

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20506

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

FOR IMMEDIATE RELEASE
Wednesday, April 30, 1997

97 - 37
Contact: Jay Ziegler
Kirsten Powers
Christine Wilkas
(202) 395-3230

USTR ANNOUNCES RESULTS OF SPECIAL 301 ANNUAL REVIEW

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

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

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

Accomplishments Over The Past Year

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

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

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

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

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

Implementation of the TRIPS Agreement

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

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

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

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

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

WTO Dispute Settlement

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

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

These actions can be summarized as follows:

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

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

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

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

and trademarks (denial of national treatment).

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

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

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

Special 301 Decisions

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

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

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

The USTR also announced placement of 36 trading partners on the special 301 "watch list," and that "out-of-cycle" reviews would be conducted with seven of these trading partners -- Bulgaria,

Canada, Hong Kong, Luxembourg, Panama, Thailand and Italy.

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

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

FACT SHEET"SPECIAL 301" ON INTELLECTUAL PROPERTY RIGHTSACTIONS TAKEN

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

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

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

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

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

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

intellectual property protection.

STATUTORY AUTHORITY

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

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

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

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

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

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

DESCRIPTION BY COUNTRY OF EXISTING SITUATION AND MEASURES TAKEN

SECTION 306 MONITORING

China: As a result of our Special 301 investigation and the agreement on the June 1996 enforcement accord, China has begun to take meaningful, serious action to halt CD export piracy. Close to 40 underground production facilities have been closed, over 250 people have been arrested with resulting jail sentences being handed down. In addition, Customs has stepped up raids at the border and seized smuggled CD production equipment. Rewards are now being offered of up to \$75,000 for information leading to the closure of illegal production facilities. Nonetheless, pirate production of CD/CD-ROMs/VCDs continues to be a serious problem and domestic end-user piracy rates remain high. The United States Government will continue to monitor closely China's implementation of the 1995 and 1996 enforcement agreements.

PRIORITY WATCH LIST

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

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

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

Egypt is taking significant steps in improving the legal framework for protection of copyright works. However, because of a lack of sufficient enforcement and the failure to impose deterrent penalties there as not been a significant reduction in piracy, particularly with respect to video, book, and

software. In addition, the United States remains seriously concerned about the lack of effective patent protection in Egypt. The United States urges Egypt to enact promptly a modern patent law that provides immediate patent protection for all types of products, including pharmaceuticals, agricultural chemicals and foodstuffs.

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

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

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

Indonesia: While the Government of Indonesia (GOI) has signaled its intent to address government use of pirated software, and the parliament has passed revised IPR laws, serious problems persist in Indonesia on enforcement, protection of well-known trademarks, and market access. At the end of 1996, Indonesian government procurement officials began discussions with U.S. software producers on arrangements for purchasing legitimate product. In March 1997, the Indonesian parliament passed revised copyright, patent, and trademark laws with the stated intent of bringing Indonesia into

closer compliance with its TRIPs obligations. Nevertheless, U.S. firms continue to face inadequate enforcement against retail and end-user software piracy and video compact disk (VCD) piracy at the retail level. Although the Government of Indonesia is beginning to develop an enforcement response, enforcement efforts have not yet been regular, aggressive, or comprehensive enough to address effectively the problems of software and VCD piracy. Also, U.S. companies experience serious problems in Indonesia from counterfeiting and appropriation of their trademarks by local registrants and have problems with the protection of well-known trademarks. Finally, pervasive market access barriers impede the full entry of all copyright-based industries into the Indonesian market.

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

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

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

WATCH LIST

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

Countries placed on the watch list are:

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

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

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

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

Bulgaria: The Government of Bulgaria has implemented a substantial portion of its commitments

under an April 1995 exchange of letters by adhering to the Geneva Phonograms Convention and publishing a statement in its official gazette confirming copyright protection for U.S. and other foreign sound recordings. Another positive step was passage of a decree establishing a title verification system aimed at preventing and detecting unlicensed production of such CD's and CD-ROMs at the CD plants and other facilities. Most recently Bulgaria passed a much needed amendment to the title verification decree covering CD-ROMS carrying computer software. Notwithstanding these developments, production and export of pirated product --particularly CDs and CD-ROMs --continue to be a serious problem, which requires an expanded enforcement effort by Bulgarian authorities. An "out-of-cycle" review will be conducted in December to ensure implementation of the amended title verification system and that enforcement efforts are improved. Special attention will be paid to the level of production of pirated CDs and CD- ROMs as well as the export of those products to other markets.

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

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

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

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

Denmark: has not implemented the TRIPs obligation to provide provisional remedies, including ex

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

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

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

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

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

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

settlement with regard to this matter in the near future.

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

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

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

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

Korea: has taken a number of steps to enhance the protection and enforcement of intellectual property rights and to reduce piracy. These include implementation of various parts of the TRIPS agreement, accession to the Berne Convention, the reduction of end-user software piracy, and increased budget allocations for enforcement. Moreover, Korea has recently indicated that it will implement a number of additional steps to further enhance IPR protection, including finalizing establishment of a patent court by March 1998, revision of its Trademark and Industrial Design laws by March 1998, and adoption of the International Classification System for trademarks by July 1998.

Korea may provide patent term extensions for pharmaceuticals. Korea also will gradually ease foreign content restrictions applicable to cable programming and may improve market access for intellectual property-content goods, including TV programs. The United States applauds these steps and looks to further cooperation and dialogue to address more complex issues, including full retroactive protection for copyright works, treatment of foreign pharmaceuticals, enhanced protection of well-known trademarks and technology-based telecommunications patents.

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

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

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

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

Panama is a major transshipment and assembly point for pirated and counterfeited products. However, the Government of Panama has recently passed and begun to enforce its customs and IPR laws. The United States welcomes the recent enforcement actions, but more is needed to address this serious problem in Panama and especially in the Colon Free Zone. The United States urges Panama to continue improving its intellectual property laws and their enforcement, particularly in

the context of its WTO accession, and has scheduled an out-of-cycle review later this year to reassess Panama's continuing efforts.

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

Philippines: In 1993, USTR moved the Philippines from priority watch list to the watch list after the Philippines entered into a bilateral agreement to take steps to address U.S. intellectual property concerns. A major part of this commitment is that the Philippine Government will enact modern intellectual property laws. Both chambers of the Philippine Congress have recently approved such legislation. However, certain significant differences exist between the House and Senate versions which now must be reconciled. Some of these provisions are of great concern to the United States, including the treatment of computer software. We also encourage the Philippines to conduct additional enforcement actions and to publicize these actions in order to deter IPR infringement.

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

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

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

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

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

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

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

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

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

OTHER OBSERVATIONS

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

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

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

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

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

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

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

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

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

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

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

audio cassettes and (3) piracy of American books. The United States urges the Government of Romania to do more to address this situation in 1997.

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

DEVELOPMENTS IN INTELLECTUAL PROPERTY RIGHTS

1996

MAY

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

JUNE

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

- o Panama becomes party to the Berne Convention.
- o A new copyright law enacted by Kazakstan takes effect.
- o A Romania copyright law enacted on February 20 takes effect.

JULY

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

AUGUST

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

China constitutes copyright piracy/counterfeiting of works protected in Taiwan.

- o Korea becomes party to the Berne Convention.
- o Santa Lucia becomes party Patent Cooperation Treaty

SEPTEMBER

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

OCTOBER

- o The U.S. and Portugal jointly notified the WTO Dispute Settlement Body on October 3 that a mutually satisfactory solution to the patent term extension case had been reached.
- o Qatar's 1995 copyright law (Law no. 25) went into effect on October 20, 1996.
- o A U.S. - Cambodia Bilateral Trade Agreement was signed on October 4 that contains intellectual property commitments. The Government of Cambodia is required to draft legislation protecting copyrights, trademarks and patents within 18 months of the Agreement's entry into force, and to use best efforts to enact and implement such legislation within 24 months of entry into force.

- o Mexico's new plant variety protection law went into effect on October 26. However, formal ratification of the UPOV Agreement has not been completed.
- o A new Azerbaijani law on copyright and neighboring rights comes into force.
- o Slovenia becomes a party to the Geneva Phonograms Convention.
- o Panama becomes a party to the Paris Convention.
- o Estonia becomes a party to the Locarno Agreement Establishing an International Classification of Industrial Designs.

NOVEMBER

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

DECEMBER

- o The Japanese Diet enacted amendments to its copyright law to grant fifty years of retroactive protection to sound recordings on December 17. The amendments will go into effect on March 25.
- o Mexico passed a new copyright law on December 24 which address a number of inadequacies in the former law, but contains certain provisions that are not consistent with Mexico's obligations under NAFTA, particularly regarding the lack of criminal penalties for sound recording piracy, the absence of civil remedies, and the possible decriminalization of computer software.

- o Australia announced that it would impose a new regime for the protection of test data for pharmaceuticals and agricultural chemicals, effective January 1, 1998. Under the new system, data for "new chemical entities" will receive protection for five years from the date of registration of the originator product.
- o WIPO Copyright Treaties on electronic transmissions concluded.
- o Mozambique becomes party to WIPO.

1997

JANUARY

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

FEBRUARY

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

- o Oman and Nepal become parties to WIPO
- o Lithuania becomes a party to the Nice Agreement.
- o Ghana becomes party the Patent Cooperation Treaty.

MARCH

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

APRIL

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