

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries That Deny Adequate Protection, or Market Access, for Intellectual Property Rights Under Section 182 of the Trade Act of 1974 (Special 301)

AGENCY: Office of the United States Trade Representative.

ACTION: Identification of countries that deny adequate protection for intellectual property rights or market access for persons that rely on intellectual property protection.

SUMMARY: The United States Trade Representative (USTR) is required by the "Special 301" provisions in U.S. trade law to identify those foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to United States persons that rely upon intellectual property protection, and those foreign countries determined to be priority foreign countries. These identifications are presented below.

DATES: These identifications took place on April 30, 1998.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Director for Intellectual Property, (202) 395-6864, Steve Fox, Deputy Director for Intellectual Property, (202) 395-6864, or GERALYN S. Ritter, Associate General Counsel, (202) 395-6800.

SUPPLEMENTARY INFORMATION: Section 182 of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2242) (commonly referred to as Special 301) requires the USTR, within 30 days of the publication of the National Trade Estimates Report provided for in section 181(b) of the Trade Act, to identify all trading partners that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to United States persons that rely upon intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices that have the greatest adverse impact (actual or potential) on the relevant United States products must be identified as "priority foreign countries," unless they are entering into good faith negotiations or are making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection for intellectual property rights. In identifying countries in this

manner, the USTR is directed to take into account the history of intellectual property laws and practices of the foreign country, including any previous identifications as a priority foreign country, and the history of efforts of the United States, and the response of the foreign country, to achieve adequate and effective protection and enforcement of intellectual property rights. In making these determinations, the USTR must consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officials of the Federal Government and take into account information from other sources such as information submitted by interested persons.

On April 30, 1998, the USTR identified 47 trading partners as failing to provide adequate and effective intellectual property protection and fair and equitable market access to persons that rely on such protection. In addition, China's implementation of the 1995 and 1996 Bilateral IPR Agreements will remain subject to monitoring under section 306 of the Trade Act (19 U.S.C. 2416). As a result of these 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. There has also been continued progress on enforcement in China. In 1997, U.S. industry losses from pirated optical media exports declined very significantly according to industry estimates. Nevertheless, we remain concerned with end-user piracy of business software, continuing retail piracy, growing trademark counterfeiting and problems in obtaining administrative protection for pharmaceuticals. 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.

Fifteen other trading partners were placed on the administratively-created "priority watch list," including Argentina, Bulgaria, the Dominican Republic, Ecuador, Egypt, the European Union, Greece, India, Indonesia, Israel, Italy, Kuwait, Macao, Russia and Turkey. Bulgaria will be subject to review during the course of the year to maintain pressure for further progress. Thirty-one other countries were placed on the special 301 "watch list," including Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Czech Republic, Denmark, Guatemala, Honduras, Hong Kong, Ireland, Jamaica,

Japan, Jordan, Korea, Oman, Pakistan, Peru, The Philippines, Poland, Qatar, Saudi Arabia, Singapore, South Africa, Sweden, Thailand, Ukraine, U.A.E. (United Arab Emirates), Venezuela, and Vietnam. Of these, at least Colombia, Hong Kong, Jordan, and Vietnam will be subject to interim reviews during the coming year. The USTR highlighted concerns, developments and expectations for further progress in 17 other countries. Finally, the USTR announced the initiation of a WTO dispute settlement case against Greece and the European Communities for violations of the enforcement obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

Claude Burcky,

Director of Intellectual Property.

[FR Doc. 98-12196 Filed 5-7-98; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-108]

Determinations Under Section 304 of the Trade Act of 1974: Argentine Specific Duties and Non-Tariff Barriers Affecting Textiles, Apparel, Footwear and Other Items

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determinations, termination and monitoring.

SUMMARY: The United States Trade Representative (USTR) has determined that Argentina's specific duties on textiles and apparel and statistical tax on almost all imports violate the General Agreement on Tariffs and Trade (GATT) 1994. This determination is based on the report of a dispute settlement panel convened under the auspices of the World Trade Organization (WTO) at the request of the United States and the report of the WTO Appellate Body reviewing the panel report. The panel report and the Appellate Body report (the WTO reports) were adopted by the WTO Dispute Settlement Body (DSB) on April 22, 1998. The United States expects that Argentina will conform its specific duties and statistical tax to meet its obligations under the GATT 1994, consistent with the decisions of the panel and the Appellate Body. In light of the foregoing, the USTR will not take action under section 301 of the Trade Act of 1974 (the Trade Act) at this time and has terminated this investigation. The USTR will monitor Argentina's steps to implement the WTO reports

and will take action under section 301(a) of the Trade Act if Argentina fails to implement the rulings and recommendations of the WTO reports within a reasonable period of time to be determined in accordance with WTO rules.

EFFECTIVE DATE: April 3, 1998.

ADDRESSES: 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Kellie A. Meiman, Director for Mercosur and the Southern Cone, (202) 395-5190, or Hal S. Shapiro, Assistant General Counsel, (202) 395-3582.

SUPPLEMENTARY INFORMATION: Under the GATT 1994, Argentina agreed to a maximum tariff rate of 35 percent of the value of imported textile, apparel and footwear products. Argentina, through, has imposed minimum specific duties—*i.e.*, a minimum flat rate—applicable to hundreds of categories of textiles, apparel and footwear that exceed 35 percent when assessed on a wide variety of imports. The imposition of duties greater than an agreed upon maximum rate is inconsistent with Article II of the GATT 1994, which provides that imports shall be exempt from all duties or charges of any kind imposed on or in connection with importation in excess of those set forth in a WTO Member's tariff binding.

Argentina also has imposed a statistical tax on almost all imports that is calculated based on the value of the merchandise subject to it. The tax formerly was 3 percent of the price of covered imports, but Argentina reduced it to 0.5 percent in January 1998. Article VIII of the GATT 1994 states that all fees and charges imposed by WTO members, other than ordinary import or export duties, shall be limited to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports for fiscal purposes. Because the statistical tax is levied as a percentage of the value of imported items, and has no maximum charge, it is not limited to the cost of any service rendered.

On January 22, 1997, the United States requested the establishment of a WTO dispute settlement panel to examine whether Argentina's measures are inconsistent with its obligations under the WTO agreements. On November 25, 1997, the panel determined that Argentina's specific duties on textiles and apparel violate GATT Article II and that the statistical tax violates GATT Article VIII. The panel's decision did not address Argentina's specific duties on footwear because, shortly after the United States

requested the establishment of a panel, Argentina revoked these duties and imposed a safeguard measure in their place. On March 27, 1998, the WTO Appellate Body affirmed the panel's decision, though it disagreed with the panel's reasoning in certain respects.

Pursuant to section 304(a)(1)(A) of the Trade Act (19 U.S.C. 2414(a)(1)(A)), the USTR is required to determine in this case whether Argentina's specific duties and statistical tax violate, or otherwise deny, benefits to which the United States is entitled under a trade agreement. Where that determination is affirmative, the USTR must take action under section 301 of the Trade Act (19 U.S.C. 2411), subject to the specific direction of the President, if any, unless the USTR finds that one of the circumstances set forth in section 301(a)(2)(B) (19 U.S.C. 2411(a)(2)(B)) exists.

Based on the results of the WTO dispute settlement proceedings, as well as public comments received and appropriate consultations, the USTR has determined that Argentina's specific duties on textile and apparel imports violate Argentina's obligations under GATT 1994 Article II and its statistical tax on almost all imports violates GATT Article VIII.

The decision of the panel, as modified by the decision of the Appellate Body, was adopted at the April 22, 1998 meeting of the DSB. The USTR expects that Argentina will conform its specific duties and statistical tax to meet its obligations under the GATT 1994, consistent with the decisions of the panel and the Appellate Body, and will do within a reasonable period of time to be determined in accordance with WTO rules. Therefore, pursuant to section 301(a)(2)(B)(i) of the Trade Act, the USTR is not taking action at this time under section 301(a) of the Trade Act and has terminated this investigation. Pursuant to section 306 of the Trade Act (19 U.S.C. 2416), the USTR will monitor Argentina's implementation of the WTO reports and will take action under section 301(a) if Argentina fails to implement the rulings and recommendations of the WTO reports within a reasonable period of time to be determined in accordance with WTO rules.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 98-12195 Filed 5-7-98; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Change #3 to FAA-P-8110-2, Airship Design Criteria (ADC)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: Change 3 is based on a National Transportation Safety Board (NTSB) recommendation calling for envelope tear warning systems on new airship certification projects. The recommendation stems from an airship accident that resulted from an envelope failure. Change 3 requires that some means of indication or warning system will alert the pilot of envelope tears. This could be an elaborate warning system based on sensors or simple gauges located and marked such that an unusual indication would be obvious to the pilot.

DATES: Comments must be received on or before June 8, 1998.

ADDRESSES: Send all comments to: Federal Aviation Administration, Small Airplane Directorate, Standards Office, ACE-110, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Regulations and Policy Branch, ACE-111, at the address above, telephone number (816) 426-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments Invited

We invite interested parties to submit comments on the proposed change to the ADC. Commenters must identify the report number (FAA-P-8110-2) and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date for comments before issuing the final Change 3 to the ADC. The proposed changes to the ADC and comments received may be inspected at the Standards Office (ACE-110), 1201 Walnut, Suite 900, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

Background

In 1993, an airship came to rest on top and draped over a seven-story building in New York, New York, after the airship deflated in flight and became uncontrollable. The airship suffered a large tear in the envelope, the material