

On May 1, 2003, the U.S. Trade representative Robert B. Zoellick announced the results of the 2003 "Special Report" annual review. Argentina's designation will remain Priority Watch List. More information on the complete 2003 Special 301 Report is available at www.ustr.gov.

2003 Special 301 Decision: Argentina

Argentina will remain on the Priority Watch List as its copyright, patent, and data protection regimes do not appear to comply with its international obligations. There is lax and ineffective enforcement against piracy (including rampant CD-R and videogame piracy) and counterfeiting; in addition, unauthorized use of protected seed varieties remains a problem. Enforcement of copyrights on recorded music, videos, books and computer software remains inconsistent and inadequate resources and border controls and slow court procedures have hampered the effectiveness of enforcement efforts. In April 2002, the United States and Argentina reached an agreement with respect to most claims in a WTO dispute brought by the United States with respect to Argentina's implementation of its TRIPS obligations. Two important issues, including data protection, remain unresolved. Argentina is in the process of passing legislation to implement the terms of the April 2002 settlement, although industry has expressed concerns regarding the inadequacy of the injunctive relief provisions in the pending legislation. The USTR will monitor Argentina's compliance with the commitments made under the Bilateral Council on Trade and Investment with respect to the agreement on patents.

Background:

The Special 301 Provisions of the Trade Act of 1974, as amended in 1988, require that the U.S. Trade Representative (USTR) identify by April 30 countries which deny adequate and effective intellectual property (IP) rights or which deny market access to persons who rely on intellectual property protection. The USTR is required to designate from among this group:

- "Priority Foreign Countries" (PFC) defined as those countries whose policies and practices with respect to protection of intellectual property (IP) are the most onerous and egregious and have the greatest adverse impact on the relevant U.S. products. In cases where a country is identified as a PFC, The USTR is required to initiate an investigation to determine whether the country's policies and practices at issue in the PFC designation are actionable under Section 301. The goal of the investigation is to highlight and resolve problems. However, failure to reach agreement can lead to the imposition of trade sanctions.

- Priority Watch List --countries that have very serious IP problems, in terms of scope and/or impact on U.S. commerce, requiring the focus of increased bilateral attention on the problem areas.

- Watch List --Countries with intellectual property practices or barriers to the market that are of particular concern, but that are narrower in scope and/or commercial impact than the practices and barriers of countries on the Priority Watch List.

These two Watch Lists are administrative mechanisms designed to signal to foreign government officials the seriousness with which the USG views IP problems in their countries.