Nicaragua signed a Bilateral Intellectual Property Rights Agreement with the United States on January 7 -- the first such agreement in Central America and the fourth in the hemisphere.
- Kazakhstan's new Criminal Code entered into force January 1.

## February

- On February 24, the Japanese Supreme Court issued its first infringement finding under the "doctrine of equivalents," thereby broadening its interpretation of patent claims.
- Singapore enacted a copyright amendment bill.
- The San Marino Parliament approved a comprehensive update of San Marino IPR laws on February 25.
- Brazilian President Cardoso, signed into law both the Software Bill and amendments to the 1973 Copyright Law on February 19.
- The Guatemalan Congress approved ratification of the Paris Convention on February 18.
- In Turkey, Prime Minister Yilmaz issued a detailed directive to government agencies, requiring the use of licensed software.
- Ireland committed to expedite drafting of a comprehensive new copyright law, and also committed to draft and pass separate expedited legislation raising criminal penalties for copyright infringement.

## March

- The Hong Kong legislature approved the "Prevention of Copyright Piracy" bill on March 25. The bill provides Hong Kong customs with the power to take stronger enforcement action against violators.
- Macao announced that it would establish a license regime on all imports and exports of compact disc production equipment and actual compact discs.
- The Bulgarian Minister of Interior announced on March 19 the formation of a new specialized anti-piracy unit within the National Service for combating organized crime in illicit CD production.

- The Criminal Circuit court for Panama City issued a finding of "criminally responsible" against a video store owner for violations of the copyright law on March 10; this represents the first criminal conviction in Panama for copyright infringement.
- The Colon Free Zone (CFZ) in Panama inaugurated its department of intellectual property to coordinate IPR enforcement actions in the CFZ on March 25.
- The Korean Government opened a Patent Court on March 1.
- The Korean Government adopted the International Classification System and the amended Trademark and Industrial Design Laws went into effect on March 1.
- On March 30th, United States Trade Representative Charlene Barshefsky announced that the United States partially suspended trade benefits that Honduras receives under the Generalized System of Preferences and Caribbean Basin Initiative programs as a result of Honduras' continued failure to provide adequate and effective IP protection.
- In Australia, legislation to extend patent protection for pharmaceuticals passed the House and was introduced into the Senate.

#### April

- Cyprus' Parliament passed a new patent law that is reportedly one of the strongest in the region.
- Bolivia signed an IP side letter to our bilateral investment treaty committing to bring its law into compliance with TRIPS within twelve months.
- Guatemala's Congress passed new copyright legislation.
- Ecuador's Congress passed new intellectual property rights legislation on April 22.
- Ecuador's Constitutional Tribunal upheld the legality of pipeline patents on April 23.
- The Government of Sweden published amendments to its copyright law which provide for provisional ex parte relief in civil cases.
- On April 28, the Government of Greece closed 20 television stations that did not submit license applications by the March 23 deadline.
- On April 24, a Dutch court upheld the confidentiality of pharmaceutical test data submitted to regulatory authorities.

- Honduras took its first significant enforcement actions against two major television stations engaged in piracy.

**Fifth Meeting of the NAFTA Commission  
Joint Statement  
Paris, France, April 29, 1998**

Today, the Commission reaffirmed its strong commitment to the NAFTA and its value in promoting trade, investment, and economic growth and, most importantly, jobs in the three countries. In this regard, we stressed the significant increase in trade and investment that has occurred. Since NAFTA's entry into force, trade in North America has grown nearly 65%. In 1993 trilateral trade between Mexico, Canada and the United States was less than 300 billion U.S. dollars. In 1997 trade between the NAFTA Parties reached almost 500 billion U.S. dollars.

These figures constitute a clear indication of NAFTA's success in its first four years of implementation. This trend will continue as NAFTA implementation opens new opportunities for trade and investment, bringing more benefits to companies, workers and consumers in North America. We reaffirmed our commitment to further promote public understanding of the benefits of the Agreement and continuing dialogue with our private sectors on an ongoing basis. We also noted the value of continuing co-operation with our respective labor and environment ministries.

As evidence of the opportunities that NAFTA has promoted, and on the basis of the recommendation of our private sectors, we have agreed on a package covering hundreds of tariff lines that will be subject to accelerated tariff elimination, further opening opportunities to our private sectors and benefiting close to one billion U.S. dollars in NAFTA trade. (Illustrative list of product categories is attached). We acknowledged that the necessary modifications of our tariff schedules will be implemented by August 1, 1998, following the completion of domestic legal procedures in each country. We acknowledged that the tariff acceleration negotiations have brought about a very positive process of consultations and communication, among the private sectors of the NAFTA countries. Governments will continue to encourage industry initiatives in this area in the future.

We acknowledged the progress achieved across the NAFTA work program, comprising the activities of more than twenty Committees and Working Groups, and a wide range of additional subsidiary bodies. We expressed our determination to build on the success achieved thus far, and instructed officials to undertake an operational review of the work program and to report back to Ministers before the end of 1998 on the structure, mandates and priorities of these bodies. In this regard, we further agreed that our Deputy Ministers will meet twice a year on a regular basis to provide high-level, ongoing oversight of the NAFTA work program, and that Canada would host the next meeting in the fall of 1998.

We discussed a range of trilateral trade issues, and we also discussed our shared interests in broader multilateral and regional trade liberalization, and noted the value of enhanced cooperation among the NAFTA parties in these wider initiatives. We acknowledged the central role of the WTO as the cornerstone of the global, rules-based trading system. We noted the importance of the WTO Ministerial Conference next month in building international understanding and support for further multilateral liberalization, and looked forward to the opportunity provided by the 50th anniversary of the GATT to highlight the benefits of liberalized trade. We welcomed the continuing process of trade liberalization in the hemisphere, and in particular the successful launch of negotiations for the Free Trade Area of the Americas (FTAA) earlier this month in Santiago.

We agreed that Canada would host the next NAFTA Commission at Ministerial level on the occasion of the fifth anniversary of the NAFTA in early 1999.

**Tariff Acceleration -- items to be accelerated in one or more of the NAFTA countries are included within the following product categories:**

Certain chemical products  
Certain antibiotics  
Certain pharmaceuticals  
Certain medicaments with antibiotics and insulin  
Herbicides  
Certain wool yarn  
Certain wool textiles  
Certain cotton yarn  
Woven cotton fabrics  
Certain man-made fibers, yarns and woven fabrics  
Sanitary textile towels and diapers  
Wool felt  
Certain non-woven fabrics  
Cordage and ropes  
Certain woven pile fabrics  
Towels  
Certain angles of iron or steel  
Impregnated, coated or laminated fabrics:  
Surgical drapes  
Hats  
Certain flat-rolled products of stainless steel  
Certain steel wire  
Bedspreads  
Certain watches  
Certain toys

Additional Note: USTR and the Governments of Mexico and Canada expect to make available a detailed list of agreed products at the 8 and 1- digit level in the middle of May.

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FOR IMMEDIATE RELEASE  
TUESDAY, MAY 5, 1998

98 - 45  
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TRIPLE CHARGES ASSESSED  
ON CHINESE TEXTILE TRANSSHIPMENTS

United States Trade Representative Charlene Barshefsky announced today that the United States will bring enforcement action for illegal "transshipment" practices in violation of a 1997 bilateral trade agreement governing U.S.- China textile and apparel trade. The specific action targeted by the U.S. government is the Chinese practice of shipping textile products produced in China through other countries to circumvent quotas that limit the total of Chinese textiles and apparel that can be sold in the United States. The sanctions announced today--approximately \$5 million in triple charges against China's quota allowance-- result from an extensive investigation by the U.S. Customs Service and other government agencies. In total, the Administration has applied approximately \$94 million in charges against Chinese quotas under the bilateral textiles agreement.

"This action clearly demonstrates the Administration's commitment to enforcement of our trade agreements," said Ambassador Barshefsky. "Our strong preference would be to work with China to prevent these violations of our agreement in the first instance, however, we will not hesitate to take action when violations occur."

"Enforcement of our international agreements, including those involving textiles, is a high priority of this Administration," said Commerce Secretary William M. Daley. "Preventing circumvention of these agreements is essential if our manufacturers are to compete on an equal footing in today's global economy. When these agreements are circumvented, we are committed to taking the fullest remedy available."

Today's charges against China's quotas mark the second imposition of triple charges, but the fourth time under the 1997 and the predecessor 1994 bilateral agreement that the Administration has applied charges to China's quotas because of transshipment violations. "Triple" charges are permitted in instances of repeated violations under our current bilateral agreement with China.

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**FOR IMMEDIATE RELEASE**  
Wednesday, May 6, 1998

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**USTR AND USDA FORM SENIOR GROUP ON SANITARY AND PHYTOSANITARY  
AGRICULTURAL TRADE ISSUES**

U.S. Trade Representative Charlene Barshefsky and Agriculture Secretary Dan Glickman today announced the formation of a senior-level steering group to address foreign sanitary and phytosanitary (SPS) trade issues that unfairly restrict U.S. agricultural exports. This steering group will include representatives from USTR, USDA, the Food and Drug Administration, the Environmental Protection Agency, and the Department of State.

The group will coordinate broad policy guidance on priority foreign SPS measures that are inconsistent with the *World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures* (SPS Agreement) which have substantial policy and trade implications for U.S. agricultural exports.

In establishing the steering group, Ambassador Barshefsky said, "We have a clear policy and a proven record in fighting to bring down unfair foreign SPS barriers. This steering group will focus on non-scientifically based SPS barriers that block our agricultural exports or otherwise threaten to restrict agricultural trade."

Secretary Glickman said, "This Administration has established an impressive track record in resolving these trade issues. We will use this steering group to build on our successes."

Both Ambassador Barshefsky and Secretary Glickman noted that several outstanding SPS issues have been resolved since the implementation of the SPS Agreement including the opening of export markets for California lemons, table grapes, kiwis, oranges and grapefruit to Chile; for 25 varieties of U.S. tomatoes to Japan and Taiwan; for U.S. sweet cherries to Mexico and China; for table grapes to China; for live swine to Argentina and Peru; for live cattle exports to Peru; for

wheat to Brazil; and the successful resolution of arbitrary, non-science-based, government-mandated shelf-life requirements that blocked U.S. agricultural exports to Korea.

The SPS Agreement requires that measures to protect human, animal or plant life and health be based on scientific principles, have sufficient scientific evidence, be based on an appropriate risk assessment, and not arbitrarily or unjustifiably discriminate between WTO members where the same conditions prevail.

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**FOR IMMEDIATE RELEASE**  
Wednesday, May 6, 1998

98 - 47  
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**UNITED STATES LAUNCHES WTO CASES AGAINST  
EUROPEAN INCOME TAX SUBSIDIES**

United States Trade Representative Charlene Barshefsky announced today that the United States has initiated dispute settlement proceedings in the World Trade Organization, filing five new cases involving European income tax subsidies. As the first step in the WTO dispute settlement process, the United States requested consultations with Belgium, France, Greece, Ireland, and the Netherlands regarding their income tax practices.

"These practices constitute prohibited subsidies under the WTO Subsidies Agreement," Ambassador Barshefsky stated, "and are in clear violation of WTO rules."

**BACKGROUND**

Because these cases involve allegations of prohibited subsidies, they are subject to expedited dispute settlement procedures. The first step in the process is to request consultations, which was done on May 5. In each case, consultations are to be held within 30 days, after which the United States may request establishment of a dispute settlement panel, which is to complete its work within 90 days. However, these time periods may be extended by mutual agreement. If a measure is found to be a prohibited subsidy, the panel must recommend that the subsidy be withdrawn without delay, and must specify the time period within which the subsidy must be withdrawn.

The tax practices included in the initial group of U.S. dispute settlement consultation requests are as follows:

France      Deduction for start-up expenses

As an exception to the general territoriality principle of French income tax law, a French company may deduct, temporarily, certain start-up expenses of its foreign operations through a tax-deductible reserve account. One of the conditions for obtaining this special education are that the foreign branch or subsidiary derive more than 50 percent of its turnover from the sale of products manufactured by the French parent or a corporate group of which the parent is a member.

#### Reserve for medium-term credit risk

A French company may establish a special reserve equal to 10 percent of its receivable position at year end for medium-term export credit risks.

#### Netherlands

A provision of Dutch tax law establishes a special "export reserve," apparently designed for small- and medium-sized businesses. An eligible firm may obtain a reserve of 5 percent of export turnover up to fl 100,000 and 2 percent of export turnover between fl 100,000 and 200,000. The reserve can be formed irrespective of the country to which merchandise is exported, and may be formed as soon as goods are delivered on account to foreign customers.

#### Greece

Greek exporters of any product are entitled to an annual tax deduction at the following rates: 2 percent on export sales up to Drs 750 million; 1 percent on export sales between Drs 750 million and 3 billion; and 0.5 percent on export sales above Drs 3 billion.

#### Ireland

Section 39 of the Finance Act 1980, which was specifically approved by the EU, provides special tax relief for "special trading houses," which are companies that act as an access mechanism for Irish-manufactured products in foreign markets. The trading house assumes all international marketing responsibility for product manufacturers, and qualifies for a 10 percent corporate tax rate in respect of its trading income from the export sale of goods. The standard rate of corporation tax is 36 percent.

#### Belgium

Belgian corporate taxpayers receive a special tax exemption for recruiting personnel with export-related functions.

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FOR IMMEDIATE RELEASE  
Friday, May 8, 1998

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### USTR Pursues WTO Case Against Mexico on High Fructose Corn Syrup

United States Trade Representative Charlene Barshefsky announced today that the United States is invoking the dispute settlement procedures of the World Trade Organization (WTO) to challenge an action taken by Mexico to limit Mexican imports of high fructose corn syrup (HFCS) -- a sweetener widely used in soft drinks and other products.

"Mexico's antidumping action does not pass muster under WTO rules," said Ambassador Barshefsky, "and we believe a WTO panel would agree." The United States is challenging several aspects of Mexico's antidumping determination on HFCS grades 42 and 55 from the United States, alleging that Mexico violated the WTO Antidumping Agreement. Ambassador Barshefsky also stated "Mexico's actions on fructose are deeply disturbing and its final determination violated the WTO Antidumping Agreement in a number of important respects."

The Mexican National Chamber of Sugar and Alcohol Industries, an association of sugar producers in Mexico, filed a petition against imports of HFCS from the United States on January 14, 1997. On February 27, 1997, the Mexican Secretariat of Commerce and Industrial Development (SECOFI) published a notice initiating an antidumping investigation. SECOFI's preliminary affirmative determination of dumping and threat of material injury was published on June 25, 1997 and the United States and Mexico held WTO consultations a first time regarding SECOFI's actions on October 8, 1997. On January 23, 1998, Mexico published its final determination finding that imports of HFCS from the United States are dumped and are threatening the Mexican sugar industry with material injury. The final dumping margins ranged from \$63.75 to \$100.60 per metric ton for Grade 42 HFCS and \$55.37 to \$175.50 per metric ton for Grade 55 HFCS.

The first step in the WTO dispute settlement process is to request consultations, which must be held within 30 days. If a mutually satisfactory solution is not reached within 60 days after requesting consultations, the matter may be referred to a panel for review. Panels are generally expected to conclude their work within six to nine months.

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FOR IMMEDIATE RELEASE  
Tuesday, May 12, 1998

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

United States Trade Representative Charlene Barshefsky today announced the country-by-country allocations for the 200,000 metric ton (220,462 short ton) increase in the amount available under the raw cane sugar tariff-rate quota for Fiscal Year 1998. This allocation is based on the countries' historical trade to the United States.

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

<u>Country</u>	<u>Current FY 1998 Allocation</u>	<u>Additional Allocation</u>	<u>New FY 1998 Allocation</u>
Argentina	56,832	8,731	65,563
Australia	109,699	16,853	126,552
Barbados	7,830	0	7,830
Belize	14,538	2,234	16,772
Bolivia	10,573	1,624	12,198
Brazil	191,642	29,442	221,084
Colombia	31,720	4,873	36,593
Congo	7,258	0	7,258
Cote d'Ivoire	7,258	0	7,258
Costa Rica	19,825	3,046	22,871
Dominican Republic	232,614	35,736	268,350
Ecuador	14,538	2,234	16,772
El Salvador	34,363	5,279	39,643

Fiji	11,895	1,827	13,722
Gabon	7,258	0	7,258
Guatemala	63,440	9,746	73,186
Guyana	15,860	2,437	18,297
Haiti	7,258	0	7,258
Honduras	13,217	2,030	15,247
India	10,573	1,624	12,198
Jamaica	14,538	2,234	16,772
Madagascar	7,258	0	7,258
Malawi	13,217	2,030	15,247
Mauritius	15,860	2,437	18,297
Mexico	25,000	0	25,000
Mozambique	17,182	2,640	19,821
Nicaragua	27,755	4,264	32,019
Panama	38,328	5,888	44,217
Papua New Guinea	7,258	0	7,258
Paraguay	7,258	0	7,258
Peru	54,189	8,325	62,513
Philippines	178,426	27,411	205,837
South Africa	30,398	4,670	35,069
St. Kitts & Nevis	7,258	0	7,258
Swaziland	21,147	3,249	24,395
Taiwan	15,860	2,437	18,297
Thailand	18,503	2,843	21,346
Trinidad-Tobago	9,252	1,421	10,673
Uruguay	7,258	0	7,258
Zimbabwe	<u>15,860</u>	<u>2,437</u>	<u>18,297</u>
Total	1,400,000	200,000	1,600,000

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

Conversion factor: 1 metric ton = 1.10231125 short tons

THE WHITE HOUSE

Office of the Press Secretary  
(Birmingham, England)

FOR IMMEDIATE RELEASE  
May 15, 1998

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U.S.-JAPAN INITIATIVE DELIVERS PROGRESS ON DEREGULATION

U.S. Trade Representative Charlene Barshefsky today described measures under the first year of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative), as "an important step that must be followed by continuous efforts in deregulation and market-opening reforms." The initiative focused initially on four primary areas - telecommunications, housing, financial services, and medical devices and pharmaceuticals - selected because of their economic importance and because of the global competitiveness of U.S. companies in these sectors.

"The course we have set is not only beneficial for U.S. exporters and workers, but for Japanese consumers who pay among the highest prices in the world for goods and services," Ambassador Barshefsky noted. "Urgent and ambitious deregulatory reforms are an essential element toward achieving sustained demand-led growth in Japan."

The Enhanced Initiative, agreed to by President Clinton and Prime Minister Hashimoto in June 1997 at the Denver G-8 Summit, established a bilateral forum to address deregulation and market access issues in Japan. In addition to sector-specific objectives, the initiative addresses critical structural issues of competition policy, distribution, transparency and other government practices. A joint U.S.-Japan report issued today details the deregulatory measures the Japanese Government will undertake in each of these areas.

"We are addressing such cross-cutting issues as distribution --the ability to sell goods and services directly and competitively to Japanese consumers -- and bringing greater transparency to the regulatory process in Japan toward delivering market-opening benefits across multiple sectors. Continued progress in these areas is critical in achieving an open and competitive environment in Japan," Ambassador Barshefsky noted.

Ambassador Barshefsky continued, "Opening Japan's market has been a top priority of the Clinton Administration since 1993. I am pleased with the steps Japan has taken to deregulate and open its economy in a number of sectors under the new initiative. These actions now must be followed by

further meaningful reform in these and other sectors. We have launched reforms across dynamic and growing areas of the Japanese economy."

Highlights of the deregulation package under the Enhanced Initiative include the following developments:

In the telecommunications sector, Japan will reduce fees charged to connect calls to Japanese customers that will allow U.S. firms to compete in this sector and provide service to local and long-distance customers. In addition, Japan has liberalized international services, spurring the entry of numerous new service providers and triggering a dramatic reduction in the cost of international phone calls to and from Japan. U.S. suppliers are expected to be major new competitors in this \$80 billion telecom services market.

Japan also agreed to more than double the number of channels that satellite broadcasters can provide. This change will save new U.S. service suppliers millions of dollars and allow them to offer the kind of innovative, consumer-oriented program packaging in Japan that has made them global leaders.

Among deregulation measures in housing, Japan has agreed to adopt modern, internationally-accepted standards for housing construction and imported building materials. Early market-opening efforts have focused on the \$38 billion Japanese wooden building materials market, of which U.S. firms supplied \$2.5 billion in 1997. These changes will significantly enhance opportunities for U.S. firms in the world's second largest housing market. Tariff elimination on wood products is a central objective of a parallel market-opening effort within APEC this year.

In the medical devices/pharmaceuticals sector, Japan will accelerate approval of new medical devices and pharmaceuticals, which will enable U.S. firms to expand their sales through faster introduction of innovative and cost-effective products. U.S. companies have a 12% share of Japan's \$60 billion pharmaceuticals market, and more than a 25% share of the medical device marketplace.

In the financial services sector, Japan has agreed to further open the market for securities derivatives, promote a market in asset-backed securities, and expand the scope of bank and securities activities available in the market. Further opening of the financial services sector will allow the introduction of new and innovative financial products that will both improve the efficiency of Japanese capital markets and provide innovative U.S. firms greater competitive opportunities.

In terms of distribution reforms, Japan will repeal the Large Scale Retail Store Law, which will significantly ease restrictions on U.S. companies opening and operating large stores in Japan and improve access for a wide variety of U.S. consumer products. Ambassador Barshefsky noted, "We will be closely monitoring the local application of the new law to ensure that there is genuine reform."

In the area of competition policy, Japan has agreed to promote competition through more vigorous monitoring and enforcement of top Japanese firms, compliance with antitrust laws. An antitrust compliance review will look at the practices of more than 2,000 companies, and the Government of Japan has agreed to conduct follow-up surveys in sectors where serious anti-competitive practices have been identified, including film and glass.

To enhance transparency, Japan has pledged to reveal bureaucratic regulatory decisions to public scrutiny. This will provide U.S. firms with greater access to information and ease the extraordinary burdens imposed by the Japanese administrative system.

"The Clinton Administration intends to build on what we have achieved over the past year in order to further open the Japanese market," Ambassador Barshefsky said. "We have a wide range of issues on our deregulatory agenda, including closely monitoring Japanese implementation of the deregulation measures agreed to in Birmingham and expanding the scope of deregulatory actions."

Ambassador Barshefsky noted that the U.S. and Japan will expand the sectoral deregulation agenda to include energy production and transmission, a heavily regulated area where U.S. firms are highly competitive. As Japan undertakes efforts to reform its \$150 billion energy sector, U.S. deregulation objectives will focus on bringing Japanese inspection, testing, and standards into conformity with international norms and practices.

"The bottom-line is that significant deregulatory reform in Japan will yield important new commercial opportunities for American exporters and stimulate growth in Japan," Barshefsky added.

Attached is a fact sheet describing the benefits of the deregulation measures contained in the joint report released today.

## U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy

### FACT SHEET

The following highlights the progress made during the first year of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy, as announced in a joint report issued by President Clinton and Prime Minister Hashimoto today.

#### Telecommunications

Over-regulation and restrictive practices by Japan's incumbent telecommunications carriers have stifled competition and slowed growth in Japan's \$128 billion telecommunications and broadcasting services market. As a result, Japan's telephone rates are among the highest in the OECD.

Under the Enhanced Initiative, Japan agreed to adopt a new regime to lower the rates that telecommunications carriers must pay to connect to Japan's local telecommunications network (reduction in interconnection rates). When implemented at the target date of the year 2000, the long run incremental cost methodology (LRIC) which eliminates unjustified costs from interconnection will dramatically increase competitive opportunities. Prior to implementation of LRIC, Japan committed to reducing interconnection rates as much as possible, which should increase competitive conditions.

Japan has also agreed to introduce measures to facilitate access to land and physical facilities such as roads that new companies need to construct their own networks. In addition, the Japanese Government has agreed to liberalize its international services market by permitting companies to provide alternatives to traditional international service. These steps will reduce the huge fees U.S. carriers now pay to Japanese carriers, encourage new entrants into the Japanese market, and result in hundreds of millions of dollars of additional services and equipment sales in this sector over the next few years.

Japan has also relaxed restrictions in its satellite services market, permitting a more than doubling of the number of channels broadcasters can provide to Japanese consumers. Measures taken will save service providers in this market millions of dollars, and permit them to offer the innovative, consumer-oriented packaging which is transforming distribution of pay TV satellite services worldwide.

Japan will simplify a variety of standard procedures required to enter and operate throughout this sector, allow customer rates to be set freely, and give faster, less costly approval for wireless equipment. In addition, Japan will eliminate foreign investment restrictions in Kokusai Denwa Denshin (KDD), its \$3 billion international carrier.

## **Housing**

The United States is a global leader in forest products and building materials exports, but Japanese regulatory measures and other barriers have severely restricted U.S. access to Japan's \$140 billion building materials market. Under the Enhanced initiative, U.S. and Japanese experts have focused on the \$38 billion wooden building materials market, of which U.S. firms supplied \$2.5 billion in products in 1997. To address adverse regulatory barriers and other concerns, Japan has agreed to reform its Building Standards Law. Under the revised system, outdated product specifications will be eliminated and builders and architects will be able to freely choose the materials used in the construction of a home, as long as specified structural requirements are performance-based rather than design-based.

In addition, new standards and product testing requirements will be brought into line with international norms, and compatible with U.S. practices. Japan will abolish the prohibition on three-story 2x4 construction in urban residential housing areas. This American-style construction, which accounts for only about 7% of Japan's 1.4 million annual residential housing starts, performed better than traditional Japanese post and beam housing in the recent Kobe earthquake. To facilitate this increasingly-popular construction style, Japan will recognize U.S. lumber grademarks, removing the requirement that U.S. lumber be recertified by a Japanese grading organization.

These deregulatory measures, which will be implemented over the next two years, will further open Japan's market to U.S. building materials and wood products manufacturers. Japan's overall efforts to eliminate discriminatory standards and regulations in this sector should result in approximately \$1 billion of additional sales for American companies. At the same time, these efforts will benefit Japanese consumers by making available more diverse, affordable, and safer housing.

Elimination of tariffs in this sector would complement these deregulation efforts by further cutting housing costs and opening markets. The APEC sectoral agenda, including wood tariffs elimination, is the focus of market-opening action this year.

## **Medical Devices/Pharmaceuticals**

Japan's over-regulation of medical devices and pharmaceuticals has hindered the introduction of innovative, cost-effective American products into Japan's market, and kept many Japanese patients from receiving potential life-saving treatments.

Under the Enhanced Initiative, within two years, Japan will cut the approval period for new drugs by one-third, from 18 months to 12 months. This measure will allow the introduction of new medicines in Japan on a more timely basis which will benefit both Japanese consumers and U.S. manufacturers. American firms which currently have a 12-percent share of Japan's \$60 billion pharmaceuticals market, stand to reap substantial benefits from a faster drug approval process.

Japan will greatly expand the acceptance of foreign clinical data in its approval of new medical devices and pharmaceuticals, which will significantly reduce the time and expense U.S. firms must devote to new product testing and approvals. U.S. medical device firms currently sell over \$5.5 billion of equipment in Japan's \$20 billion medical device market each year. Faster introduction of innovative products means increased revenues for American firms.

Further, as it formulates health care reforms, Japan has agreed to place a higher priority on the introduction of innovative products to contain costs and improve health care. This action will facilitate the prompt introduction of innovative, cost-effective products for Japanese patients by U.S. firms, which are leaders in cutting-edge technologies in this sector.

### **Financial Services**

Japan's pool of individual and institutional savings - valued at some \$10 trillion -- is the largest outside the United States. The Japanese Government's proposed "Big Bang" liberalization of its financial services industry, (which built upon the undertakings in the U.S.-Japan 1995 Agreement on Measures Regarding Financial Services), should substantially improve the ability of foreign financial services providers to reach customers in most segments of the Japanese financial system.

Among the important measures being taken under the "Big Bang" initiative are the liberalization of securities derivatives, easing the registration process for new securities companies, the promotion of a more vigorous asset-backed securities market, and a sharp expansion in the scope of financial activities and products allowed to banks and securities firms, including investment trust (mutual fund) products. In addition, stock options have been introduced, and brokerage commissions are to be fully liberalized. The April 1 revision of the Foreign Exchange Law is also expected to ease capital flows and access to foreign exchange.

While seeking additional specific rule changes, the United States is encouraging the full program of liberalization be carried out within or before the proposed schedule, and that the implementing regulations and ordinances be developed in a clear and transparent manner with provisions for public comment.

### **Distribution**

Barriers to distribution in Japan have been central to the market access problems encountered by U.S. firms in many sectors, including glass, paper, and film. The Large Scale Retail Store Law (LSRSL) has been a significant impediment to the establishment, operation, and expansion of large retail stores. Under the law, gaining approval for construction of a new large store was lengthy and uncertain, and stores were often given strict limits on floor space, operating hours, and number of days the store could be open. Japan has agreed to abolish the LSRSL. Its replacement will limit the ability of local governments to restrict the opening and expansion of stores based only on such factors as traffic and noise. A smooth transition to the new pro-competitive regime will continue to be an important issue for discussion under the Enhanced

Initiative.

Japan is also undertaking significant measures to expedite customs clearance processing, which has been slow and cumbersome by international standards, raising costs for U.S. exporters and Japanese consumers. Japan has introduced a computerized system linking the Customs Agency with other agencies, and new or expanded pre-arrival and clearance-upon-arrival procedures. Continued reforms in this sector will be the subject of future regulatory discussions.

### **Competition Policy**

The absence of vigorous competition in many sectors of Japan's economy has led to artificially high prices, low foreign investment, and severely restricted market access in many sectors where U.S. firms are globally competitive. Under the Enhanced Initiative, the Japanese Government will take specific steps to promote competition. The Japan Fair Trade Commission (JFTC) has agreed for the first time to survey Japan's top 2,000 firms to assess their Antimonopoly Law compliance programs as part of its effort to more vigorously enforce its antitrust laws. The JFTC also has agreed to begin following up on its industry surveys to ensure that firms take appropriate actions to correct practices about which the JFTC has raised concerns, including the film and glass sectors. The JFTC also will monitor Japanese manufacturers to ensure that they do not restrict foreign competition by threatening retaliation against distributors who handle imported products, a long-standing market access impediment.

### **Legal Services**

The Japanese Diet has passed legislation that will reduce restrictions on foreign lawyers in Japan. In particular, the new law will reduce the length of experience required of foreign lawyers before they are allowed to register as foreign legal consultants in Japan (from five years to three years) and allow a foreign lawyer to count the time he spent practicing his home country's law in a third country toward meeting the experience required to register as a foreign legal consultant in Japan. Further, Japan has agreed to liberalize the ability of a foreign legal consultant to practice third country law in Japan, with written advice from foreign lawyers qualified in that third country.

### **Transparency and Other Government Practices**

The Japanese Government is taking measures to increase the transparency of, and to reduce the burdens imposed by its administrative system. For example, the Japanese government is simplifying and accelerating the application process for licenses, permits, and other permits needed to do business in Japan, which have impeded the ability of U.S. firms to operate in the Japanese market.

Implementation of public notice and comment procedures, which historically have been developed in a "black box" to which only insiders have access, will be an important agenda item in future discussions under the Enhanced Initiative. Unlike the U.S. system which requires agencies to

provide a notice and comment process for new regulations, under Japan's system, Japanese ministries are under no obligation to do so.

## Energy

Japan is beginning to deregulate its \$150 billion energy sector with the aim of reducing energy costs, which are among the highest in the industrialized world. The United States will work with Japan to address deregulation issues in the energy sector in a new experts group established under the Enhanced Initiative. In this forum, the United States will seek to enhance opportunities for U.S. firms, which are globally competitive in this sector, through the elimination of regulatory barriers. These barriers include burdensome regulations regarding inspection, testing, and replacement of equipment; limitations on the activities of energy service providers; the use of narrow, technical standards rather than performance-based standards; the lack of harmonization standards in Japan; and other costly and unnecessary regulations that discourage U.S. firms from entering the energy market. The first meeting of the experts group will occur this summer.

FIRST JOINT STATUS REPORT ON THE U.S.-JAPAN ENHANCED INITIATIVE  
ON DEREGULATION AND COMPETITION POLICY  
MAY 15, 1998

Since June 1997, the Governments of the United States and Japan have been engaged in an extensive effort to fulfill the objective of the U.S.-Japan Enhanced Initiative on Deregulation and Competition Policy (Enhanced Initiative) under the U.S.-Japan Framework for a New Economic Partnership (Framework) "to conduct a serious exchange of views and to undertake measures, as called for in the Framework, to 'address reform of relevant government laws, regulations, and guidance which have the effect of substantially impeding market access for competitive goods and services,' in order to enhance consumers' interests and to increase efficiency and promote economic activity."

The Enhanced Initiative reflects the strong belief of both governments in the benefits of deregulation. The promotion of deregulation and active implementation of competition policy are issues of major importance to both governments.

Under the Enhanced Initiative the Governments of the United States and Japan have held meetings of the High-level officials Group and of five Expert-level Groups: telecommunications, housing, medical devices/pharmaceuticals, financial services, and the deregulation and competition working group, which addresses structural issues, including competition policy and distribution, and issues related to transparency and government practices. Consistent with the principles of two-way dialogue and the achievement of tangible progress, both sides have exchanged views and interests on a wide variety of deregulation items and each has provided clarifications on the progress made on its side. As part of that effort, the Government of the United States provided a submission to the Government of Japan regarding deregulation, competition policy, transparency and other government practices in November 1997. The Government of Japan has also raised regulatory issues of interest with the Government of the United States.

The Government of Japan has undertaken a series of deregulatory measures, the latest and the most significant being the new three-year program for the promotion of deregulation decided by the cabinet on March 31, 1998, based on the extensive hearings of both domestic and foreign requests. The salient Japanese deregulatory and other measures that relate to the dialogue under the Enhanced Initiative are set out in this report.

The Government of the United States welcomed the progress made through efforts by the Government of Japan. At the same time, the Government of the United States encouraged continued efforts by the Government of Japan to promptly address outstanding U.S. proposals contained in the Government of the United States' November 1997 submission.

The Government of the United States provided explanations of the U.S. items of interest to the

Government of Japan. Those items are set out in this report. The Government of Japan encouraged the Government of the United States to actively address these issues.

The Governments of the United States and Japan share the view, as discussed under the Enhanced Initiative, that these measures will improve market access for competitive goods and services, enhance consumers' interests, increase efficiency and promote economic activity. Consistent with international obligations, the measures undertaken under the Enhanced Initiative will provide nondiscriminatory treatment to foreign goods and services.

Both governments reaffirmed their determination to further promote deregulation and to continue dialogue under the Enhanced Initiative, including considering new issues. Recognizing the importance of broad-based deregulation in fostering competition, and that the energy sector is closely related to energy security and the global environment, the two governments will address deregulation matters under the Enhanced Initiative in an expert-level group to be established under the existing Japan-United States Energy Working Group. This expert-level group will be co-chaired by the Ministry of Foreign Affairs and the Ministry of International Trade and Industry for the Government of Japan and chaired by the United States Trade Representative for the Government of the United States.

The two governments recognize that implementation of the measures identified in this Report is an ongoing process and in many cases will require reform of relevant government laws, regulations, and guidance. Under the Enhanced Initiative, the two governments, upon the request of either government, will meet at a mutually convenient time to address these measures, and will work closely together to ensure that these measures contribute to fulfilling the objective of the Enhanced Initiative.

DEREGULATION AND OTHER MEASURES BY THE GOVERNMENT OF JAPAN  
UNDER THE ENHANCED INITIATIVE

A. Housing

1. Amendment of the Building Standards Law to introduce performance-based codes and a centralized evaluation system for new building materials by FY 2000 and to implement by FY 1999 upgraded and efficient building confirmation and inspection procedures, and newly simplified performance-based procedures to be implemented in FY 2000 for three-story, multi-family wood housing and certain commercial and mixed use wood buildings in quasi-fire protection districts (legislation submitted in the current session of the Diet).
2. Announcement of basic ideas on how to implement regulations related to the amended Building Standards Law to the parties concerned at the stage of its preparation over a two-year period beginning in June 1998.
3. Introduction and promotion of procedures for approval of three-story, multi-family wood housing and certain commercial and mixed used wood buildings in quasi-fire protection districts implemented beginning in August 1997.
4. Implementation of the testing methods and procedures for 2x4 construction, including pass/fail testing procedures; based on international and North American practices beginning in May 1998.
5. Recognition of American Standards Lumber Committee (ASLC) and Western Wood Products (WWPA) grademarks for machine stress rated lumber announced in February 1998, and recognition of ALSC and WWPA grademarks for finger-jointed lumber to be announced in May 1998.
6. Work toward recognition of the Underwriters' Laboratories as a fire testing laboratory for various fire preventative building materials.
7. Conclusion that the cordless nailer (IM350/90CTQ) does not fall within the definition of "firearms" in the Firearms and Swords Control Law in March 1998.
8. Continue ongoing dialogue on recognition of U.S. nails and nailing systems.
9. Continue ongoing dialogue on market access and standards-related issues in the housing sector, including detailed and timely review of measures to implement the amended Building Standards Law.

10. A revised Japanese Agricultural Standards (JAS) for structural plywood, emphasizing performance-based standards, including board strength, will be introduced during FY 1998.

## B. Telecommunications

### 1. Interconnection

- (1) Recommendation on methods for realizing number portability will be issued in FY 1998 based on a study conducted by experts.
- (2) Recommendation on the streamlining of the way to conclude interconnection agreements among more than two companies will be issued in FY 1998 based on a study conducted by experts.
- (3) The Government of Japan intends to submit a bill necessary to amend the Telecommunications Business Law (TBL) to the ordinary session of the Diet in the Spring of 2000 in order to implement long-run incremental cost methodology (LRIC) as early as possible. Once the bill is passed, the Government of Japan will expedite necessary procedures (e.g., the issuance of ministerial ordinances and approval of interconnection tariffs) so as to implement LRIC at the earliest possible date. Provided that all due procedures are completed expeditiously, LRIC will be implemented in CY 2000. In this process, due consideration will be paid to ensuring that the implementation of LRIC would cause no disruption of provision of universal service and that it would not prove destructive to end-user rates and business operations of incumbent local exchange carriers. Prior to the introduction of LRIC-based rates, the Government of Japan will, within the scope of its existing authority, promote the reduction of interconnection rates as much as possible.

### 2. Communications Satellite Digital Broadcasting

- (1) Relaxation of restrictions on the multiple ownership of channels for Communications Satellite Digital Broadcasting services in March 1998.
- (2) Permission for statistical multiplexing between CS digital broadcasting-consignors by the end of 1998.
- (3) Elimination of the full cost principle applied for the notification system of CS broadcasting transponder rates, expected to be implemented around June 1998.

3. International Simple Resale (*Ko-Sen-Ko*): Liberalization of international simple resale, implemented since December 22, 1997.

4. Foreign Investment Restrictions in KDD: Elimination of foreign investment restrictions in

KDD (law to be promulgated in May 1998).

5. The 100-Destination Rule: Elimination of restriction on international transit services (the 100 destination rule) by June 1998.
6. Licensing and Tariffs Procedures
  - (1) Introduction of legislation permitting tariffs on notification basis (law to be promulgated in May 1998).
  - (2) Permission for Type II telecommunications carriers to establish access line facilities that will connect single user facilities (law to be promulgated in May 1998).
  - (3) Narrowing the scope of Special Type II telecommunications businesses (law to be promulgated in May 1998).
  - (4) Introduction of measures to prevent predatory pricing (law to be promulgated in May 1998).

7. Ministry of Posts and Telecommunications' (MPT) Notice and Comment Procedures: Voluntary implementation by the MPT of a notice and comment process for major regulatory changes.

8. CATV Services: Conclusion of a study by the end of 1998 on restrictions on foreign investment for cable television operators with a view toward their removal.

9. Testing and Certifications

- (1) Simplification of application procedures for testing and approval of the Radio Equipment Testing and Approval Association (MKK) from September 16, 1997.
- (2) Simplification of MKK technical standard compliance certification from December 25, 1997.
- (3) Simplification of permission procedures for cable television facilities installation from April 1998.
- (4) Simplification of certifications of conformity with technical standards for radio equipment (law to be promulgated in May 1998).
- (5) Simplification of compliance approval with technical conditions for telecommunications terminal equipment (law to be promulgated in May 1998).

10. Rights of Way: Completion of a study by the end of 1998 on current conditions in Japan governing access to poles, conduits, ducts and rights-of-ways, with a view to proposing measures to improve the ability of CATV companies and telecommunications carriers to obtain timely, nondiscriminatory and transparent access to such resources.

C. Medical Devices/Pharmaceuticals

1. Greatly expanded acceptance of foreign clinical test data for approval of new medical devices, by interpreting the March 1997, Ministry of Health and Welfare (MHW) directive as broadly as possible.
2. Recognize the value of innovation of pharmaceuticals and medical devices, so as not to impede the introduction of innovative products which bring more effective and more cost-effective treatments to patients.
3. In order to ensure transparency in the consideration of health care policies, allow foreign pharmaceutical and medical device manufacturers meaningful opportunities to state their opinions in the relevant Councils on an equal basis with Japanese manufacturers, and provide them on their request, with opportunities to exchange views with MHW officials at all levels.
4. Shorten the approval processing period for new drug applications to 12 months by April 2000, with steady and continuous improvement between now and then, and to further speed the introduction of innovative new pharmaceuticals, significantly shorten approval times, particularly for priority drugs.
5. Expand acceptance of foreign clinical test data for pharmaceuticals through the incorporation of International Conference on Harmonization guidelines into Japanese domestic regulations by August 1998, and use an acceptance process that is transparent and avoids inappropriate delays.
6. Develop as soon as possible streamlined and transparent procedures for the prompt creation of new functional reimbursement categories for medical devices within a specified period of time considering the views of interested manufacturers, clinical experts, and others, subject to the approval of Central Social Insurance Medical Council (*Chuikyo*).

D. Financial Services

An extensive program of liberalization of financial services, extending until 2001, is being implemented according to the schedule set down in June 1997, and legislation to implement a significant part of the remaining program has been submitted to the Diet. The United States welcomed the progress made, and the Japanese intention to carry out the full program of liberalization within the proposed schedule.

1. Lifting of the ban on issuance of subordinated bonds by commercial banks (June 30, 1997).
2. Liberalization of intermediation of unlisted and unregistered equities by securities companies (July 1, 1997).
3. Introduction of options on individual stocks in the Tokyo Stock Exchange and the Osaka Stock Exchange (July 18, 1997).
4. Introduction of general securities accounts (similar to cash management account in the U.S.) (October 1, 1997).
5. Widening the scope of business activities for subsidiaries of financial institutions (October 1, 1997). Securities subsidiaries of banks are allowed to engage in secondary market business for equity related bonds and transactions related to stock index futures and options (excluding those that may require delivery of the underlying shares). Trust bank subsidiaries of securities firms are allowed to engage in loan trust, specified money trusts (*tokkin*) and directed money trust for separate investment (*shiteitan*).
6. Introduction of an off-hour trading system for block and basket trading in the Tokyo Stock Exchange (November 14, 1997).
7. Introduction of direct over-the-counter sales of investment trusts by securities investment trust companies on the premises of banks and other financial institutions (December 1, 1997).
8. Lifting of the ban on financial holding companies (March 11, 1998).
9. Liberalization, in principle, of cross-border capital transactions, as the revised Foreign Exchange and Foreign Trade Law came into effect. (April 1, 1998).
10. Liberalizing brokerage commissions on the portion of a transaction in excess of yen 50 million (April 1, 1998).
11. Abolition of the obligation for member insurers to use premium rates calculated by the rating organizations (under deliberation in the current session of the Diet and expected to be implemented on July 1, 1998).
12. Promoting transaction of assets through establishing a system for securitization of assets via special purpose companies (SPCs) (under deliberation in the current session of the Diet and expected to be implemented on September 1, 1998).
13. Introduction of new investment trust products such as company-type investment trusts and privately-placed investment trusts. (Under deliberation in the current session of the Diet and

expected to be implemented on December 1, 1998).

14. Full liberalization of securities derivatives (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
15. Elimination of restrictions on the scope of business activities for securities companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
16. Switch from a licensing system to a registration system for securities companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
17. Introduction of proprietary trading systems (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
18. Expansion of the scope of business activities for banks (lifting the ban on sales of investment trusts, etc.) and for subsidiaries of banks (to full financial related services.) (Under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
19. Creation of the Securities Investor Protection Fund, with accompanying measures, such as required separation of customer and proprietary accounts, to reduce participant risks, and creation of the Policy Holders Protection Corporations (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).
20. Requirement that corporate financial statements and disclosures should be made primarily on a consolidated basis (to be phased in from FY 1998).
21. Elimination of restrictions on the scope of business activities for securities operating subsidiaries of banks and trust bank operating subsidiaries of securities companies (expected to be implemented in the 2nd half of FY 1999).
22. Full liberalization of brokerage commissions (expected to be implemented by the end of 1999).
23. Mutual entry between the insurance businesses and other financial business areas (expected to be implemented by March 2001).
24. Allowing investment trust management companies and investment advisory companies to grant discretionary authority to other fund management companies (under deliberation in the current session of the Diet and expected to be implemented on December 1, 1998).

## E. Distribution

### 1. Customs/Import Processing

- (1) Introduced an interagency network system which links the customs clearance computer systems with the computer systems of the Ministry of Health and Welfare (MHW) and the Ministry of Agriculture, Forestry and Fisheries (RAFF), in order to expedite import procedures.
- (2) To enable swift import clearance, Japan Customs introduced several measures, such as expanding pre-arrival review, providing prior classification information by facsimile and so-called clearance-upon-arrival through the use of customs clearance system for air cargo (Air-NACCS: Nippon Automated Cargo Clearance System).
- (3) Prior classification information system using e-mail will be established by the end of 1998.
- (4) Upgrade the customs clearance computer system for maritime cargo (Sea-NACCS) by the end of FY 1999:
  - a. to enable swift import clearance for maritime cargo with sophisticated linkage between cargo status information and import declaration information; and
  - b. to enhance the interagency network system in order to link with the computer systems of other agencies concerned to realize one-stop service on import and export procedures.
- (5) EDI filing for import-export permits and approvals under the provisions of the Foreign Exchange and Foreign Trade Law will be instituted by FY 1999.

### 2. Retailing and Services

- (1) Fundamental Changes of Policy Concerning Large Scale Retail Stores: Submission of a bill to introduce a new legal regime to address current and new concerns involved in the opening and operating of large-scale retail stores. This new legal regime will eliminate the use of supply/demand adjustment mechanisms and require local governments to apply transparent criteria that are limited to environmental factors, e.g., traffic and noise, set out in guidelines issued by the central government. The current Large Scale Retail Store Law will be thereby abolished.
- (2) Liquor: With regard to liquor retail license, the restriction on the number of licenses issued per a definite population will steadily be phased out from September 1998, to be abolished as of September 1, 2003. The restriction on proximity to existing

premises will be abolished on September 1, 2000.

3. Transportation

(1) Trucking Business

- a. Enlargement of the operation zones to cover entire regional economic blocs will be completed during FY 1998; and
- b. Minimum number of vehicles for a trucking business will be gradually reduced to five for every region of the country by FY 2000.

(2) Requirements for the submission of cost account statements, concerning fees and charges for freight forwarding business, will be eased by FY 1998.

(3) Necessary measures will be taken concerning port transportation business to comply with the contents of the final Report submitted by the Administrative Reform Committee in December 1997, which included the following points: the abolition of the current business licensing system (demand-supply adjustment regulation), to be replaced by an approval system; the abolition of the current approval system for charges, to be replaced by a notification system; and at the same time, the examination and implementation of various measures for ensuring stability of port transportation.

4. Standards, Specifications and Certification of Vehicles

- (1) The current system for automotive repair mechanics is being reviewed, taking into account comments and opinions of interested domestic and foreign parties, with deregulation as one of the objectives.
- (2) Extension of the period of validity of completion inspection certificate from six months to nine months (legislation for the revision of the Road Vehicles Act submitted to the current session of the Diet).

F. Competition Policy

1. The Japan Fair Trade Commission (JFTC)

- (1) The JFTC reaffirms its commitment to effectively enforce and strictly apply the Antimonopoly Act in accordance with relevant guidelines to address anti-competitive practices, including cases where any practices, such as those with retaliatory threats, by an influential manufacturer against distributors lead to exclusion of its competitors.

- (2) When the JFTC as part of an economic survey recommends that firms implement measures, the JFTC will undertake a follow-up survey to assess whether firms have implemented measures recommended by the JFTC and report the results to the public.
2. Budget and Resources: The Government of Japan will increase JFTC staff by 10 persons and its budget by 1.1% in FY 1998.
3. Surveys: The JFTC will:
  - (1) Conduct a survey of the Antimonopoly Act compliance programs of the top 2000 Japanese firms, with a report to be issued in summer 1998. In this regard, the JFTC is prepared to consult with and give advice to firms concerning their compliance programs.
  - (2) Conduct a follow-up survey of the photographic color film and paper industry to assess how firms have addressed the JFTC's suggestions; and
  - (3) Conduct a follow-up survey of the flat glass industry to assess how firms have addressed the JFTC's suggestions.
4. Private Remedies: The Government of Japan established study groups (MITI in September 1997 and JFTC in March 1998) to consider systems to permit private parties to sue for injunctions against violations of the Antimonopoly Act with reports to be expected in Summer 1998 and Fall 1998, respectively.
5. Exemption Systems of the Antimonopoly Act: The Government of Japan will submit legislation to the next ordinary session of the Diet to abolish or reform exemption systems (including anti-depression cartels and rationalization cartels), based on a March 1998 cabinet decision.
6. Deregulation: The JFTC will actively conduct surveys and make necessary proposals regarding the business field where entry is restricted by supply-and-demand adjustment regulations as well as business fields where entry regulations have been relaxed.
7. Bid-rigging:
  - (1) The Government of Japan will take necessary measures to secure full compliance with section V.6(1) "Confirmation in Tendering Documents" of the "1994 Action Plan on Reform of the Bidding and Contracting Procedures for Public Works," which requires participants in bidding to confirm in tendering documents that they recognize they may not engage in practices inconsistent with the Antimonopoly Act, and that they are indeed not involved in such practices.

- (2) To increase transparency in the bidding process, the Government of Japan will disclose the scheduled price (*yotei kakaku*) for public works projects after the results of the tenders are released.

#### G. Legal Services

The current session of the Diet passed legislation that will:

1. Reduce the experience required to register as a *gaikokuho-jimu-bengoshi* (foreign legal consultant) from five years to three years, while at the same time reducing the amount of time spent in Japan that would count toward meeting that requirement from two years to one year.
2. Allow a foreign lawyer to count toward meeting the experience required to register as a foreign legal consultant, the time spent practicing the law of the lawyer's home jurisdiction in a third country.
3. Liberalize the ability of a *gaikokuho-jimu-bengoshi* to practice third country law with written advice from foreign lawyers qualified in that third country.

4. Expand the purpose of joint enterprises between *gaikokuho-jimu-bengoshi* and *bengoshi* with a view to enabling the joint enterprises to provide full legal services throughout the entire process including judicial and administrative proceedings in cases involving foreign legal matters.

#### H. Transparency and Other Government Practices

##### 1. Public Comment Procedures

- (1) Reach a conclusion concerning an administrative measure for public comment procedures for the introduction, amendment, and abolition of regulations by Spring 1999.
- (2) "Central Government Reform Bill" (tentative translation) which provides that the Government of Japan shall consider utilizing and establishing a mechanism of public comment procedures for the purpose of reflecting public opinions in its policy-making process, and thereby securing fairness and transparency in the process (legislation submitted to the current session of the Diet).

##### 2. Application Process

- (1) Review the examination standards for the issuance of licenses, permits, and approvals with the aim of clarifying, specifying, and quantifying the examination

standards while minimizing discretionary factors.

- (2) Simplify and speed up the examination procedures for licensing, permits and approvals with measures to be specified by the end of September 1998 and promptly implemented.
  - (3) Enforce strictly the Administrative Procedure Law.
3. Establish a study group to explore means of introducing the use of overall greatest value methodology for procurement by local governments, with a view to taking necessary measures, including submission of a bill amending the Local Autonomy Law, as appropriate, in FY 1999,

#### H. Deregulation Entity

Under the new "Three-Year Program for the Promotion of Deregulation," the Government of Japan mandates the Deregulation Committee under the Administrative Reform Promotion Headquarters which consists of Prime Minister as its chairman and all cabinet ministers to: (1) monitor implementation of Japan's deregulation measures decided by the new three-year deregulation promotion program, and (2) address new deregulation challenges. In order to enable the Committee to execute these mandates, the Government of Japan announced on May 8, 1998, to expand the Committee's membership from seven to eleven, and decided to strengthen the function of its secretariat, especially that of conducting research upon the Committee's request, and established a new research division of about fifteen supporting staff on May 11, 1998, with a view to making the Committee's activities more efficient.

## U.S. ITEMS OF INTEREST TO THE GOVERNMENT OF JAPAN

1. Structural Issues, Transparency and other Government Practices
  - (1) Buy America Clauses
  - (2) Measures under Ocean Shipping Reform Act of 1997
  - (3) Maritime Security Program
  - (4) Requirements to Transport on U.S. Flag Vessels
  - (5) Provisions requiring the use of ships built in the United States in the coastal shipping service
  - (6) U.S. and International Standards for Oil Tankers for the Protection of the Marine Environment
  - (7) Anti-dumping
  - (8) Anti-Monopoly Exemption Clause on Insurance Industry
  - (9) Visa Issuance Process
  
2. Telecommunications
  - (1) Federal Communication Commission's (FCC) Order on Foreign Participation in the U.S. Telecommunications Market
    - a. Licensing Criteria,
    - b. Regulations on Dominant Carriers, and
    - c. Standard Processing Period
  - (2) FCC's Order Concerning International Settlement Rate Benchmarking
  - (3) FCC's Order to allow Non-U.S.-Licensed Satellites to Provide Services in the United States
  - (4) Method for Sharing the Costs for Utilizing Internet Communication Circuits.
  - (5) Implementation of LRIC to calculate interstate access charges in the United States at the same time as Japan does.
  - (6) Transparency in preparation of the Government of the United States' LRIC models.
  
3. Medical Devices and Pharmaceuticals
  - (1) Promotion of Mutual Recognition of Good Manufacturing Practices (GMP) of pharmaceutical and medical devices between the United States and Japan.
  - (2) Medical Devices: Simplification and Acceleration of Procedure 510(k) Notification Submission.
  - (3) Pharmaceuticals: Allowing the Notification to the Food and Drug Administration (FDA) after the Alteration of the Manufacturing Methods.
  - (4) Simplification of the data submitted for investigational new drugs (IND).
  
4. Financial Services
  - (1) An abbreviated examination system for licensing of Japanese and other foreign securities representatives, for conducting business with the NYSE, NASD, and AmEx exchanges.

- (2) Minimizing the overlap between federal and state securities registration requirements, and prohibiting states from limiting or imposing conditions on the sale of most securities.
- (3) Allowing bank holding companies and foreign banks with subsidiaries in more than one state to merge or consolidate these bank subsidiaries into a single bank with interstate branches (except in states that specifically prohibit such interstate branching networks).
- (4) An expanded list of activities (contained in Regulation Y) that bank holding companies and foreign banking organizations are permitted to engage in, to include: riskless principal, private placement, proprietary trading and other activities that had been previously approved only in individual Board orders; streamlined application or notification procedures for bank holding companies or foreign banks to engage in regulation Y activities or to acquire a firm engaged in such activities.
- (5) Amending Regulation K which governs the foreign operations of U.S. banks and U.S. operations of foreign banks, including revisions that would change how Qualifying Foreign Banking Organization status is calculated for purposes of determining eligibility for certain exemptions from nonbanking restrictions.
- (6) Financial modernization legislation to allow common ownership of banking, securities and insurance companies, subject to certain restrictions an affiliation with non-financial firms.

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**FOR IMMEDIATE RELEASE  
Monday, May 18, 1998**

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**USTR BARSHEFSKY INITIATES INVESTIGATION OF MEXICAN PRACTICES  
AFFECTING  
HIGH FRUCTOSE CORN SYRUP (HFCS)**

United States Trade Representative Charlene Barshefsky announced today her decision to initiate an investigation of Mexican practices affecting high fructose corn syrup (HFCS). This decision is in response to a petition filed by the Corn Refiners Association, Inc., under section 301 of the Trade Act of 1974, alleging that certain practices of the Government of Mexico deny fair and equitable market opportunities for U.S. exporters of HFCS. In particular, the petition alleges that, in September 1997, with the support and encouragement of the Government of Mexico, representatives of the Mexican sugar industry and the Mexican soft drink bottling industry entered into an agreement to limit the soft drink industry's consumption of HFCS.

"This petition raises serious allegations to be investigated," Ambassador Barshefsky said. The United States will immediately request consultations on the matter with the Government of Mexico.

Section 301 provides the means for businesses and workers in the United States to seek the aid of the government to respond to unfair trade practices which burden or restrict U.S. commerce. The investigation must be concluded within 12 months of initiation. Copies of the petition are available in the USTR Reading Room.

The White House

Office of the Press Secretary  
(London, England)

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For Immediate Release

May 18, 1998

Fact Sheet

**BUILDING A STRONGER WORLD COMMUNITY:  
THE TRANSATLANTIC ECONOMIC PARTNERSHIP**

President Clinton, Prime Minister Blair, and EC President Santer today launched the new "Transatlantic Economic Partnership" to strengthen the already close relationship between the United States and European Union through a new comprehensive trade initiative. The new initiative hopes to build on the two-way trade in goods and services which exceeded \$600 billion in 1997 and the combined investment in each other's economies of over \$700 billion.

The "Transatlantic Economic Partnership" outlines a three pronged market-opening approach:

1. Achieving near-term market access gains for goods, services and agricultural products;
2. Promotion of multilateral and bilateral trade liberalisation through the World Trade Organization (WTO) and other international institutions for the reduction or elimination of barriers that hinder the flow of goods, services, and capital;
3. The expansion and deepening of the transatlantic dialogue between representatives of non-governmental, parliamentary, and governmental organizations on trade and investment issues.

The new initiative covers more than a dozen areas where the US and EU will negotiate the reduction and elimination of existing trade barriers, or improve regulatory cooperation in areas such as services, industrial tariffs, agriculture, global electronic commerce, intellectual property rights (IPR), investment, government procurement, and business facilitation. The initiative will also improve the efficiency and effectiveness of regulatory procedures with regard to food safety and the approval of biotechnology products.

With the goal of achieving substantial results by the year 2000, this new U.S.-E.U. trade initiative will specifically cover the following areas:

- **Agriculture - Improving Scientific and Regulatory Cooperation.** The United States and the European Union have agreed to improve our scientific and regulatory cooperation

and address specific issues in areas such as biotechnology, food safety, and other sectors that affect human and animal health. These important steps will reduce trade frictions in our \$15 billion two-way agricultural trade.

- **Reducing Regulatory Barriers.** The business community has identified these barriers as the most significant obstacle to the expansion of trade. That is why the United States and the European Union have agreed to eliminate or substantially lower barriers to trade by providing more effective and efficient coordination of standards and regulations, without reducing our commitment to high levels of health, safety, and environmental protection.
- **Services -- Reducing Red-Tape To Lower Costs for Consumers.** The United States and the European Union agreed to further open our vast services markets -- which encompass such areas as telecommunications, insurance, travel and tourism, and distribution. This initiative will reduce red tape, accelerate the movement of goods and services, and therefore, translate into lower costs for consumers.
- **Global Electronic Commerce -- Working To Keep E-Commerce Duty-Free.** In an area expected to grow to \$300 billion in the next three years, the United States and the European Union agreed to develop a work program in the WTO, and to a standstill commitment that ensures electronic transmissions will remain duty-free.
- **Labor Standards -- Advancing Core Labor Standards.** The United States and the European Union agreed to advance core labor standards on an international basis, and to support an agreement on an ILO declaration and implementation mechanism.
- **Environment -- Developing Common Approaches to Trade-Related Environmental Areas.** The United States and the European Union agreed to develop common approaches in trade-related environmental areas. This could include a commitment to high levels of environmental protection and identifying other trade partners where joint efforts can result in improved environmental protection.
- **Intellectual Property Rights (IPR) -- Protecting IPR in the US, EU and Around the World.** Recognizing the central role of IPR as a basis for economic, scientific, and artistic creativity, the United States and the European Union agreed to work together on improving IPR protections in America, the EU, and in other countries.
- **Public-Private Participation -- Helping Shape the Transatlantic Economic Partnership.** The United States and the European Union agreed to open up the transatlantic economic

partnership to include interests such as business, labor, consumers, environment, and other NGOs, to help shape the agenda. We recognize the important contributions of the Transatlantic Business Dialogue and urge it to continue its active participation, so that we establish a model for the world trading system that is accessible and open.

The White House  
Office of the Press Secretary  
(London, England)

FOR IMMEDIATE RELEASE  
May 18, 1998

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### **New Transatlantic Economic Partnership to Accelerate Trade Growth**

U.S. Trade Representative Charlene Barshefsky announced today at the U.S.-EU Summit in London that the United States and the European Union will launch a new trade expansion initiative, the Transatlantic Economic Partnership, aimed at substantial market-opening gains by the year 2000. The initiative outlines a three-pronged market-opening approach: achieving near-term market access gains for goods, services and agricultural providers; delivering results on longer term U.S.-EU trade issues, both bilaterally and multilaterally; and expanding the initiative to include broad participation among business, labor, consumers and environmental interests.

"The Transatlantic Economic Partnership will open up significant new opportunities for U.S. agricultural, services, and goods providers in EU markets, particularly given the massive size of the U.S.-EU trade relationship," Barshefsky continued. "This initiative gives us the opportunity to accelerate our export growth substantially."

The new initiative covers more than a dozen areas where the U.S. and EU will negotiate the reduction or elimination of existing trade barriers, or improve regulatory cooperation in such areas as manufactured goods; agriculture, including biotechnology; services; industrial tariffs; global electronic commerce; intellectual property rights (IPR); investment; government procurement; and competition. It will also improve the efficiency and effectiveness of regulatory procedures (e.g., standards, testing, and certification). U.S. and EU companies regard the presence of incompatible or duplicative regulatory policies as among the most difficult obstacles, especially for small and medium-sized firms, for which compliance can be prohibitively costly.

This initiative will cover the most dynamic and fast-growing areas of U.S.-EU trade. Economic sectors to be addressed under this initiative are among the most dynamic and fast-growing areas of trade:

- The initiative will create new opportunities across vast areas of services trade which include telecommunications, insurance, travel & tourism, and distribution, U.S. services exports to Europe are approximately \$70 billion.
- Agricultural issues to be addressed in the scope of this initiative will facilitate exports and reduce trade friction in our \$15 billion two-way agricultural trade, with soybeans, corn, consumer foods, and animal feeds among the top U.S. agricultural exports.

- By committing to maintain duty free conditions for electronic commerce, the initiative serves as a model for other bilateral and multilateral initiatives to accelerate e-commerce, which is expected to reach \$300 billion by 2001.

"We have developed a practical, results-oriented trade initiative which focuses on important and high value areas of trade, while maintaining our high level of protection for health, safety and environment," said Ambassador Barshefsky. "The new initiative will contribute directly to more affordable goods, services, job creation and economic growth for both Europeans and Americans."

The new initiative also outlines shared multilateral objectives including the development of an ambitious negotiating agenda when market-opening WTO talks for agriculture are launched in 1999, and when WTO services negotiations begin in 2000. Additionally, the new initiative seeks to develop common approaches to trade and the environment, and the international promotion of core labor standards.

The Joint Statement on the Transatlantic Economic Partnership released at the U.S.- EU Summit describes the intent of the two sides to greatly intensify their cooperation and joint action on trade and to provide an innovative opportunity to business, labor, consumers, environment and other NGO's to help shape the process.

In 1997, two-way U.S.-EU trade in goods and services plus investment income totaled over \$600 billion. Leading U.S. goods exports to Europe include machinery, electrical equipment, aircraft, medical equipment, autos & auto parts, and total goods exports exceeded \$140 billion in 1997. Combined investment exceeded \$700 billion in 1996. Approximately half of U.S. foreign direct investment abroad goes to the EU, and roughly the same percentage of European foreign direct investment is in the U.S. As a result, three million U.S. factory workers -- one in every twelve -- are now employed by European-owned firms. In addition, over one million U.S. jobs result from exports to the EU.

In the weeks to come, the U.S. and EU will draw up a specific action plan for achieving concrete results for our industry by 2000, and create a framework for on-going consultation, cooperation and negotiations to expand our trade relationship in the longer term. Throughout these discussions, USTR and other relevant agencies will undertake broad consultations with Congress, business, labor and nongovernmental organizations to refine U.S. negotiating objectives.

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**FOR IMMEDIATE RELEASE**  
Wednesday, May 20, 1998

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**WTO MINISTERIAL BOOSTS MOMENTUM FOR TRADE EXPANSION**

At the conclusion of the second Ministerial Conference of the World Trade Organization (WTO) and the 50th Anniversary Commemoration of the General Agreement on Tariffs and Trade (GATT), in Geneva, Switzerland, United States Trade Representative Barshefsky said, "This meeting demonstrates that there is strong momentum throughout the world for market opening reform and U.S. leadership is critical to moving this process forward."

She praised the outcome of the Ministerial and commented, "We are at a critical moment in preparing the trading system and its institutions for the 21st century. Making the WTO more transparent and accessible for all our citizens is critical if we are to build public confidence necessary for further trade expansion."

Ambassador Barshefsky remarked further, "I was particularly pleased that President's Clinton's offer to host the 1999 Ministerial was welcomed by the WTO Membership. This demonstrates the continuing U.S. commitment to further opening global markets and a recognition of U.S. leadership." The WTO member countries named Ambassador Barshefsky as chair of the 1999 Ministerial.

"I am also gratified by our success in securing global commitments on electronic commerce," Ambassador Barshefsky stated. "Within the past week, we also secured separate agreements with Japan and the EU on this issue. In Geneva, the WTO Ministers agreed to take the first step in creating the predictable and stable environment that is vital to the growth of electronic commerce. The two main elements include: a commitment by governments to not impose customs duties on Internet electronic transmissions and setting up a work program to examine the wide range of trade issues that are related to electronic commerce."

While the ministers also agreed to examine all options for negotiations in 1999, the built in agenda of the WTO will proceed as previously agreed regardless of any other decisions made.

"In his remarks before the WTO, President Clinton stressed, among other issues, the urgent need for the WTO to respond to citizens of the world, increase transparency and create an on-going dialogue with labor, consumer, environmental, and other interests."

Ambassador Barshefsky added, "We need to take immediate and decisive action to open up our institutions - from consultations to dispute settlement. We should make sure that trade officials spare no effort to address the range of issues to expand transparency and accountability. I was struck that countries at all levels of development made reference to the importance of increasing public understanding and promoting transparency as the best means to do so."



## UNITED STATES CHALLENGES WTO TO BUILD ON FOUNDATIONS TO MEET 21ST CENTURY NEEDS

United States Trade Representative Charlene Barshefsky praised the outcome of the second Ministerial Conference of the World Trade Organization (WTO) and 50th Anniversary Commemoration of the General Agreement on Tariffs and Trade (GATT) as marking a critical moment in preparing the multilateral trading system and its institutions for the 21st century.

President Clinton inaugurated the 50th Anniversary celebration in a special session on Monday, calling for WTO member countries to set a bold course for the future. In his address to trade delegates from the member countries and 13 other Heads of State, President underscored the importance of the GATT and the WTO in expanding worldwide prosperity and stability through the progressive reduction of tariff and non-tariff barriers to trade. The President charted a bold course for the future, challenging the WTO to adapt to the pace of the 21st century global economy; to respond to the needs and interests of all citizens by increasing openness and participation across society; and fulfill its commitments to further market-opening actions. In achieving key U.S. priorities including a commitment in the WTO to duty free global electronic commerce (GEC) and the U.S. hosting the next Ministerial session in the United States in 1999, the President further underscored the commitment of the United States to continued leadership in the WTO. WTO members asked that Ambassador Barshefsky chair the process leading to the 1999 Ministerial as well as the Ministerial itself.

United States Trade Representative Charlene Barshefsky noted the following highlights of the GATT 50th Anniversary WTO Ministerial:

### **Building a Foundation for Future Negotiations in Agriculture, Services and Other Areas.**

Trade Ministers issued clear and detailed instructions to begin preparations for the next ministerial meeting toward developing a common view of the issues to be negotiated in the future. However, it was agreed that negotiations on the built-in agenda including agriculture and services, will proceed in 1999 and 2000 respectively, regardless of the overall review process. This process will be launched at a special meeting of the WTO's General Council in September 1998.

Also following on the President's challenge, the preparations will take a look at what options exist for shaping the timeframes and structure of the WTO work program. At the next Ministerial, Trade Ministers will consider recommendations put forth on all of the above issues in order to fix the precise scope, content and duration of the WTO's next phase of market-opening reforms.

**Implementation of Existing Market-Opening Commitments.** To ensure progress in on-going negotiations, Trade Ministers underscored the importance of fully implementing market-opening commitments already in place among both developed and developing countries.

**Expanding the Frontiers of Open Markets in Technology-Driven Trade.** Building on last year's three major agreements -- the Information Technology Agreement (ITA), Telecommunications Services, and Financial Services -- Trade Ministers today issued a separate declaration highlighting the increasing importance of electronic commerce to the trading system of

the next century.

The Trade Ministers reached a two-part agreement on a U.S. proposal put forward by the United States which will:

- (1) Put in place a "standstill" commitment by WTO Members not to impose customs duties on cross-border electronic transmissions during the period of the WTO's review; and
- (2) Establish a work program in the WTO to study all trade-related dimensions of electronic commerce in time for the next WTO ministerial meeting.

This year, \$8 billion will be spent on the Internet, while it is estimated that, in 2002, \$327 billion will be spent over the Internet on goods, information and services. The initiation of this WTO work program marks an important first step in expanding the reach of open markets and free competition in the frontier regions of business and technology.

**A Modern System Reflective of Traditional Values and Broader Citizen Participation.**

President Clinton called on the WTO to become more open and accountable to increase public confidence in the WTO and advance support for open markets. The President called for the WTO to be more accessible and responsive to broader constituencies including labor, environmental, consumer and other interests. Specifically, the President called for opening dispute settlement proceedings to the public; making dispute settlement briefs publicly available; including private citizens in the process through the filing of amicus briefs to dispute settlement panels; and distributing dispute settlement panel reports immediately upon their issuance. The President also sought the creation of a consultative forum where business, labor, consumer and environmental groups can engage directly with the WTO. He also called for a high-level meeting between trade and environment ministers to provide new energy and direction in these areas. The Trade Ministers' Declaration at this meeting reflects a measure of progress in recognizing the need to review and improve WTO transparency."

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**FOR IMMEDIATE RELEASE  
Wednesday, May 27, 1998**

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**USTR BARSHEFSKY ANNOUNCES INITIATION OF  
SPECIAL 301 "OUT-OF-CYCLE" REVIEW OF NEW ZEALAND**

United States Trade Representative Charlene Barshefsky today announced the immediate initiation of an out-of-cycle review of the adequacy and effectiveness of New Zealand's intellectual property regime. In announcing this review, Ambassador Barshefsky said,

"We are seriously concerned by the Government of New Zealand's recent decision to reduce the level of intellectual property protection in New Zealand by eliminating parallel import protection for copyrighted works. We are troubled that this far reaching decision would be taken with such haste and with so little consultation with concerned interests, both foreign and domestic."

The Government of New Zealand made its intentions known on this important intellectual property issue for the first time as part of its annual budget release on May 14th. The Government then pushed through this amendment to the Copyright Act over the objection of certain domestic and foreign interests only two days later on Saturday, May 16. The United States is concerned that the Government of New Zealand has failed to adequately consider the full impact of this decision.

Ambassador Barshefsky concluded by saying, "We remain hopeful that the Government will reconsider this unfortunate decision which will undermine U.S. domestic support for efforts to enhance and expand our bilateral trade and investment relationship."

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**FOR IMMEDIATE RELEASE  
Wednesday, May 27, 1998**

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**STATEMENT OF AMBASSADOR BARSHEFSKY**

Ambassador Charlene Barshefsky today endorsed USDA Secretary Dan Glickman's announcement that the United States will use the export enhancement program (EEP) to respond to the EU's heavily subsidized sale in April of barley to the United States. USDA's use of the EEP to support the export of 30,000 tons of U.S. barley to buyers in Algeria, Cyprus, and Norway is an appropriate and necessary response to the EU's ill-considered action, and sends a clear message that such sales should not recur.

"America's barley growers are right to protest the EU use of export subsidies to ship barley into the United States, a market that had been subsidy-free prior to the EU action. The EU action runs counter to the spirit of the recently announced U.S.-EU Transatlantic Economic Partnership. The subsidized sale also highlights once again the trade-distorting impact of the EU's Common Agricultural Policy."

"Today's action is a visible demonstration that the Clinton Administration is taking seriously this action by the EU and that the Administration is prepared to use our existing tools, such as the EEP, in a creative fashion to respond to specific trade injury."

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FOR IMMEDIATE RELEASE  
Thursday, May 28, 1998

98 - 54  
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**WTO ARBITRATOR DECIDES EU MUST COMPLY WITH WTO  
OBLIGATIONS AND REMOVE BEEF HORMONE BAN BY MAY 1999**

The United States Trade Representative applauded a WTO arbitrator's decision requiring prompt compliance by the European Union (EU) with WTO recommendations pertaining to the EU's import ban on meat produced using growth-promoting hormones. In rejecting EU arguments that the required compliance should be deferred until additional scientific studies could be completed, the arbitrator required that EU implementation must be completed by no later than May 13, 1999. This decision follows the WTO's February 1998 findings that the EU's ban is inconsistent with its obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement).

The arbitrator found that the period for implementation should not set aside time for additional risk assessments to be concluded. The arbitrator's decision sends an unmistakable message that the time for delay is over.

"Withdrawal of the EU hormone ban is the only way to bring EU directives into compliance with its WTO obligations," Ambassador Barshefsky said. "There is no convincing or rational basis for the bans. The EU import prohibition was not based on a risk assessment in accordance with the provisions of the SPS Agreement." She added, "We expect that the EU will now take the necessary steps to bring its policies into compliance with WTO obligations by moving to lift the ban on beef from the United States and other affected countries. We stand ready to work with EU officials toward resuming normal trade in this area as soon as possible and will continue to monitor EU implementation of the WTO decisions to ensure timely compliance."

The arbitration decision, resulting from an EU request that a WTO arbitrator determine the period available to the EU to implement the conclusions reached by the WTO earlier this year, shows once again that the WTO dispute settlement system can handle complex and difficult disputes. The arbitration ruling is an important reaffirmation of principles significant to both the WTO dispute settlement system and the SPS Agreement. By emphasizing that prompt compliance with DSB recommendations is essential and that delays in implementation will not be accepted, the

arbitration award reinforces the rights of WTO Members to prompt remedies where WTO obligations have been abrogated.

### Background

In this dispute, the United States challenged the EU ban on imports of animals and meat from animals which were administered any of six hormones for growth promotion purposes. At the request of the United States, the WTO Dispute Settlement Body (DSB) established a panel on May 20, 1996. Canada also requested a panel, which was established on October 16 and was comprised of the same panelists as in the U.S. case. The final report, released on August 18, 1997, found that the EU ban violates the EU's obligations under the SPS Agreement. The panel report found that the EU ban is not based on scientific evidence and is not based on a risk assessment or on the relevant international standards. On September 24, the EU filed a notice of appeal.

The appellate report was issued on January 16, 1998. The Appellate Body ("AB") found that the EU's ban on importation of beef from cattle treated with growth promotion hormones is not consistent with the EU's obligations under the SPS Agreement. The AB report concluded that the EU measure failed to satisfy the requirements of Articles 3.3 and 5.1 of the SPS Agreement because the risk assessments that had been performed did not support the ban. The Appellate Body found that while a country has broad discretion in electing what level of protection it wishes to implement, in doing so it must fulfill the requirements of the SPS Agreement, including the requirement for a risk assessment that supports the sanitary measure, as well as sufficient scientific evidence.

At its February 13, 1998 meeting, the WTO Dispute Settlement Body adopted the Appellate Body and Panel reports on hormones. Under Article 21 of the Dispute Settlement Understanding, the EU was required to state its intentions in respect of the implementation of the recommendations and rulings of the DSB. The EU indicated at the DSB meeting on March 13 that it intended to comply with its WTO obligations. Article 21.3 provides that if it is "impracticable" for a WTO Member to comply immediately with the recommendations of the DSB, the Member shall be permitted a reasonable period of time within which to implement. When the EU, Canada, and the United States could not agree on a time period for implementation, the EU resorted to binding arbitration to obtain a decision.

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**FOR IMMEDIATE RELEASE  
Thursday, May 28, 1998**

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**USTR EXPRESS SERIOUS CONCERN ABOUT BRITISH COLUMBIA'S STUMPAGE FEES**

British Columbia (BC) Premier Glen Clark and Forestry Minister David Zirnheld announced today a decision to reduce stumpage fees by \$8.10 on the coast and \$3.50 (Canadian dollars) on the interior effective June 1, 1998. U.S. Special Trade Negotiator, Ambassador Peter L. Scher, made the following statement in response:

"We are extremely disappointed by the decision announced today in British Columbia to reduce stumpage fees. We are obviously concerned about the implications of this action for the U.S.-Canada Softwood Lumber Agreement -- an agreement that has been working effectively for the United States and Canada. We will review the actions announced today and consider all our options in defending US interests."

The 1996 Softwood Lumber Agreement settled a complex and long running trade dispute with Canada and has benefitted both U.S. and Canadian lumber producers. Stumpage fees in BC are the price that the provincial authorities charge lumber companies to cut and remove timber from provincially-owned land. The Softwood Lumber Agreement is designed to help mitigate the adverse implications of this practice, which the U.S. lumber industry views as a subsidy.