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**USTR ANNOUNCES THREE DECISIONS:
TITLE VII, JAPAN SUPERCOMPUTER REVIEW, SPECIAL 301**

United States Trade Representative Mickey Kantor today announced decisions and initiated actions in three important trade areas: Title VII/discrimination in foreign government procurement; the initiation of a review of Japan's compliance with the provisions of our bilateral Supercomputer Agreement; and special 301/protection of intellectual property rights.

"Since assuming my responsibilities as USTR, I have repeatedly expressed my commitment to enforcing the law as Congress has written it, and insuring that our trading partners adhere to those agreements that they enter into with us," Ambassador Kantor noted.

"Enforcing the law and holding countries to their agreements are crucial in several respects: to opening foreign markets to U.S. manufactured goods, agricultural products and services; to building support here in the United States for an open trading system; and ultimately, to confidence in, and the credibility of, the trading system."

Ambassador Kantor's decisions demonstrate the Clinton Administration's resolve to take strong measures to ensure comparable market access and intellectual property protection for U.S. products -- measures which are key to this Administration's policy of opening markets and creating trade opportunities for American companies and jobs for American workers.

Title VII

Ambassador Kantor identified Japan pursuant to Title VII provisions of the 1988 Omnibus Trade and Competitiveness Act, which calls for the identification of countries that discriminate against U.S. firms in their government procurement practices. Identification under this statute requires that negotiations to end the discrimination be initiated immediately and, absent resolution, provides for sanctions, subject to Presidential discretion.

Under Title VII, Japan was cited for discrimination in procurement of construction, architectural and engineering services. Kantor continued the identification of the European Community pending EC approval of the recent agreement on heavy electrical equipment and the outstanding dispute on telecommunications equipment. He also noted procurement practices of concern in Australia, China, and Japan.

Supercomputer Review

Because of grave U.S. government concern that Japan may not be adhering to the terms of the U.S.-Japan Supercomputer Agreement, Kantor announced that USTR will undertake a special review of Japanese actions under the Agreement, pursuant to section 306 of the 1974 Trade Act. Based upon this review and the conduct and outcome of procurements scheduled in the coming months, USTR will determine whether or not Japan is in compliance with the terms of the Agreement. If USTR determines that Japan is not in compliance, it will initiate trade action against Japan under section 301.

Special 301

Kantor today identified Brazil, India and Thailand as "priority foreign countries" under the "special 301" provisions of the Trade Act of 1974 (Trade Act). These countries deny adequate and effective protection for U.S. intellectual property (such as patents, trademarks and copyrights) or fair and equitable market access for relevant U.S. products.

Kantor also announced placement of ten trading partners on the "priority watch list". In a departure from previous practice, Kantor stated that the Administration will take new steps to resolve outstanding intellectual property rights problems by: initiating "immediate action plans" for Hungary and Taiwan; conducting "out-of-cycle" reviews for Korea, Argentina, Egypt, Poland and Turkey; and intensifying consultations with Australia, the European Community and Saudi Arabia. He also announced that seventeen other countries had been placed on the "watch list".

Kantor noted that significant progress has already occurred this year as ten countries have enacted new copyright, patent or trademark legislation, or strengthened their existing legislation, since January. These nations are Switzerland, Taiwan, Colombia, Canada, China, Greece, Malta, Cyprus, and Jamaica, and the most recent addition, Russia, which adopted a copyright law yesterday.

"These actions show a growing commitment to intellectual property protection around the world, which we believe will contribute to a strong intellectual property text in the Uruguay Round, and the successful completion of the Round itself," Kantor stated.

The new steps announced today include a promise of a strong, speedy response for countries that fail to meet commitments, a determination to gain from U.S. trading partners a high level of protection, a vow to pay special attention to countries that do not enforce their laws and a pledge to the initiate "immediate action plans" to make sure that countries do not take up permanent residence on the "special 301" lists.

Ambassador Kantor declared that USTR will conduct "out-of-cycle" reviews (including deadlines and benchmarks for evaluating a country's performance) to address problems of slow legislative progress or erratic enforcement efforts. Kantor stressed the fact that the 1974 Trade Act permits the USTR to make additional identifications at any time that the facts warrant.

BACKGROUND: THE CLINTON ADMINISTRATION'S NEW SPECIAL 301 POLICY

Ambassador Kantor stressed that he was committed to giving a fresh direction to the "special 301" review process to ensure that this Administration's objectives are clear and that other countries know what we expect. "Any partner that fails to meet its commitments," Kantor said "can expect a strong, speedy response from this Administration." Kantor added, "I am determined to ensure that foreign countries provide high levels of protection because I want to make sure that we solve particular problems brought to our attention by the U.S. intellectual property community."

Kantor emphasized that it is critical that foreign governments enforce laws that they have already enacted. "Countries that do not enforce their laws can expect to receive special attention under "special 301," Kantor went on to note. "Moreover, the United States will not tolerate countries that are exporters of pirate and counterfeit goods."

"In the past, rather than steady progress we have seen an annual Spring-time flurry of enforcement actions," Kantor said, and he vowed to not let this continue. "Countries must make sustained progress in addressing the problem issues." To address these problems, Kantor announced that his staff (working with an interagency team of government experts), will initiate "immediate action plans" that will include deadlines and benchmarks for evaluating a country's performance.

"I am determined to enforce these deadlines and take action, if necessary, through out-of-cycle reviews of a country's status under "special 301."

SPECIAL 301 ANNOUNCEMENTS

USTR announced the following steps under "special 301":

For "priority foreign countries":

- The Administration will determine whether to initiate an investigation of Brazilian practices and will announce its decisions on or before May 30, 1993.
- Regarding India, Ambassador Kantor has instructed an interagency task force to explore future actions.
- The Administration is meeting with Thai officials on intellectual property rights issues; at the same time, the interagency task force is exploring future actions, including options for appropriate retaliation.

For "priority watch list" countries:

- On August 1, 1993, the Administration will decide whether Hungary and Taiwan have met the objectives of "immediate action plans". If it is determined that these objectives have not been met, then the Administration will reclassify Hungary and Taiwan under "special 301" and decide what further action is appropriate.
- The Administration also announced that "out-of-cycle" reviews would be conducted with the following countries:
 - **Argentina:** we are seeking prompt enactment of satisfactory industrial property legislation.
 - **Egypt:** we are seeking enactment of an amended patent law that provides adequate protection for pharmaceutical products.
 - **Korea:** we are seeking improved and sustained enforcement of intellectual property laws to deter piracy of products like computer software, compact discs, and video and sound recordings and counterfeiting of trademarks on U.S. products (such as footwear and cosmetics).
 - **Poland:** we are seeking prompt enactment of copyright and antipiracy laws, as well as improved enforcement.
 - **Turkey:** we are seeking enactment of patent, copyright and related laws that provide effective protection.

- The Administration also placed three additional trading partners on the "priority watch list"; these are Australia, the European Community and Saudi Arabia.

For "watch list countries":

- The Administration also announced that "out-of-cycle" reviews would be conducted with the following countries:
 - Cyprus: we seek the lifting of the suspension of criminal penalties for copyright violations.
 - Italy: we seek sustained enforcement of copyright laws, introduction of legislation to increase penalties and other actions to deter piracy.
 - Pakistan: we seek effective action against trademark and copyright violations (particularly regarding textile designs).
 - Spain: we seek elimination of market access restrictions affecting motion pictures.
 - Venezuela: we seek fulfillment of commitments to improve patent and copyright laws.
- The Administration also placed twelve other trading partners on the "watch list".

Ambassador Kantor commended the progress that Greece made during the course of the past twelve months in enacting a modern copyright law, and announced the removal from the "watch list" of three countries; they are Canada, Germany and Paraguay.

BACKGROUND: TITLE VII

Title VII of the 1988 Trade Act directs the Administration to identify, in an annual report to Congress, foreign countries that are discriminating, as defined by the statute, against U.S. goods or services in their government procurement practices. The report also provides information on countries or practices of concern, but which do not meet the statutory requirements for identification.

On the identification of Japan, Ambassador Kantor said, "Despite years of negotiations and two trade agreements, the Japanese construction market remains fundamentally closed to foreign firms. As provided under the statute, today marks the start of a 60-day consultation period, during which we will seek rectify the situation."

The European Community remains identified for discrimination in heavy electrical and telecommunications equipment. We recently came to an agreement for the heavy electrical sector. We are awaiting EC Council of Ministers approval of that agreement, which should occur in early May. The EC did not agree to waive the Utilities Directive for telecommunications equipment, therefore we intend to impose sanctions.

In addition to the actions with respect to Japan and the EC, Kantor expressed concern with specific procurement practices in the following areas:

- Australia maintains a restricted-membership, preselected "Information Systems Panel" for all federal procurements of information systems technology. The criteria for membership on this panel may include local investment and the ability to export from Australia;
- China's procurement practices remain, for the most part, secretive and inaccessible to foreign suppliers. However, China has committed to increase the transparency of its trade system by publishing rules and regulations related to trade. The changes are due to be implemented in the Fall of 1993.
- The United States has continuing concerns with Japanese procurement practices in the supercomputer, computer and telecommunications sectors.
 - Our concerns in the supercomputer area are being addressed in the section 306 monitoring action that I announced today.
 - Our concerns in the computer area involve the inability of the U.S. and Japan to implement a statistical monitoring system to evaluate progress in our bilateral Computer Agreement. We are addressing this problem in a review mechanism provided for in the agreement.
 - U.S. businesses have expressed frustration with the lack of opportunities outside of the NTT Agreement in the Japanese telecommunications market. We will continue to address these issues bilaterally.
- We are also concerned that a variety of countries have entered into trade or economic agreements with the European Community that require or might in the future require those countries to adopt the discriminatory provisions of the EC's Utilities Directive. We intend to monitor their actions over the coming year and review the situation in our annual Title VII review next year.

BACKGROUND: SUPERCOMPUTER REVIEW

"U.S. supercomputer manufacturers are the most competitive in the world, yet they continue to be effectively shut out of the Japanese government supercomputer market," Kantor said. "The fact that no U.S. supercomputer manufacturer has ever won a head-to-head competition in a Japanese government bid, despite nearly 10 years of negotiation with the Japanese and two agreements on the issue, is particularly distressing."

U.S. manufacturers dominate most public sector markets for supercomputers. In Europe, for example, U.S. firms hold about 85 percent of the market. U.S. firms hold only an 11 percent share of the Japanese public sector market.

Over the coming months, the Japanese Government is scheduled to procure a number of supercomputers. Pursuant to section 306 of the Trade Act of 1974, USTR will undertake a comprehensive review of Japanese Government behavior under the Agreement thus far and will closely scrutinize each of the upcoming procurements. Based upon this review and the conduct and outcome of these procurements, USTR will determine whether or not Japan is in compliance with the terms of the Agreement. If USTR determines that Japan is not in compliance, it will initiate trade action against Japan under section 301.

"The 1990 Supercomputer Agreement obligates Japan to provide a fair and open government procurement market for supercomputers," Kantor stated. "We are determined to ensure that Japan treats our companies fairly and complies with its obligations under the Agreement." Kantor added, "We are taking this action with a view toward ensuring that, in the years ahead, the Japanese Government market is fully open to new and emerging supercomputer technologies in which U.S. manufacturers have a decided lead."

The 1990 Supercomputer Agreement resulted from a 1989 Super 301 investigation of Japanese Government procurement practices that discriminated against foreign supercomputer firms. Under the agreement, Japan agreed to undertake unilateral measures to open its supercomputer procurement market to competition. The 1990 Agreement replaced a previous agreement concluded in 1987, under which no foreign supercomputers were procured by the Japanese Government.