



# THINK FORWARD

## USTR Requests Comments in its Annual "Special 301" Review of Countries that Deny Adequate and Effective Protection of Intellectual Property Rights and Fair Market Access

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January 04, 2017

As part of its annual "Special 301" identification and review of countries that deny adequate and effective protection of IP rights or deny fair and equitable market access to U.S. persons who rely on IP protection, the Office of the U.S. Trade Representative ("USTR") is seeking comments on countries to identify and review. Comments are due on **February 9, 2017**.

Companies that have been adversely impacted by ineffective IP protections or discriminatory enforcement in foreign countries should consider acting proactively and filing comments with USTR. Participation may be more important now given the incoming administration's emphasis on halting foreign country practices that adversely impact U.S. companies and American workers.

Section 182 of the Trade Act of 1974 requires the USTR to identify and prepare a report on countries that deny adequate and effective protection of IP rights or deny fair and equitable market access to U.S. persons who rely on IP protection. Countries identified for special attention become the focus of a report released by USTR and increased bilateral attention by the U.S. Government concerning the problem areas. The provisions of Section 182 are commonly referred to as the "Special 301" provisions of the Trade Act. USTR is requesting that comments identify acts, policies, or practices of foreign countries that may form the basis for USTR to identify those countries for particular attention and review in its forthcoming report.

USTR also requests notices of intent to testify at the **March 8, 2017** public hearing that will be held in Washington, D.C. and hearing statements from those intending to appear (these notices and statements also are due **February 9, 2017**). USTR intends to release its report identifying countries on or about **April 30, 2017**.

Comments received and any action taken will be handled by the incoming Trump Administration, which will take office on January 20, 2017. During his campaign, Donald Trump stated that, if elected, he intended to halt international trade abuses by foreign countries that harm American workers. In his "Contract with the American Voter," as the fourth prong of his pronounced "Seven Actions to Protect American Workers," Mr. Trump stated that he "will direct the Secretary of Commerce and U.S. Trade Representative to identify all foreign trading abuses that unfairly impact American workers and direct them to use every tool under American and international law to end those abuses immediately." Based on these campaign statements, it is likely that the Trump Administration will seek to use the "Special 301" mechanism and that comments during this annual "Special 301" cycle may receive attention from the Trump Administration.

The USTR Federal Register Notice requesting comments (dated December 28, 2017) can be accessed by clicking [here](#).

**Contact Us**

If you need any assistance preparing comments, which are due February 9, 2017 or if you have questions about this issue, please contact one of our [Brinks attorneys](#) or the author of this IP Alert.