

stocks, or (iii) any index and basket information, for trading or any other purpose. It further states that the Exchange, its affiliates, Index Licensors, and Administrators make no express or implied warranties and disclaim all warranties of merchantability or fitness for a particular purpose or use, with respect to any such basket, index, or information.

The Exchange also proposes to adopt new Commentary .01 to PSE Rule 7.13. This Commentary would provide that, for the purposes of PSE Rule 7.13, "Index Licensor or (and) Administrator" includes any person who: (a) licenses to the Exchange the right to use (i) an index that is the basis for determining the inclusion and relative representation of a basket's component stocks or (ii) any trademark or service mark associated with such an index; (b) collects, calculates, compiles, reports and/or maintains such an index, or index and basket information relating to such an index; (c) provides facilities for the dissemination of index and basket information; and/or (d) is responsible for any of the activities described above.

In addition, the Exchange proposes to adopt new Commentary .02 to PSE Rule 7.13, which would provide that, for the purposes of PSE Rule 7.13, "index and basket information" includes (a) information relating to the inclusion and relative representation of stocks in an index from which a basket is derived, such as an index's values, a basket's component stocks, the weighted summation of the bids or offers of a basket's component stocks, and basket and component stock last sale and quotation information and (b) other information relating to a basket or its index.

The purpose of the rule change proposal is to clarify existing PSE Rule 7.13 and to expand it with regard to potential Exchange liability and with regard to Index Licensors and Administrators. The Exchange notes that the text of proposed PSE Rule 7.13 and Commentaries .01 and .02 is substantially similar to New York Stock Exchange Rule 813.

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)<sup>2</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>3</sup> in particular in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-97-01 and should be submitted by March 6, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,  
Deputy Secretary.

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D-11]

### WTO Dispute Settlement Proceeding Regarding Patent Protection in India for Pharmaceuticals and Agricultural Chemicals

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine India's failure to make patent protection available for inventions as specified in Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), or provide systems that conform to obligations of the TRIPS Agreement regarding the acceptance of applications and the grant of exclusive marketing rights. More specifically, the United States has requested the establishment of a panel to determine whether India's legal regime is inconsistent with the obligations of the TRIPS Agreement, including but not necessarily limited to Articles 27, 65 and 70. USTR also invites written comments from the public concerning the issues raised in the dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 3, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

**ADDRESSES:** Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: India Mailbox Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Thomas Robertson, Associate General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20508 (202) 395-6800.

<sup>2</sup> 15 U.S.C. 78f(b).

<sup>3</sup> 15 U.S.C. 78f(b)(5).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

**SUPPLEMENTARY INFORMATION:** On November 10, 1996, the United States requested establishment of a WTO dispute settlement panel to examine whether India's legal regime is inconsistent with the obligations of the TRIPS Agreement. The WTO dispute Settlement Body (DSB) considered the U.S. request at its meeting on November 20, 1996, at which time a panel was established. Very recently, three panelists were chosen to hear the dispute: Professor Thomas Cottier of the University of Berne in Switzerland, Mr. Yanyong Phuengrach of the Ministry of Commerce in Thailand, and Mr. Doug Chester of the Ministry of Foreign Affairs and Trade in Australia. The first meeting of panelists is scheduled to take place on February 19, 1997. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

#### Major Issues Raised by the United States and Legal Basis of Complaint

The TRIPS Agreement requires all WTO Members to grant patents for the subject matter specified in Article 27 of the Agreement. Article 70.8 of the TRIPS Agreement provides that where a Member takes advantage of the transitional provisions under the Agreement and does not make product patent protection available for pharmaceutical and agricultural chemical inventions as of the date of entry into force of the WTO Agreement (i.e., January 1, 1995), that Member must implement measures to permit Members' nationals to file patent applications drawn to such inventions on or after that January 1, 1995. When the Member fully implements the product patent provisions of TRIPS Agreement Article 27, these applications must be examined according to the criteria for patentability set forth in the Agreement, based on the earliest effective filing date claimed for the application. Patents granted on these applications must enjoy the term and rights mandated by the TRIPS Agreement.

The TRIPS Agreement further requires Members subject to the obligations of Article 70.8 to provide exclusive marketing rights to those persons who have filed an application under the interim filing procedures, provided that the product covered by the invention has been granted marketing approval in the Member providing this transitional protection and another Member, and a patent has been granted on the invention in another Member.

The legal regime in India currently does not make patent protection available for inventions as specified in Article 27 of the TRIPS Agreement, or provide systems that conform to obligations of the TRIPS Agreement regarding the acceptance of applications and the grant of exclusive marketing rights. As a result, India's legal regime appears to be inconsistent with the obligations of the TRIPS Agreement, including but not necessarily limited to Articles 27, 65 and 70.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. 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 commenter. Confidential business information must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page of each copy.

A person requesting that information or advice contained in a comment submitted by that person, other than business confidential information, be treated as confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155)—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA, USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from the other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D-11, "U.S.-India: Mailbox"), may be made by

calling Brenda Webb, (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

*Assistant U.S. Trade Representative for Monitoring and Enforcement.*

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#### [Docket No. WTO/D-15]

#### **WTO Dispute Settlement Proceeding: Practices of the Government of Turkey Regarding the Imposition of a Discriminatory Tax on Box Office Revenues**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine whether Turkey's imposition of a tax on box office revenues from the showing of foreign films, but not on the revenues from the showing of domestic films, is inconsistent with Turkey's obligations under Article III of the General Agreement on Tariffs and Trade 1994 (GATT 1994). USTR also invites written comments from the public concerning the issues raised in the dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before March 3, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

**ADDRESSES:** Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: Turkey Film Tax Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Thomas Robertson, Associate General Counsel, Office of the General Counsel, Office of the U.S. Trade Representative, 600 17th Street, N.W. Washington, DC 20508, (202) 395-6800.

**SUPPLEMENTARY INFORMATION:** Turkey's Law on Municipal Revenues (Law No. 2464) imposes a 25% municipality tax on box office revenues generated from the showing of foreign films, but not the