

for Intellectual Property and Innovation and Chair of the Special 301 Committee, Office of the United States Trade Representative, at (202) 395-4510.

SUPPLEMENTARY INFORMATION: Pursuant to section 182 of the Trade Act, USTR must identify those countries that 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. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. Acts, policies, or practices that are the basis of a country's designation as a Priority Foreign Country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

USTR may not identify a country as a Priority Foreign Country if that country is entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

USTR requests that, where relevant, submissions mention particular regions, provinces, states, or other subdivisions of a country in which an act, policy, or practice deserve special attention in this year's report. Such mention may be positive or negative. For example, submissions may address China's protection and enforcement of intellectual property rights at the provincial level, including, where relevant, areas that were the focus of USTR's review of provincial and local issues in China conducted in 2008 (2008 Special 301 Report, pp. 25-33, available at <http://www.ustr.gov>).

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR must identify any act, policy, or practice of Canada that affects cultural industries, which is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). Any act, policy, or practice so identified shall be treated the same as an act, policy, or practice which was the basis for a country's identification as a Priority Foreign Country under section 182(a)(2) of the Trade Act, unless the United States has already taken action pursuant to Article 2106 of the NAFTA.

USTR must make the above-referenced identifications within 30 days after publication of the National

Trade Estimate (NTE) report, *i.e.*, approximately April 30, 2009.

Requirements for Comments: Comments should include a description of the problems experienced and the effect of the acts, policies, and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies, and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in English. All comments should be sent electronically to <http://www.regulations.gov>, docket number USTR-2009-0001.

To submit comments to <http://www.regulations.gov>, enter docket number USTR-2009-0001 on the home page and click "go." The site will provide a search-results page listing all documents associated with this docket. Find a 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 "Send a Comment or Submission." (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on "How to Use This Site" on the left side of the home page).

The <http://www.regulations.gov> site provides the option of providing comments by filling in a "General Comments" field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "General Comments" field.

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. 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 should indicate using brackets the specific information which is confidential. Any comment containing business confidential information must be accompanied by a non-confidential summary of the confidential information. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on the 2009 Special 301 Review, accessible to the public. The public file will include non-confidential comments received by USTR from the public, including foreign governments, with respect to the 2009 Special 301 Review.

Public Inspection of Submissions: Comments will be placed in the docket and open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Comments may be viewed on the <http://www.regulations.gov> Web site by entering docket number USTR-2009-0001 in the search field on the home page.

Stanford K. McCoy,
Assistant USTR for Intellectual Property and Innovation.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination Regarding Waiver of Discriminatory Purchasing Requirements With Respect to Goods and Services Covered by Chapter Nine of the United States-Peru Trade Promotion Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Determination under Trade Agreements Act of 1979.

DATES: *Effective Date:* February 1, 2009.

FOR FURTHER INFORMATION CONTACT: Jean Heilman Grier, Senior Procurement Negotiator, Office of the United States Trade Representative, (202) 395-9476, or Katherine Tai, Associate General Counsel, Office of the United States Trade Representative, (202) 395-9589.

On April 12, 2006, the United States and Peru entered into the United States-Peru Trade Promotion Agreement ("Peru TPA"). Chapter Nine of the Peru TPA sets forth certain obligations with respect to government procurement of goods and services, as specified in Annex 9.1 of the Peru TPA. On December 14, 2007, the President signed into law the United States-Peru Trade Promotion Agreement Implementation Act ("the Peru TPA Act") (Pub. L. No. 110-138, 121 Stat. 1455) (19 U.S.C. 3805 note). In section 101(a) of the Peru TPA Act, the Congress approved the Peru TPA. The Peru FTA will enter into force on February 1, 2009.

Section 1-201 of Executive Order 12260 of December 31, 1980 (46 FR 1653) delegates the functions of the

President under Sections 301 and 302 of the Trade Agreements Act of 1979 (“the Trade Agreements Act”) (19 U.S.C. 2511, 2512) to the United States Trade Representative.

Now, therefore, I, Susan C. Schwab, United States Trade Representative, in conformity with the provisions of sections 301 and 302 of the Trade Agreements Act, and Executive Order 12260, and in order to carry out U.S. obligations under Chapter Nine of the Peru TPA, do hereby determine that:

1. Peru is a country, other than a major industrialized country, which, pursuant to the Peru TPA, will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with section 301(b)(3) of the Trade Agreements Act, Peru is so designated for purposes of section 301(a) of the Trade Agreements Act.

2. With respect to eligible products of Peru (*i.e.*, goods and services covered by the Schedules of the United States in Annex 9.1 of the Peru TPA) and suppliers of such products, the application of any law, regulation, procedure, or practice regarding government procurement that would, if applied to such products and suppliers, result in treatment less favorable than accorded—

(A) To United States products and suppliers of such products; or

(B) To eligible products of another foreign country or instrumentality which is a party to the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)) and suppliers of such products, shall be waived.

With respect to Peru, this waiver shall be applied by all entities listed in the Schedules of the United States in Section A and in List A of Section C of Annex 9.1 of the Peru TPA.

3. The designation in paragraph 1 and the waiver in paragraph 2 are subject to modification or withdrawal by the United States Trade Representative.

Susan C. Schwab,

United States Trade Representative.

[FR Doc. E9-1451 Filed 1-22-09; 8:45 am]

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. USTR-2008-0036]

Modification of Action Taken in Connection With WTO Dispute Settlement Proceedings on the European Communities’ Ban on Imports of U.S. Beef and Beef Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and modification of action.

SUMMARY: The United States Trade Representative (“Trade Representative”) has decided to modify the action taken in July 1999 in connection with the World Trade Organization (“WTO”) authorization to the United States in the *EC-Beef Hormones* dispute to suspend concessions and related obligations with respect to the European Communities (“EC”). In particular, as described in this notice and its annex, the Trade Representative has decided: (1) To remove some products from the list of products currently subject to 100 percent *ad valorem* duties; (2) to impose 100 percent *ad valorem* duties on some new products from certain EC member States; (3) to modify the coverage with respect to particular EC member States; and (4) to raise the level of duties on one of the products that is being maintained on the product list. The trade value of the products subject to the modified action continues not to exceed the \$116.8 million per year level authorized by the WTO in July 1999.

DATES: *Effective Date:* The modifications described in the Annex to this notice shall be effective with respect to products that are entered, or withdrawn from warehouse, for consumption on or after March 23, 2009. Any merchandise subject to increased duties under this determination that is admitted to U.S. foreign-trade zones on or after March 23, 2009 must be admitted as “privileged foreign status” as defined in 19 CFR 146.41.

FOR FURTHER INFORMATION CONTACT: Roger Wentzel, Director, Agricultural Affairs, (202) 395-6127 or David Weiner, Director for the European Union, (202) 395-4620 for questions concerning the *EC-Beef Hormones* dispute; or William Busis, Associate General Counsel and Chair of the Section 301 Committee, (202) 395-3150, for questions concerning procedures under Section 301.

SUPPLEMENTARY INFORMATION:

A. The EC-Beef Hormones Case

The EC bans the import of beef and beef products produced from animals to which any of six hormones¹ have been administered for growth promotion purposes. The effect of the EC ban is to prohibit the import of substantially all U.S.-produced beef and beef products. In February 1998, the WTO Dispute Settlement Body (“DSB”) found that the EC ban was inconsistent with EC obligations under the WTO Agreement. In July 1999, a WTO arbitrator determined that the EC import ban on U.S. beef and beef products has nullified or impaired U.S. benefits under the WTO Agreement in the amount of \$116.8 million each year. On July 26, 1999, the DSB authorized the United States to suspend the application to the EC, and member States thereof, of WTO tariff concessions and related obligations covering trade in an amount of \$116.8 million per year. Pursuant to that authorization, the Office of the United States Trade Representative (“USTR”) announced a list of EC products that would be subject to a 100 percent rate of duty effective with respect to products entered, or withdrawn from warehouse, for consumption on or after July 29, 1999. See 64 FR 40638.

Since that time, the United States and the EC have continued to consult in an effort to resolve this dispute. Those discussions include the possibility of an interim agreement that would provide meaningful market access for U.S. beef products produced without growth-promoting hormones, in return for a suspension of the increased duties on EC products.

The EC argues that EC legislation of 2003 amending the import ban on beef and beef products produced from animals treated with certain hormones brought the EC into compliance with its WTO obligations. In January 2005, the EC requested the establishment of a WTO dispute settlement panel to consider the EC claim that the United States was no longer authorized to suspend concessions as a result of the EC’s adoption of the new legislation amending the import ban. (See 70 FR 8655 for a description of this dispute brought by the EC.)

On October 16, 2008, the WTO Appellate Body issued a report rejecting the EC claim and confirming that the July 1999 DSB authorization to suspend concessions remains in effect unless and until the DSB rules that the EC has brought its measures into compliance

¹ The six hormones at issue are estradiol 17-β, testosterone, progesterone, zeranol, trenbolone acetate (“TBA”) and melengestrol acetate (“MGA”).