

STATUTORY AUTHORITY

The "Special 301" provisions of the Trade Act of 1974, as amended, require USTR to identify foreign countries that 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 USTR to take into account a country's prior status under "Special 301," the history of U.S. efforts to achieve stronger intellectual property protection, and the country's response to such efforts.

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, 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 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 and fair and equitable market access for U.S. products. The measures announced today result from close consultations with affected industry groups, other private sector representatives, 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 Zoellick is expressing the Administration's resolve to take consistently strong actions under the Special 301 provisions of the Trade Act.