

concerning imports of perishable products;
e) "degressivity" (progressive liberalization of safeguards restrictions during the period in which actions are in force); and
f) the right to re-impose safeguard restrictions at a later date.
g) consultation and retaliation after a measure has been in force for three years.

The U.S. Administration views current U.S. law as largely consistent with the Safeguards Agreement. Implementing legislation is largely devoted to procedures pertaining to the investigation, determination, and Presidential actions.

FOREIGN TRADE BARRIERS AND UNFAIR TRADE PRACTICES:

SECTION 301

Section 301 gives the USTR authority to conduct investigations into another country's trading practices. If those practices are found to be "unfair", the bill authorizes the U.S. to retaliate unilaterally by imposing sanctions against the offending country, pursuant to a prescribed process and timetable. The new WTO Dispute Settlement System constrains the U.S. ability to use 301 as a unilateral instrument in cases where the UR Agreements apply. The legislation is consistent with the agreement and recognizes that the U.S. must allow the WTO Dispute Settlement Body to rule on an issue first. The bill also codifies the March 1994 Executive Order which reinstated and modified "Super" 301. Included in the modifications was a redirection to the identification of specific intellectual property laws and practices of a foreign country from the previous approach of only identifying the country.

UNFAIR PRACTICES IN IMPORT TRADE: SECTION 337 (ACTIVITIES IN RESPECT OF IMPORTS ALLEGED TO INFRINGE U.S. INTELLECTUAL PROPERTY RIGHTS)

Changes to Section 337 were required to meet GATT, TRIPS, and NAFTA obligations. A 1989 GATT Panel determined, inter alia, that Section 337 violated U.S. GATT obligations by providing different procedures for claims against foreign defendants than were provided for domestic defendants. U.S. commitments under the TRIPS Agreement and NAFTA, in addition to reflecting those in GATT, provide for administrative procedures to be in conformity with principles equivalent in substance to those provided in judicial proceedings. The legislation does not, in our view, bring the U.S. into full compliance with its international obligations. However, it has reduced some of the inconsistencies with U.S. obligations, including by:

- preventing simultaneous ITC and District court proceedings involving the same issues;