



USTR INITIATES ANNUAL “SECTION 1377” REVIEW OF COMPLIANCE WITH TELECOM-TRADE COMMITMENTS

Kent Bressie & Danielle Piñeres

The Office of the U.S. Trade Representative (“USTR”) has initiated its 2013 review of U.S. trading partners’ compliance with telecommunications-trade commitments, a process that culminates in a report to Congress and influences USTR’s negotiating, monitoring, and enforcement priorities for the coming year. Pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988, as amended (the “Act”), USTR examines U.S. trading partners’ compliance with commitments undertaken in bilateral, regional, and multilateral trade agreements with respect to telecommunications services, equipment, and software. Comments are due to be filed with USTR by January 3, 2014. Reply comments are due by January 24, 2014.

The Section 1377 review serves to pressure U.S. trading partners to comply with existing telecommunications-trade commitments. (In its annual National Trade Estimate, USTR separately examines trade barriers—in all sectors, not just telecommunications—that existing trade agreements do not address.) The review provides a mechanism for USTR to identify “priority foreign countries” pursuant to Section 1374 of the Act. For countries so identified, USTR may seek expedited negotiations and, in the event that such negotiations do not succeed, retaliate against the trading partner. Action under Section 1374 is rare, but USTR has successfully acted—or threatened to act—to resolve trade complaints with Korea and Taiwan.

In the current review, USTR seeks comment on the operation, effectiveness, implementation of, and compliance with the telecommunications-services, -equipment, and software-related commitments undertaken as part of the following agreements:

- Various World Trade Organization (“WTO”) agreements, such as the General Agreement on Trade in Services—including the Agreement on Basic Telecommunications Services, the Annex on Telecommunications, and any scheduled commitments including the Reference Paper on Pro-Competitive Regulatory Principles; the WTO Agreement on Subsidies and Countervailing Measures; the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights; and the WTO Agreement on Government Procurement;
- North American Free Trade Agreement (to which Canada and Mexico are parties);
- U.S. free trade agreements with Australia, Bahrain, Chile, Colombia, Korea, Morocco, Oman, Panama, Peru, and Singapore;
- Dominican Republic–Central America–United States Free Trade Agreement (to which Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua are parties);
- Mutual Recognition Agreements for Conformity Assessment of Telecommunications Equipment; and

W&G REGULATORY ADVISORY
26 DECEMBER 2013

- Other trade agreements with telecommunications-related provisions.

Comments must be submitted electronically. Unless the submitter seeks confidential treatment under the Freedom of Information Act, the comments will be made public by USTR.

For a discussion of the results of USTR's previous Section 1377 review, please see our earlier advisory, [USTR Highlights Telecommunications-Trade Barriers in 2013 National Trade Estimate and Section 1377 Reports \(Apr. 23, 2013\)](#).

* * * * *

For more information regarding the 2013 Section 1377 review, assistance in filing comments in that review, or Wiltshire & Grannis LLP's international trade and investment practice, please contact **Kent Bressie** at +1 202 730 1337 or kbressie@wiltshiregrannis.com.

This client advisory is not intended to convey legal advice. It is circulated to our clients as a convenience and is not intended to reflect or create an attorney-client relationship as to its subject matter.