

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

[Docket No. USTR–2015–0022]

2016 Special 301 Review: Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment and Announcement of Public Hearing

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public and announcement of public hearing.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) requires the United States Trade Representative (Trade Representative) to identify countries that deny adequate and effective protection of intellectual property rights (IPR) or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. The provisions of Section 182 are commonly referred to as the “Special 301” provisions of the Trade Act. The Trade Act requires the Trade Representative to determine which, if any, of these countries to identify as Priority Foreign Countries. Acts, policies, or practices that are the basis of a country’s identification as a Priority Foreign Country can be subject to the procedures set out in sections 301–305 of the Trade Act.

In addition, the Office of the United States Trade Representative (USTR) has created a “Priority Watch List” and “Watch List” to assist the Administration in pursuing the goals of the Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to IPR protection, enforcement or market access for persons that rely on intellectual property protection. Trading partners placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas.

USTR chairs the Special 301 Subcommittee (Subcommittee) of the Trade Policy Staff Committee. The Subcommittee reviews information from many sources, and consults with and makes recommendations to the Trade Representative on issues arising under Special 301. Written submissions from the public are a key source of information for the Special 301 review process. In 2015, USTR again will conduct a public hearing as part of the review process as well as offer the opportunity, as described below, for hearing participants to provide additional information relevant to the

review. At the conclusion of the process, USTR will publish the results of the review in a “Special 301” Report.

USTR is hereby requesting written submissions from the public concerning foreign countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. USTR requests that interested persons provide the information described below in the “Public Comments” section, and identify whether a particular trading partner should be named as a Priority Foreign Country under Section 182 of the Trade Act or placed on the Priority Watch List or Watch List. Foreign governments that have been identified in previous Special 301 Reports or that are nominated for review in 2016 are considered interested parties, and are invited to respond to this request for public submissions. Interested persons and foreign governments wishing to submit information to be considered during the review or testify at the public hearing must adhere to the procedures and deadlines set forth below.

DATES: The schedule and deadlines for the 2016 Special 301 review are as follows:

Friday, February 5, 2016 at midnight EST—Deadline for interested persons to submit written comments, notices of intent to testify at the Special 301 Public Hearing, and Hearing statements.

Friday, February 19, 2016 at midnight EST—Deadline for foreign governments to submit written comments, notices of intent to testify at the Special 301 Public Hearing, and although not mandatory, any prepared hearing statements.

Tuesday, March 1, 2016—Public Hearing—The Special 301 Subcommittee will hold a public hearing for interested persons, including representatives of foreign governments, at the Office of the United States Trade Representative, 1724 F Street, NW., Rooms 1&2, Washington, DC 20508. If necessary, the hearing may continue on the next business day. Please consult the USTR Web site for confirmation of the date and location and the schedule of witnesses.

Friday, March 4, 2016 at midnight EST—Deadline for submitting post-hearing written comments. Interested persons who testified at the public hearing may provide written comments after the hearing. To ensure consideration, comments must be received no later than Friday, March 4, 2016. Please submit additional written comments electronically via www.regulations.gov, docket number USTR–2015–0022.

On or about April 30, 2016—USTR will publish the 2016 Special 301 Report within 30 days of the publication of the National Trade Estimate (NTE) Report.

ADDRESSES: All written comments, notices of intent to testify at the public hearing, hearing statements and post-hearing written responses must be in English and submitted electronically via www.regulations.gov, Docket Number USTR–2015–0022. Please specify “2016 Special 301 Review” in the “Type Comment” field.

FOR FURTHER INFORMATION CONTACT: Christine Peterson, Director for Intellectual Property and Innovation, Office of the United States Trade Representative, at Special301@ustr.eop.gov. Information on the Special 301 Review is available at www.ustr.gov.

SUPPLEMENTARY INFORMATION:

1. Background

USTR requests that interested persons identify through the process outlined in this notice those countries whose acts, policies, or practices deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection.

Section 182 further requires the Trade Representative to identify any act, policy, or practice of Canada that affects cultural industries, is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). The public is invited to submit views relevant to this aspect of the review.

Section 182 requires the Trade Representative to identify all such acts, policies, or practices within 30 days of the publication of the NTE Report. In accordance with this statutory requirement, USTR will publish the annual Special 301 Report on or about April 30, 2016.

2. Comments From the Public

a. Requirements for Written Comments

To facilitate the review, written comments should be as detailed as possible and provide all necessary information for identifying and assessing the effect of the acts, policies, and practices. USTR requests that interested parties provide specific references to laws; regulations; policy statements, including innovation policies; executive, presidential or other orders; and administrative, court or other determinations that should factor in the review. USTR also requests that, where relevant, submissions mention

particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice is believed to warrant special attention. Finally, submissions proposing countries for review should include data, loss estimates, and other information regarding the economic impact on the United States, U.S. industry and the U.S. workforce caused by the denial of adequate and effective intellectual property protection. Comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses.

b. Filing Instructions

Comments must be in English. All comments should be sent electronically via www.regulations.gov, docket number USTR–2015–0022. To submit comments, locate the docket (folder) by entering the number USTR–2015–0022 in the “Enter Keyword or ID” window at the www.regulations.gov home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Comment Now!” USTR requests that comments be provided in an attached document, and that the file be named according to the following protocol, as appropriate: Commenter Name or Organization_2016 Special 301_Review_Comment or Notice of Intent to Testify or Hearing Testimony. Please include the following information in the “Type Comment” field: “2016 Special 301 Review” and whether the submission is a comment, a request to testify at the Public Hearing, or Hearing testimony. Please submit documents prepared in (or compatible with) Microsoft Word (.doc) or Adobe Acrobat (.pdf) formats. If the submission was prepared in a compatible format, please indicate the name of the relevant software application in the “Type Comment” field. For further information on using the www.regulations.gov Web site, please select “How to Use Regulations.gov” on the bottom of any page.

3. Public Hearing

a. Notice of Public Hearing

The Special 301 Subcommittee will hold a public hearing on March 1, 2016, at Office of the United States Trade Representative, 1724 F Street NW., Rooms 1&2, Washington, DC 20508, at which interested persons, including representatives of foreign governments,

may appear to provide oral testimony. If necessary, the hearing may continue on the next business day. The hearing will be open to the public. Because the hearings will be located in Federal facilities, security screening will be required. Attendees will need to show photo identification and be screened for security purposes. Please consult www.ustr.gov to confirm the date and location of the hearing and to obtain copies of the hearing schedule. USTR also will post the transcript and recording of the hearing on the USTR Web site as soon after the hearing as possible.

b. Submission of Notice of Intent To Testify and Hearing Statements

Prepared oral testimony before the Special 301 Subcommittee must be delivered in person, in English, and will be limited to five minutes. Subcommittee member agencies may ask questions following the prepared statement. Persons, except representatives of foreign governments, wishing to testify at the hearing must submit a “Notice of Intent to Testify” and “Hearing Statement” to www.regulations.gov (following the procedures set forth in “Filing Instructions” above). The filing deadline is Friday, February 5, 2016. The Notice of Intent to Testify must include the name of the witness, name of the organization (if applicable), address, telephone number, fax number, and email address. A Hearing Statement must accompany the Notice of Intent to Testify. There is no requirement regarding the length of the Hearing Statement; however, the content of the testimony must be relevant to the Special 301 Review.

All representatives of foreign governments that wish to testify at the hearing must submit a “Notice of Intent to Testify” to www.regulations.gov (following the procedures set forth in “Filing Instructions” above). The Notice of Intent to Testify must be filed by Friday, February 19, 2015, and include the name of the witness, name of the organization (if applicable), address, telephone number, fax number, and email address. Although not mandatory, government witnesses may submit a Hearing Statement when filing the Notice of Intent to Testify.

4. Business Confidential Information

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the

submitter. The filenames of both documents should reflect their status—“BCI” for the business confidential version and “PUBLIC” for the public version. In the document, confidential business information must be clearly designated as such, the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential.

Additionally, the submitter should write “Business Confidential” in the “Type Comment” field. Anyone submitting a comment containing business confidential information must also submit, as a separate submission, a nonbusiness confidential version of the submission, indicating where the business confidential information has been redacted. The non-business confidential version will be placed in the docket at www.regulations.gov and be available for public inspection.

5. Inspection of Comments

USTR will maintain a publicly accessible docket for the 2016 Special 301 Review. This public file will include all non-business confidential comments, notices of intent to testify, and hearing statements that USTR receives from the public, including foreign governments, in conjunction with the 2016 Special 301 Review. Comments will be placed in the docket upon receipt and be open to public inspection pursuant to 15 CFR 2006.13. Comments containing confidential business information are exempt from public inspection in accordance with 15 CFR 2006.15. However, USTR will require submission of non-business confidential versions of such documents, as described above, and will post non-business confidential versions to the public docket. Comments may be viewed at www.regulations.gov by entering docket number USTR–2015–0022 in the search field on the home page.

Probir Mehta,

Acting Assistant United States Trade Representative (AUSTR) for Intellectual Property and Innovation, Office of the United States Trade Representative.

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