

**The International Intellectual Property
Protection & Enforcement Act of 2008:
Section-by-Section Analysis**

SECTION 1: SHORT TITLE.

Section 1 entitles the bill the “International Intellectual Property Protection and Enforcement Act of 2008.”

SECTION 2: SPECIAL RULES FOR COUNTRIES ON THE PRIORITY WATCH LIST

Section 2(a) amends Section 182 of the Trade Act of 1974 to include the following provisions:

Section 182(g)(1) requires the United States Trade Representative (USTR) to develop an action plan for each foreign country that has remained on USTR’s “priority watch list” for at least one year. The action plans must list the legislative, institutional, enforcement, or other actions that the foreign country must take in order to (1) achieve adequate and effective protection of intellectual property (IP) rights, and fair and equitable market access for U.S. companies that rely on IP protection; or (2) make significant progress toward achieving those goals. The plans – to be included in USTR’s annual “Special 301” report – must be developed no later than ninety days after the date on which the USTR submits its National Trade Estimate report to the Congress.

Section 182(g)(2) provides that the President may take one or more of the following enforcement actions if the foreign country has not complied with its action plan within one year: (1) suspend, restrict, or prohibit new or renewed federal government procurement from the foreign country, unless the foreign country is a party to the World Trade Organization Agreement on Government Procurement or other international government procurement agreements to which the United States is a party, and the suspension, restriction, or prohibition of such procurement would violate the agreement; (2) suspend, restrict, or prohibit new financing by the Overseas Private Investment Corporation with respect to a project located in the foreign country or in which an entity of the foreign country participates; (3) suspend, restrict, or prohibit new financing by the Export-Import Bank of the United States with respect to the export of any good or service to the foreign country or an entity of the foreign country; (4) instruct the U.S. Executive Director of each multilateral development bank to oppose new financing with respect to a project located in the foreign country or in which an entity of the foreign country participates; (5) suspend, restrict, or prohibit U.S. Trade and Development Agency assistance in connection with a project located in the foreign country or in which an entity of the foreign country participates; and (6) suspend, limit, or withdraw any preferential treatment for which the foreign country qualifies under the Generalized System of Preferences or other U.S. preference programs.

Section 182(g)(3) defines “priority watch list” as the priority watch list established by the USTR.

Section 182(h) requires the USTR to submit additional information in the annual “Special 301” report that it submits to Congress on actions taken under Section 182 during the previous year and the reasons for such actions. In addition to the items previously required to be included in this report, the amendments made by this Act require USTR to include a description of the action plans developed under this section and any actions taken by foreign countries under those plans

Section 2(b) authorizes to USTR such sums as may be necessary to assist developing countries in complying with their action plans. Such assistance may include capacity building, activities designed to increase awareness of IP rights, and training for officials responsible for enforcing IP rights in the developing country. Section 2(b) defines “developing country” as a country classified by the World Bank as having a low-income or lower-middle-income economy.

Section 2(c) clarifies that nothing in this section shall be construed as limiting the authority of the President or the USTR to develop action plans other than the plans described in section 182(g), as amended by subsection (a) of this Act, or to take any other action otherwise authorized by law in response to the failure of a foreign country to provide adequate and effective protection and enforcement of IP rights.

SECTION 3: ADDITIONAL PERSONNEL IN COUNTRIES WITH COMMERCIALY SIGNIFICANT RELATIONSHIPS WITH THE UNITED STATES

Section 3(a) requires the President, within two years after the date of enactment of this Act, to ensure that an intellectual property official with the title of Minister-Counselor is placed in the U.S. embassy of each foreign country that the President determines has a commercially significant relationship with the United States.

Section 3(b) provides that the official shall (1) serve as a liaison between the United States and the foreign country on matters relating to IP protection and enforcement; and (2) gather and provide any information requested by the USTR for purposes of developing or determining compliance with an action plan developed under this Act.

Section 3(c) authorizes such sums as may be necessary to carry out this section.