

# INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

## 2005 SPECIAL 301 REPORT

### INDONESIA

***Special Statement of Condolence Regarding Recent Events in Indonesia:*** The copyright industries collectively express our deep sadness over recent events surrounding the devastating *tsunami*, the enormous loss of life, and extend our condolences to the families of those in Indonesia who have lost loved ones, and sympathies to those who have been displaced or have otherwise suffered as a result.

## **EXECUTIVE SUMMARY**

**Special 301 Recommendation:** IIPA recommends that Indonesia remain on the Priority Watch List.

**Overview of Key Problems/Achievements:** Piracy levels in Indonesia are among the highest in the world, at 85-95% range for all industry sectors. Illegal optical disc production continued in 2004, and export piracy broadened. The huge Indonesian market remains dominated by retail piracy of all copyrighted materials, including optical disc piracy (CDs, VCDs, CD-ROMs, and increasingly DVDs) and book piracy. Raids under the copyright law rarely lead to effective prosecutions, and almost never result in convictions of pirates or imposition of deterrent sentences; the court system remains largely ineffective. The audiovisual sector encounters significant barriers to market access, which only exacerbate the piracy problem. Bright spots in 2004 included several large raids against optical disc factories, the first raid by the Police against a well-established company engaged in the unauthorized use of business software (end-user piracy), and support from the Indonesian government to legalized software usage within government ministries. Estimated losses to U.S. right holders due to piracy in Indonesia in 2004 were at least US\$203.6 million.

On October 5, 2004, regulations regarding optical disc production were signed by the outgoing President Megawati Soekarnoputri, which hopefully will lead to more effective enforcement by the administration of the incoming President, Susilo Bambang Yudhoyono, against unauthorized production of optical discs.<sup>1</sup> Nonetheless, the regulation contains some key deficiencies (the regulations were weakened prior to final issuance) which have not been fixed in the implementing decrees that were issued soon thereafter. The government of Indonesia has also missed the deadline to implement protection of technological measures against unlawful “circumvention” and should make this a priority for copyright in 2005. IIPA commends the government of Indonesia for joining the WIPO Performances and Phonograms Treaty (WPPT) effective February 15, 2005, and the copyright law should now be interpreted (or amended if necessary) to afford record producers with legal rights consistent with the WPPT; the copyright law should also extend terms of protection for all works and sound recordings. In 2004, the Ministry of Finance through the Directorate of Customs and Excise indicated plans to

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<sup>1</sup> The election in 2004 was a major event of 2004, marking the first time over 250 million Indonesians elected their President by direct mandate.

introduce an “excise tax” on recording media specifically movies and music in optical disc format; IIPA urges the government to cease its plans to roll out this excise tax in early 2005.

### **Actions to be Taken in 2005:**

- Enforce the optical media regulations, including: registering all plants’ activities; running frequent inspections of all plants in Indonesia to ensure that they are engaged in legal/authorized activities; seizing suspected infringing materials as well as orders, documents and exemplars from all plants for all titles produced; prosecuting plants and seeking closure of plants engaged in unauthorized activities, including unauthorized production of stampers/masters; taking all necessary steps to ensure that pirate or unauthorized product is not being exported out of Indonesia; and prosecuting owners/managers of plants.
- Ensure the President signs the National Task Force Decree currently awaiting approval from the State Secretariat and strengthens the National Task Force by providing the resources and political will necessary to defeat piracy.
- Carry out sustained enforcement activities against pirate retail outlets, street vendors, distributors, production facilities, and commercial photocopy shops. In particular, the government needs to ensure that sustained, effective enforcement is taken against the retail and distribution outlets in the persistently pirate malls Ratu Plaza and Mangga Dua in Jakarta and that the pirates are successfully prosecuted.
- Effectively enforce the new criminal provisions against corporate end-user piracy of business software, including prosecutions in end-user actions, and continue to improve software asset management in government, while introducing the same for all businesses.
- Improve training and performance of prosecutors and judges in IPR cases, while issuing sentencing guidelines that call for deterrent sentences where time is actually served in custody.
- Allow foreign audiovisual producers to participate directly in importation and distribution of their product, and relax bans on foreign investment in media businesses.
- Amend the copyright law to, among other changes, provide record producers with rights in line with the WPPT, extend duration of copyright protection, etc.
- Implement the copyright law by issuing statutorily-mandated regulations to implement protection of technological protection measures (and consistent with the WCT and WPPT).
- Amend the regulations on optical disc to, among other things: provide centralized licensing of plants; ensure proper use of identification codes, including prohibiting gouging or other alterations of codes; cover stampers/masters; cover exportation of discs, equipment and raw materials.

For more details on Indonesia’s Special 301 history, see IIPA’s “History” Appendix to this filing.<sup>2</sup> Please also see previous years’ reports.<sup>3</sup>

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<sup>2</sup> <http://www.iipa.com/pdf/2005SPEC301HISTORICALSUMMARY.pdf>.

<sup>3</sup> <http://www.iipa.com/countryreports.html>.

**INDONESIA**  
**Estimated Trade Losses Due to Copyright Piracy**  
**(in millions of U.S. dollars)**  
**and Levels of Piracy: 2000-2004<sup>4</sup>**

INDUSTRY	2004		2003		2002		2001		2000	
	Loss	Level								
Motion Pictures	32.0	92%	29.0	92%	28.0	90%	27.5	90%	25.0	90%
Records & Music	27.6	80%	44.5	87%	92.3	89%	67.9	87%	21.6	56%
Business Software <sup>5</sup>	112.0	87%	94.0	88%	109.6	89%	63.1	88%	55.7	89%
Entertainment Software	NA	NA	NA	NA	NA	NA	NA	NA	NA	99%
Books	32.0	NA	30.0	NA	30.0	NA	30.0	NA	32.0	NA
<b>TOTALS</b>	<b>203.6</b>		<b>197.5</b>		<b>259.9</b>		<b>188.5</b>		<b>134.3</b>	

## **IIPA OPPOSES IMPOSITION OF EXCISE TAX ON “RECORDED MEDIA”**

In June 2004, the Directorate of Customs and Excise proposed the introduction of an “excise tax” sticker on recorded optical disc media containing Music and Movies in Optical Disc format. The motives were said to be the reduction of piracy as well as increasing revenue for the customs.<sup>6</sup> The Parliament approved the tax proposal in mid-July 2004.<sup>7</sup> Although the latest government proposal was for a 0% excise tax (i.e., the only obligation would be to affix the stickers onto VCD/DVD products, not to pay for them) in order to counter concerns that this was just another tax against distributors, serious concerns remain that future tax levies will be imposed. However, strong collective opposition from the industry associations has resulted in the excise sticker not being implemented for the moment (October 2004).<sup>8</sup> In addition, the Customs department has stated that all revenue that accrued would be channelled back into a fund to fight piracy, but no details have been forthcoming. IIPA is highly skeptical that such excise stickers, which have to be purchased by right holders and distributor of the media, can act to reduce piracy. The tax merely imposes additional costs on legitimate right holders,<sup>9</sup> while failing to stem pirates, who will never pay the tax. In addition, fraudulent/counterfeit stickers have marred the system as to other products currently covered by the tax (e.g., cigarettes). IIPA urges the Indonesian government to cease its plans to roll out this excise tax.

<sup>4</sup> The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA’s 2005 Special 301 submission at [www.iipa.com/pdf/2004spec301methodology.pdf](http://www.iipa.com/pdf/2004spec301methodology.pdf).

<sup>5</sup> BSA’s final 2003 figures represent the U.S. software publisher’s share of software piracy losses in Indonesia, as compiled in October 2004 (based on a BSA/IDC July 2004 worldwide study, found at <http://www.bsa.org/globalstudy/>). In prior years, the “global” figures did not include certain computer applications such as operating systems, or consumer applications such as PC gaming, personal finance, and reference software. These software applications are now included in the estimated 2003 losses resulting in a significantly higher loss estimate (\$157 million) than was reported in prior years. The preliminary 2003 losses which had appeared in previously released IIPA charts were based on the older methodology, which is why they differ from the 2003 numbers in this report.

<sup>6</sup> Press reports indicate that the Indonesian Customs department expects to increase state revenues by Rp. 98 to 170 billion (approximately U.S.\$11.5 to 18.5 million) each year, with this move based on a sticker price of Rp.750 (US\$0.08).

<sup>7</sup> *Parliament Approves Tariff Plan on Recording Products*, *Bisnis Indonesia*, July 15, 2004.

<sup>8</sup> *Tax on recording media delayed*, *Bisnis Indonesia*, October 20, 2004 (noting the opposition of content groups including Asiri, Asari, AMRI, Asprindo, Asirevi, Apmino, AIVI and Amari).

<sup>9</sup> IIPA is uncertain whether the excise tax will be imposed on audiovisual works in addition to the “value-added tax” which is already imposed – Rp. 15,000 or US\$1.63 on most audiovisual titles. If so, this imposes even greater burdens on legitimate producers and importer/distributors by further increasing the disparity in prices between the legitimate and pirate products

# **IIPA LAUDS PASSAGE OF OPTICAL DISC REGULATIONS**

## **Regulations Must be Implemented Forthwith**

On October 5, 2004, outgoing Indonesian President Megawati Soekarnoputri signed the “Government Regulation Number 29 of 2004 Concerning High Technology Production Facilities for Optical Discs.” With Indonesia fast becoming an export base for pirated optical discs, the successful enforcement of these regulations is crucial to reduce endemically high piracy levels throughout Southeast Asia. IIPA understands that the Ministry of Industry & Trade issued two Ministerial implementing regulations on October 18, 2004. Although Customs has raised some questions regarding the licensing of importation of polycarbonate, the Regulations are expected to come into force on April 5, 2005, following a six month socialization period. Once fully implemented it is imperative that enforcement of the Optical Disc Regulations commence; otherwise, the problem of pirate production of optical discs for export in Indonesia will only grow in 2005 and Indonesia will have wasted this valuable opportunity to demonstrate its commitment to fighting optical disc piracy.

## **COPYRIGHT PIRACY IN INDONESIA**

There are two chief elements to the piracy problem in Indonesia: massive overproduction for domestic consumption and export of pirate optical discs, and massive distribution or use of pirated product (optical discs sold at retail, end-user piracy of business software, book piracy, audiocassette piracy) domestically, which destroys any legitimate market for copyrighted materials in Indonesia. Disturbingly, there is evidence of the infiltration of organized criminal enterprises engaging in piracy in Indonesia, demanding a swift and sustained response. These problems results in some of the highest piracy rates in the region and the world (audiovisual piracy levels in 2004 increased to 92%). There are also substantial imports of pirate optical discs that are smuggled in via sea and airports. The complete failure of Indonesia’s prosecution system to deal in any way with intellectual property matters seriously compounds the difficulties faced by right holders. In 2004, there were no prosecutions at all. After many years of struggling in the face of rampant piracy, the massive increase in pirate DVDs flooding the market is now threatening the continued existence of the legitimate home video industry.

## **Optical Disc Production Problem Continues to Worsen**

While estimates vary considerably, IIPA understands there are at least 40 plants mass-producing “finished” optical discs (excluding blank CD-R) in Indonesia, with at least 75 production lines (excluding CD-R) for VCDs, DVDs, CDs, and CD-ROMs of all kinds of copyrighted materials. Total annual disc capacity in 2004 (excluding CD-R) was at least 262.5 million discs.<sup>10</sup> Of the 40 plants, it now appears that there are at least six plants in Indonesia with “stamper” manufacturing facilities (stampers are a key production part needed to mass-produce optical discs, and they contain the infringing content, and therefore must be covered in laws, optical disc regulations, and be subject to seizure, etc.; see discussion below). Prices of VCD hardware decreased in 2004, making VCDs far more accessible to the general population. On top of increased availability of pirate product locally, production potential exceeded local demand again in 2004, making Indonesia an export base for pirate VCDs. Indications suggest

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<sup>10</sup> Estimated production capacity of finished optical discs is ascertained by multiplying the number of production lines (excluding blank CD-R) times 3.5 million; this is by all accounts considered a conservative estimate.

that in 2004, VCD factories continued to relocate from Malaysia to Indonesia, mainly in the Jakarta area, but also in Surabaya and Batam.

The latest concern is that up to 20 plants are producing pirate DVDs (mostly DVD9 discs). Although pirate DVD facilities were suspected as having been in place in Indonesia since 2002, it is believed that these facilities delayed production due to their inability to compete with low priced, imported pirate product and the relatively high price of DVD hardware. The continued reduction in the price of pirate DVDs and the availability of cheaper DVD hardware (Rp. 400,000 or US\$43) has more than likely contributed to the establishment and growth of pirate DVD production. In addition, IIPA now believes that Indonesia has become a base for the export of pirate DVDs; recent raids and statements by the Indonesian government support this conclusion.<sup>11</sup> Pirated music CDs from Indonesia have also been intercepted in places like the Philippines. By the end of the of 2004, reports were streaming in from Customs authorities in the Philippines, Australia, Hong Kong, and the United Kingdom of tens of thousands of pirate DVDs being exported from Indonesia.<sup>12</sup> Indeed, statistics from U.K. Customs indicated that by the end of 2004, pirate seizures emanating from Indonesia more than quadrupled over the numbers of copies seized in all of 2003.<sup>13</sup> It is imperative that the optical disc legislation be fully implemented by the new government to stem this tide of piratical activity and eventually drive it out of Indonesia.

## Retail Piracy Remains the Norm

Reported piracy levels for nearly all copyright sectors remained among the highest of any major market in the world in 2004. The market in Indonesia is dominated almost completely by pirate optical discs: audio CDs, video CDs (VCDs), DVDs, and CD-ROMs containing business or entertainment software. Ratu Plaza, Mangga Dua, and Harco Glodok Market remained the worst hot spots. Indeed, despite repeated attempts by rights holders to close down their pirate motion picture DVD outlets, Ratu Plaza mall (in central Jakarta) appears

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<sup>11</sup> See Evi Mariani, *Police seize pirated CDs, nab alleged manufacturers*, The Jakarta Post, August 5, 2004. The Jakarta Police confiscated 273,000 pirated video compact discs (VCDs) and audio compact discs (CDs) from three locations, detaining seven suspects. The discs contained music and movies both from local sources, including video clips of Indonesian musicians, Iwan Fals, Ebiet G. Ade, as well as Indonesian movies and TV series, and Indian movies, in addition to international repertoire. The police investigation led them to a medium-scale CD duplicating industry in Tangerang, where the police confiscated 12 machines, including machines to produce blank CDs and DVDs (owned by the company PT Dimension Multi Digital Star). The police reportedly arrested the company's director Ati Susanti, the assistant to the director A Siung and company manager Jenvanter Silalahi. Along with the machines, the police also seized 47,000 pirated VCDs, CDs and DVDs, 11 tons of polycarbonate, a minivan and a computer. In a second operation, the police raided PT Karya Guna Sukses Pratama, also in Tangerang, and confiscated 3,000 pirated VCDs and CDs, six duplicating machines, eight kilograms of polycarbonate and a minivan. The police arrested its director Slamet Wijoyo and commissioner Edy. A third raid was at a warehouse in Pademangan, North Jakarta, where the two companies stocked their production. From the warehouse police confiscated 223,000 pirated discs and a minivan, and detained two other people, Slamet Riyadi, a driver, and Sularso, a packaging worker. These raids cost the pirates an estimated US\$80,000 profit and represent the equivalent of over US\$1.4 million in lost sales to U.S. motion picture companies and their Indonesian licensees, not to mention losses to other industries including the record industry.

<sup>12</sup> Hong Kong customs seized 26,000 DVDs on August 18, 2004 from Indonesia (of which 13,300 were U.S. motion picture titles). On August 23, 2004 two smugglers were intercepted at Davao airport in the Philippines. They were carrying 8,000 pirate optical discs of which over 6,000 were U.S. motion picture titles. On 4 June 2004 Customs at Jakarta International Airport suspended a container of approximately 110,000 pirate ODs (of which 100,000 were computer game DVDs and the remainder U.S. motion picture DVDs).

<sup>13</sup> A total of 26,567 pirate discs from Indonesia were seized by U.K. Customs in 2003, while a total of 66,087 pirate discs from Indonesia were seized in 2004. Those seizures ranked Indonesia in the top five, behind only Malaysia, Pakistan, China, Hong Kong and Singapore. Many thousands of the seized discs were pirate DVDs of U.S. motion pictures, confirming the suspicion that Indonesia has emerged as a pirate exporter of DVDs.

immune to enforcement. In May 2004, the number of pirate retail outlets in the mall was doubled (to 38), notwithstanding that the mall is located next door to the headquarters of the Indonesian National Police.

The vast majority of pirate DVDs found in Indonesia continue to be imported from Malaysia and are of high quality, but an increasing number of pirate DVDs in the Indonesian market in 2003 were produced domestically (although they are of lower quality). Prices for pirate product continue to be unbelievably low, for example, in the wholesale market at Harco Glodok, Jakarta, a pirate DVD ran for Rp. 5,000 (US\$0.54) without the box, and Rp. 6,000.00 (US\$0.65) with the box; this compared with around Rp. 20,000 (US\$2.17) in 2003. These low prices are part of a “price war” that has erupted among pirate retailers of DVDs and VCDs. This pricing negatively impacts the legitimate VCD market [new release legitimate VCDs retail at around Rp. 50,000 (US\$5.42) while legitimate DVDs retail at around Rp. 95,000 to 140,000, or US\$10.30 to \$15.18]. Both VCD and DVD pirates continue to display savvy marketing skills by releasing pirate VCD and DVD copies of movies to coincide with legitimate theatrical and video release dates.

The situation is similarly bleak for other copyright sectors. Book piracy remains widespread, especially English-language textbooks, reference books, and computer-related volumes. Commercial pirates operate throughout the country, including some that produce and market illegal reprints or unauthorized translations of U.S. books. Photocopy shops in and around universities are becoming more aggressive and increasing their volume of unauthorized copying. A recently announced initiative by the Indonesian Army to offer unauthorized electronic versions of books in Indonesia raises serious questions, and emphasizes the need for Indonesia to adequately implement and enforce its copyright law with respect to digitized works (and to ensure compliance with the WIPO Copyright Treaty).<sup>14</sup>

The local recording industry association estimates that seven of every eight sound recordings in the market are pirated. Software piracy in all its forms (business software and entertainment software) remains rampant throughout Indonesia, as pirate product is readily available at retail. Retail computer software pirates are growing bolder, with some even offering long term “membership” and discount packages as well as computer terminals, skilled staff to advise on customers software needs and even issuing receipts for purchases. Unauthorized copies of business software applications are prevalent in businesses and public institutions throughout the country, due to corporate end-user piracy. Although Internet piracy is not prominent due to low Internet penetration rates, the few infringing sites identified to date give rise to great concern. Indonesian sites (including those linked to educational institutions) that host infringing MP3 files have generally not responded to cease-and-desist letters sent by the recording industry. The audiovisual sector reports a 90% cable piracy rate — one of the highest piracy rates for this form of unauthorized transmission of broadcasts in the world.<sup>15</sup>

## **COPYRIGHT ENFORCEMENT IN INDONESIA**

IIPA recognizes that the Indonesian election and security concerns related to terrorism posed hurdles to smooth enforcement operations and diverted Indonesian government resources from the piracy problem in the first part of 2004. At the end of 2004, the *tsunami*

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<sup>14</sup> The Indonesian Army Headquarters has reportedly decided to scan books without permission or regard to any royalty structure. The Army needs to comply with the law and seek licenses in order to engage in the activity it is planning.

<sup>15</sup> Cable piracy refers to unauthorized reception and retransmission of broadcasts using illegal decoders in Indonesia.

disaster necessarily diverted attention to relief efforts during the initial aftermath. On top of such external hurdles to enforcement, there continue to be irregularities in raids, such as leaks to raid targets.<sup>16</sup> Police will rarely act on an *ex officio* basis,<sup>17</sup> meaning right holders must instigate nearly all criminal actions, requiring investments of substantial time and resources. The raids that are run rarely lead to effective prosecutions, and almost never result in convictions of pirates or imposition of deterrent sentences; the court system remains ineffective. Events surrounding the coming into force of the copyright law in 2002 provide an example of the government's ineffectiveness in eradicating piracy. The nationwide coverage of a press conference in July 2003 announcing the new law resulted in an immediate reduction in the number of retail outlets selling pirate movies, but, lacking follow-up action, a month later most retail outlets had reopened, selling pirate movies again.

Enforcement coordination has been marred by ineffectiveness. The IPR Task Force announced in early 2003 under the Chairmanship of the Director General of IPR, and designed to be a national coordinating body for the enforcement of copyright, has been totally ineffective due to the fact that the head of the task force lacks authority over the police and other government departments, and because of inadequate funding by the government. In May 2004, President Megawati directed the creation of a "National Task Force" under the Ministry of Trade that would report directly to the President. The draft Decree awaits approval from the State Secretariat and Presidential signature for implementation. IIPA urges the President to sign this important Decree.

## **Retail Raids, Factory Raids, and the First-Ever End-User Raid in 2004, and Steps to Uncover Internet Piracy (Distribution)**

Notwithstanding a difficult enforcement environment in Indonesia, 2004 brought some hopeful signs that the Indonesian government wishes to tackle the piracy problem. IIPA notes some enforcement activity by the Indonesian authorities in 2004. For example, IIPA understands police actions included at least 3 factory raids and 13 retail actions against VCD/DVD pirates resulting in seizures of approximately over 400,000 discs. Of the retail actions, however, seven resulted in no seizures and there were no prosecutions at all. However, the Police ran their first-ever raid against a well-established company found to be engaging in the unauthorized use of business software (end-user piracy). Further, the business software community received support from the government to legalize software usage within government ministries.

The factory raids reveal a high level of sophistication among the pirate operations.<sup>18</sup> For example, on January 25, 2005, the *Polda Metro Jaya* (Jakarta City Police) executed a midnight raid on a new pirate optical disc factory, making a number of arrests, seizing 78 stampers and 35,000 discs, and sealing the production machines on site. The Police were, as of late January 2005, still in the process of investigating the crimes, including interrogation of the factory owner.

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<sup>16</sup> When a raid on the notorious retail mall Ratu Plaza was conducted on August 19, 2004, officers arrived to find 31 of 38 stores closed, indicating that they were tipped off well in advance of the raid.

<sup>17</sup> On the rare occasions when the Police do act on their own, it is often a public relations exercise directed against the production and distribution of pornographic material.

<sup>18</sup> Pirate factories increasingly run their machinery at night to avoid detection, often producing genuine stock during normal working hours. Another recent trend with pirate factories is the installation of high-powered shredding/crushing machines to destroy valuable evidence in a very short amount of time. In a jurisdiction where very little is committed to paper and almost nothing to computer, the VCDs/DVDs and packaging seized often constitute the only evidence of crime.

On December 29, 2004, a raiding party comprising 25 officers from the Department of Copyright PPNS (*Penyidik Pegawai Negeri Sipil*, Civil Service Investigation Office), accompanied by the new Indonesian Minister of Legislation and Human Rights Hamid Awaluddin, raided a DVD factory in Jakarta, the first-ever raid of its kind. The raid resulted in the seizure of approximately 10,000 pirate DVDs, almost all of which were of U.S. motion pictures, three production machines, almost 20 tons of polycarbonate and other raw materials, including resin, 175 printing plaques (or acetates), a data machine and computer, a printing machine, 31 stampers and 4 molds. As of the end of January 2005, the Department of Copyright was still gathering evidence to be submitted to the police and prosecution authorities. There are concerns the defendants are taking steps to interfere with the course of justice and IIPA will continue to monitor progress of this important action carefully. It is noteworthy that Minister Awaluddin was present at the raided premises for over an hour, personally searching the building for store rooms and other evidence and briefly interviewing the owner Pak Budi Ayung, who arrived at the factory during the raid. The Minister expressed shock at how technologically advanced the plant was and at the high production capacity, and confirmed his commitment to eradicating pirate optical disc production in Indonesia. IIPA commends the Minister for his participation in the raid and his continued support to eradicate piracy in Indonesia.

In a significant development, on September 28, 2004, a raid was carried out by the police against a well-established company engaged in end-user piracy (the unauthorized use of business software in a business setting). The raid in Jakarta marked the first time the new copyright law provision criminalizing end-user piracy was employed. During the raid, 97 of the 130 computers were found to contain unlicensed software, to the value of around US\$445,000, primarily belonging to Autodesk and Microsoft. IIPA understands that the company involved may undergo a full audit and subsequently legalize its unlicensed software.

In March 2004 the Indonesian government held a Summit on IPR. The aim of the summit was to raise IPR awareness among government agencies and to emphasize the need for the government agencies to lead by example and use only legal software. The audience numbered around 150 government representatives from various agencies. In a related development, on August 12, 2004, the Minister of Communications and Information sent a letter to all government departments referring to the copyright law and asking all government offices to use only legal software.<sup>19</sup>

Another significant (and disheartening) development in 2004 was the uncovering of "Internet" based piracy. Online piracy of digitized files (like P2P piracy) has yet to emerge in Indonesia, but the first signs of an emerging Internet-based pirate market were discovered in early 2004, in the form of websites offering "burned" CD-Rs for sale. Two such websites were found in 2004. The Cyber Crimes Police (Cyber-crimes Unit of the Indonesian National Police) are acting against one website based on a formal complaint filed by the Motion Picture Association and are investigating the second. The websites do not offer downloads but do deliver for sale or rent pirate DVDs of American movies. Efforts to persuade the police to take enforcement action against these two websites are continuing.

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<sup>19</sup> *Indonesia plans to eliminate pirated software in government offices*, March 23, 2004, at [http://story.news.yahoo.com/news?tmpl=story&cid=1510&ncid=1510&e=3&u=/afp/20040323/tc\\_afp/indonesia\\_it\\_software\\_piracy\\_040323052915](http://story.news.yahoo.com/news?tmpl=story&cid=1510&ncid=1510&e=3&u=/afp/20040323/tc_afp/indonesia_it_software_piracy_040323052915) (in which J.B. Kristiadi, Secretary to the Minister of Information explained that representatives of government institutions have agreed to take an inventory of pirated software in government offices and negotiate with legal vendors; Kristiadi said, "[i]t would be ironic if we break the law we made ourselves").

Even with the raids described above, the Indonesian court system, long a weak link in the nation's copyright enforcement chain, continues to be relatively ineffective in handling copyright cases, although there were some convictions in 2004. Following numerous retail raids in 2002, 2003 and 2004, only three retailers received convictions in 2003.<sup>20</sup> In 2004, acting on complaints made by the Business Software Alliance, the police conducted retail raids in April on 12 shops in three famous shopping malls (Harco, Ratu Plaza in February and Manga Dua). Significant seizures of pirate software were made (7,200 discs in Harco/Ratu Plaza\Ratu Plaza and 10,300 discs in Manga Dua). Of significance in the Harco Mall and Manga Dua raids was that cases against six of the store owners reached judgment in December 2004 at the West and Central Jakarta District Court with the storeowners being found guilty. The sentence was imprisonment of one year, suspended for two years, so hardly a deterrent.<sup>21</sup> The Ratu Plaza raid case was dropped altogether.<sup>22</sup> In all three cases, there was some corruption although ultimately attempts by defendants to influence the cases failed.

## **MARKET ACCESS BARRIERS**

For years, Indonesia has enjoyed the dubious distinction of being one of the markets in the world least open to U.S. copyrighted products. Despite economic reforms and liberalization in other sectors, the overarching market access barrier affecting the copyright industries remains in place: the blanket prohibition on foreign company participation in, or even investment in, importation, direct distribution, exhibition, or retailing in Indonesia. The audiovisual sector also suffers under a flat ban on foreign investment in all media businesses, including cinema construction or operation, video distribution, or broadcast services.<sup>23</sup>

The previous Megawati government had promised a more enlightened approach to intellectual property rights reform than the Wahid administration, and indicated at least in theory the intent to take steps in that direction following the implementation of copyright law amendments that took effect on July 28, 2003. In October 2003, for example, the Indonesian government announced its intention to liberalize foreign investment restrictions in almost all sectors of the economy. Unfortunately, two new laws go in entirely the wrong direction. A new draft film law, intended to replace Film Law No. 8 of 1992, retains a complete prohibition on investment in the film industry.<sup>24</sup> The Directorate General of Film Art and Cultural values under

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<sup>20</sup> The convictions, meted out in mid-2003 were: (1) Henry Lunardi, who received 6 months' imprisonment and whose appeal for presidential clemency failed; (2) Roosely Effenly, who has appealed her 6-month imprisonment and USD300 fine to the Appeal Court; (3) Freddy Malinton and Andi Mulyono, both of whom appealed their 6-month sentence and USD300 fine to the Appeal Court. In each of these cases it is not known whether the defendants in fact served their punishment. There were no prosecutions in 2004 arising from raids carried in that year or previously statistics which are symptomatic of the overall lack of effectiveness in the enforcement system.

<sup>21</sup> Moreover, the storeowners verbally accepted the decision rendered by the Panel of Judges. The acceptance by the storeowners to the decision means that the decision became valid and binding.

<sup>22</sup> The reason given was that during the raid the police accidentally seized "free ware" software. The infringers were aware of this and as such the Police feared being sued by the infringer.

<sup>23</sup> President Habibie reaffirmed the ban through a Decree in July 1988, and two presidential decrees in July and August 2000 further reaffirmed the ban, prohibiting foreign investment in the broadcast and media sectors, including the film industry (film-making business, film technical service providers, film export and import businesses, film distributors and movie houses operators, film broadcasting services, radio and television broadcasting subscription services, and print media information services). Presidential Decree No. 96 of July 2000, later ratified by Decree 118 of August 16, 2000.

<sup>24</sup> Under the law, only local Indonesian companies would be permitted to operate a "Film Business" or a "Film Professional Service." No provisions exist for foreign investment. Another provision of the law provides that film businesses are "obliged to use national potential to the maximum limit while paying attention to the principles of efficiency, effectiveness and quality" (presumably to discourage or otherwise limit expatriate representatives). The law also specifies that only national film companies would be permitted to make film commercials, that imported films

the Ministry of Tourism now overlooks film matters and has commissioned the government advisory board on Film Issues, the BP2N, to prepare a draft amendment to the Film Law. Local industry groups and the Motion Picture Association have made submissions and the first concept drafts are in circulation. The draft of the Film Law has yet to be finalized or submitted to the Parliament for debate. BP2N is likely to restart discussions in early 2005, obtain additional inputs from the film and related industries and with approval from the Ministry forward the final draft to Parliament for debate sometime in 2005. We understand BP2N are awaiting budget approval for this purpose. BP2N may not consider foreign film or related associations in their discussions. This is unfortunate as a number of key issues concerning the Film Law are highly relevant to foreign interests. For example, the Film Law is expected to consider an Independent Film Commission made up of local members, possible import and screening quotas, higher entertainment taxes on film admissions to imported films, possible requirements that all prints be made locally, and possible restrictions on foreign direct investment in the film industry.

Also, the Law of the Republic of Indonesia Number 32 Year 2002 Regarding Broadcasting (which came into force in February 2003)<sup>25</sup> bans the broadcast of virtually all foreign programming in Indonesia.<sup>26</sup> This law's validity has been challenged in Court by interest groups and TV associations and a decision is pending. The Independent Regulatory Commission (KPI) created by the new Broadcast Law has now been installed and has completed and issued several draft Presidential implementing regulations required to implement the Broadcast law.

The investment ban and the barriers to a foreign role in distribution are wholly inconsistent with the steps the regime has taken to reduce barriers to the Indonesian market generally and to respond to calls from the international community for market liberalization. They also violate Indonesia's bilateral pledge to the United States in 1992 that direct distribution of audiovisual product would be permitted as soon as the market was opened to the direct distribution of any other foreign goods. IIPA hopes the new Administration will take a more market-opening stance to the audiovisual and other entertainment industries which stand to invest and participate in the Indonesian marketplace.

Regarding another barrier that had hindered the U.S. motion picture industry, the Ministry of Information had established an annual import quota for foreign films, set at 160. However, with the abolishment of this Ministry, there is currently no enforcement of the quota and any 100% Indonesian owned company may import films

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are expected to be supplementary to national product and imports should be "in proportion to local production," and although the existing film law permits films approved for all ages to be dubbed into Bahasa Indonesian, the new draft prohibits any form of dubbing except for educational, research, or information purposes, but required that all films be subtitled in Bahasa Indonesian.

<sup>25</sup> Law No. 32 of 2002 went into effect in February 2003 without the signature of President Megawati, in accordance with the amended constitution that permits a bill to take effect 30 days after its passage regardless of whether it has been signed by the President.

<sup>26</sup> When implemented, the law will require that private broadcasting institutions be established initially without any foreign investment. Subsequent foreign investments may be made, but only up to a 20% ownership cap shared by a minimum of two shareholders. Additional restrictions in the draft legislation include: (1) a restriction on foreign managers, (2) cross ownership limitations, (3) a local content quota of 60% on broadcast television and 10% on pay-television, (4) a 30% dubbing quota on foreign programs, (5) advertising limits of 20% of total broadcasting time for private broadcast stations and 15% for public stations, and (6) a total ban against the establishment of foreign broadcast institutions in Indonesia.

## **COPYRIGHT LAW AND RELATED ISSUES**

Two positive developments occurred in 2004: the regulations related to optical disc piracy were signed by the President on October 5, 2004 (and on October 18, 2004, two implementing ministerial decrees providing further details in support of the optical disc regulations were completed); and Indonesia joined the WIPO Performances and Phonograms Treaty (WPPT). Copyright owners now await full implementation/enforcement of the optical disc regulations, and full implementation of the copyright law (through regulations outlawing the unlawful circumvention of technological protection measures used by right owners, term extension, confirming the rights that must be afforded to sound recording producers under the WPPT, etc.). In addition, IIPA supports proposed cybercrime legislation, and urges passage of such legislation in line with the COE Cybercrime Convention.

### **Comments on the Optical Disc Regulation**

Indonesia's "Government Regulation No. 29 of 2004 Concerning High Technology Production Facilities for Optical Discs" was signed by President Megawati on October 5, 2004. Immediate implementation of optical disc controls is crucial to curtail the massive and growing problem of unauthorized production and export of pirate optical discs. IIPA has not had a chance to review the two regulations but looks forward to having a chance to do so. Some remaining problems with the Regulation are as follows:

- **There is no centralized licensing of prerecorded or blank optical discs:** Article 28 of the law refers to the requirement that OD production facilities comply with "all required permits" but the requirement to obtain a permit as a condition to produce discs has been deleted from the Regulation. The draft Regulation established [in Articles 6(1), (2), and 7] that any person/entity engaged in the manufacture of prerecorded or blank optical discs must obtain a production permit, which is renewable every three years. This is missing from the Regulation finally passed! It appears to be replaced by a "registration" mechanism for those possessing machinery and equipment (Article 12) and a reporting requirement as to production activities (Articles 13 *et seq.*). Failure to register is punishable by a revocation or suspension of the "Optical Disc business license," but nowhere else in the law is the procedure for obtaining such a license present. This is a serious gap.
- **The regulation requires imported pre-recorded discs to be marked with identification code:** The requirement in Article 5 for imported pre-recorded optical discs to be marked with identification code from the country of origin of the discs violates GATT/WTO rules and could have other negative ramifications.
- **The regulation does not require use of appropriate identification code on blank discs:** Use of "mould code" is not expressly made mandatory as to blank discs in Article 4. The law refers to SID Code now but we are unsure whether the Philips/IFPI code will be used. Article 4 states that the codes used shall be codes that are accredited and accepted internationally, so we assume that this may suggest the use of Philips/IFPI code.
- **The regulation does not adequately cover stampers and masters:** Stampers and masters are defined into the Regulation (and there is a SID Code requirement), but there is no licensing (or even registration under Article 12) requirement for the production of stampers and masters, and there is no requirement for identification code to be applied to

stampers or masters produced in Indonesia (only required for “stampers” imported into Indonesia, per Article 6).

- **The regulation does not expressly cover exports of discs, equipment and raw materials:** There are two key provisions regarding approvals for commercial activities with respect to discs, equipment and raw materials. Article 10 provides an “Approval” Mechanism for “purchase” of “production Machinery and Facilities and Raw Materials.” This is a positive check on transfer of the key materials used to pirate discs, and includes stampers and masters which is positive. Article 11 provides various controls on the importation of discs, equipment and raw materials. These provisions should 1) be expanded to cover export; 2) be limited so they do not curtail importation of optical discs; and 3) be GATT-compatible with regard to importation in other respects.
- **The regulation does not expressly prohibit unlawful uses/manipulation of identification code:** There are no prohibitions on the unlawful manipulation of identification code (e.g., the making, possessing or adapting a mould without the appropriate identification code; the altering, gouging or scouring of an identification code on or from a mould or any disc).
- **The regulation does not expressly authorize forcible entry in an inspection.**
- **The regulation does not require the government to keep records of “permits” and raids run:** There is no government record-keeping requirement, such as a maintenance of a register of registrations, import (or export) approvals, and identification codes granted, available for inspection. Also, there is no maintenance of a record of all inspection actions, available for inspection.
- **The regulation does not provide for plant closure.**
- **The regulation does not expressly impose corporate liability on individuals.**
- **The regulation provides for a transition of a lengthy six months.**

## Indonesia Joins the WPPT

IIPA is pleased to note that Indonesia acceded to the WIPO Performances and Phonograms Treaty (WPPT) effective February 15, 2005,<sup>27</sup> curing the anomaly that existed since 1997, when it was one of the first countries to join the WIPO Copyright Treaty (WCT) but failed to join the companion treaty. This accession raises the hopes that Indonesia will fulfill its obligations to protect sound recordings adequately in the digital environment. The copyright law should be amended to provide sound recording producers with exclusive rights they will need to do business in Indonesia in the digital environment, including the right to make their works available and communicate their works to the public.

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<sup>27</sup> WPPT Notification No. 50, WIPO Performances and Phonograms Treaty Ratification by the Republic of Indonesia, November 15, 2004, at <http://www.wipo.int>.

## Full Implementation of the Copyright Law Awaited

Copyright law in Indonesia is governed under the Law of the Republic of Indonesia, Number 19 Year 2002 Regarding Copyright (Copyright Law). This comprehensive revision of the law in Indonesia went into effect on July 29, 2003, remedying many shortcomings of the previous law and bringing Indonesia's copyright regime closer to compliance with its obligations under the WTO TRIPS Agreement. The law imposes maximum criminal penalties on copyright infringers of up to seven years in prison and a fine of up to IDR5 billion (US\$542,000). The law also takes into account developments of copyright in the digital age, and attempts to implement some but not all key requirements of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

While the law resulted in many improvements over the previous copyright regime in Indonesia, and while Indonesia's accession to the WPPT should set the way for Indonesia to afford sound recordings and performances proper protection under the law, including in the digital environment, there are some shortcomings which need to be addressed. It is highly disappointing that Indonesia failed to take the critical opportunity to modernize its law in line with international trends by extending the term of protection for all protected materials, to life plus 70 years for works, and 95 years from publication for producers of sound recordings, which is the actuarial equivalent of life plus 70. This omission is likely to become more problematic as other countries in its region adopt copyright term extension legislation, or take on bilateral obligations to do so.<sup>28</sup>

In addition, while draft implementing regulations related to "rights management information" (RMI) were released in 2004 (May 2004-dated revised draft "Regulations Regarding the Management Information of Author Rights"),<sup>29</sup> implementing regulations regarding technological protection measures (TPMs) (as covered in Article 27 of the Copyright Law) are badly needed.<sup>30</sup>

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<sup>28</sup> The April 2003 Report contained the statement, "[t]he protection of copyright needs no further extension as suggested by IIPA since Article 33 of Law No. 19 of 2002 regarding Copyrights provides copyright protection for good or without time limit." IIPA would like to point out that Article 33 refers not to extension of term with respect to the economic rights under copyright, but rather, to Article 24(1), which appears to provide the moral right of "attribution" and is indeed perpetual. Given the recent free trade agreement concluded between the United States and Singapore, under which the parties agreed to provide a term of protection of life of the author plus 70 years, or for works authored by a juridical entity, 70 years from publication, Indonesia should take the opportunity to join the international trend and extend term of protection for copyrighted materials.

<sup>29</sup> The 2004 proposed RMI Regulations focus solely on RMI, thus implementing the RMI provision in the Copyright Law (Article 25). The stated "purposes" of RMI in the new draft include "Maintain[ing] the access control and the using of Work" as well as "Manag[ing] every access, the using, and integration of protected Work." The clear references to TPMs in the April 2003 (e.g., the "production or importation for sale or rental of every instrument that is specially made or adapted to do the violation in order to avoid or restrict the multiplication of Creation or to reduce the quality of the multiplication products" was deemed to be a violation under the April 2003 draft) were removed from the 2004 draft. Essentially, Article 4(1) of the draft Regulations identify two infringements of "The Management Information of Author Rights": "Destroy[ing] or chang[ing] The Management Information of Author Rights without any permission from the Author"; or "Distribut[ing], import[ing] to distribut[e], announc[ing], or communicat[ing] to the society upon a certain Work, or multiplication result that the Management Information of Author Rights has been changed or eliminated without any rights."

<sup>30</sup> The April 2003 Report indicates that

The Law No. 19 does not provide detailed provisions on the safeguard of technological measures.

Rather, such provisions have been accommodated by Law Number 14 of 2001 regarding Patents."

We are unaware of any articles that deal with TPMs in the Patent Law.

There are several other concerns or ambiguities with the new Copyright Law, including:

- **Retroactivity:** The Copyright Law contains no provision confirming retroactive protection for works as well as for producers of sound recordings and performers.<sup>31</sup>
- **Right of “publication”:** It should be confirmed that the right of “publication” satisfies the WCT Article 8 requirement with regard to communications to the public and the “making available” of works.<sup>32</sup>
- **Overly-broad exceptions:** Certain exceptions in the new Copyright Law may be overly broad, which would violate Indonesia’s international obligations.<sup>33</sup>
- **Compulsory translation and reproduction licenses:** Article 16 of the new Copyright Law contains a compulsory translation and reproduction license which does not meet the requirements of the Berne Convention (and therefore TRIPS Article 9). This Article must be deleted.
- **National broadcasting exception for “interests of the state” arguably overbroad:** Article 18(1) provides that the “publication of a work” by the Indonesian government “through a radio, television broadcast and/or other means” is permissible without the authorization of the copyright owner if it is “for the Interests of the State,” provided that “the publication does not prejudice the normal interest of the Copyright Holder” and “a reasonable compensation is given to the Copyright Holder.” It does not appear that “reasonable compensation” means a freely negotiated compensation, which would suggest this Article amounts to a statutory license which goes beyond what is permitted by TRIPS and the Berne Convention. If so, this Article must be deleted.
- **Moral rights provisions:** Article 24(2), and associated Article 55(c) and (d), go beyond the moral right of “integrity” as that right is set out in Article 6*bis*(1) of the Berne Convention.<sup>34</sup> Article 24 should be amended.

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<sup>31</sup> While Article 74 confirms that prior regulations shall remain in effect except where contradictory with the new law, and Article 75 confirms the continued validity of previously issued copyright registrations, provisions should be added in an amendment or regulation to provide Berne/TRIPS-compatible protection for existing works, as well as for producers of sound recordings and performers. (We note that Indonesia is already under a bilateral obligation to provide a TRIPS-compatible term to all pre-existing works of U.S. origin.)

<sup>32</sup> The author’s right of “publication” in the Copyright Law explicitly includes an exclusive right of “dissemination of a Work, by utilizing whatever means including the Internet, or by any manner so that such Work is capable of being read, heard or seen by any other person.” It appears that the drafters intended this broad right, as applied to works, to satisfy the requirements of the WCT with respect to “communication made public.” The phrase “read, heard, or seen by any other person” appears to be an attempt to express the “making available” concept and the government of Indonesia should confirm that this phrase covers the making available of a work so that it can be accessed “from a place and a time individually chosen or selected” by the user. Also, as noted, it is crucial that the government of Indonesia modernize protection in Indonesia for producers of sound recordings and performers, and as a first step, the government should extend the right of “publication,” amended as necessary, to producers of sound recordings and performers. This would greatly enhance Indonesia’s efforts to implement the WPPT.

<sup>33</sup> The language from the Berne three-part test (“provided that they do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author or owner of the copyright”) should be added to the chapeau language of Article 15 of the Copyright Law, so that it applies to all of the excepted acts enumerated in that Article. In addition, Article 57 of the Law provides an exemption for non-commercial possession (i.e., would exempt from civil liability anyone who possesses “any work,” as long as the person “obtain[s]” the work “solely for his own need and not using it for any commercial purposes and/or any interests related to commercial activities”), but may amount to an overly broad limitation on liability for copyright infringement, since there does not appear to be any limitation on the number of copies of the work, the format (i.e., analog versus digital), the method of obtaining (i.e., by importation, purchase, off the Internet). This Article should be deleted, or if not deleted, significantly curtailed so that it passes the Berne three-part test.

- **Inadequate border measures:** Indonesia's border control measures leave serious gaps that must be filled to ensure that Indonesia provides TRIPS-compatible protection. The 1995 Customs Law established a judicial seizure system and allowed for *ex officio* action, but no implementing regulations ever followed passage of the law. Seizures are occasionally made on basis of an incorrect declaration or under-declaration. Draft regulations went out to industry for comment in early July 2001, but there has been no further progress toward issuance of regulations since then. Recently, the Ministry of Finance indicated that steps were being taken to revamp the existing customs law

## Internet/E-Commerce Legislation and “Cybercrime” Initiative

It appears that the government of Indonesia is taking steps toward enacting some e-commerce-related legislation, namely, the Ministry of Communications and Information (KOMINFO) has prepared a draft bill on “Electronic Information and Transactions” that has been submitted through the State Secretariat to the Parliament for debate. This bill focuses mainly on electronic transactions and digital signatures. Members of the initial drafting team who were unhappy with the GOI's draft have broken away and submitted to the Parliament a draft bill on “Criminal Action in Information Technology.” The Parliament has yet to take up either of these bills for debate. The GOI in recognition of the need for a comprehensive CyberCrime law has recently commenced drafting a new cybercrime law based on academic inputs as well as international standards. No working draft is available yet and the indicated time frame for a draft to be available is around May 2005. This government draft will replace the existing cybercrime draft in the parliament. Motion picture industry representatives have made submissions based on available drafts and continue to track these bills, which include some intellectual property aspects relating to domain names.

In a related development, in February 2003, a “cybercrime task force” was established in Indonesia.<sup>35</sup> It is reported that the KOMINFO, in cooperation with the Association of Internet Service Providers (APJII) and the Police, decided to form the task force to confront the issue of Internet-based crimes, and was to have begun work in March 2003 to examine ways in which Internet-based crimes can be eliminated. IIPA supports the establishment of this task force, and would encourage the task force to include in its mission ways to combat Internet piracy of copyrighted materials. IIPA also encourages the drafters of the “cyber” legislation and the task force to look to the Council of Europe Cybercrime Convention for approaches to the issue of combating cybercrime and Internet piracy; this approach would also comport with the Asia-Pacific Economic Cooperation (APEC) 2004 Minister's Statement to “[enact] domestic legislation consistent with the provisions of international legal instruments, including the Convention on Cybercrime (2001).”<sup>36</sup>

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<sup>34</sup> Article 6*bis* of the Berne Convention provides, *inter alia*, the right “to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.” Article 24(2) and (3) give the author (an the author's heirs) the right to refuse to authorize *any* “changes” including any change to the “title” or “subtitle” of a work regardless of whether the copyright in that work has been assigned. This right violates the Berne Convention as it would impinge upon the ability to exercise (and to assign) the exclusive right of adaptation in Article 12 of the Berne Convention.

<sup>35</sup> *Cybercrime Task Force To Be Established in Indonesia*, Asia in Focus, Feb. 25, 2003.

<sup>36</sup> See [http://www.apecsec.org.sg/content/apec/ministerial\\_statements/annual\\_ministerial/2004\\_16th\\_apec\\_ministerial.html](http://www.apecsec.org.sg/content/apec/ministerial_statements/annual_ministerial/2004_16th_apec_ministerial.html) (“Ministers took note of work undertaken by the Telecommunications and Information Working Group [TEL] regarding Cyber Security and Cyber Crime within the scope of securing telecommunications through the exchange of experiences and good practices. They agreed to strengthen their respective economies' ability to combat cybercrime by enacting domestic legislation consistent with the provisions of international legal instruments, including the Convention on Cybercrime (2001) and relevant United Nations General Assembly Resolutions; increasing

## Generalized System of Preferences

Indonesia currently participates in the Generalized System of Preferences (GSP) program, a U.S. trade program which offers preferential trade benefits to eligible beneficiary countries. One of the discretionary criteria of this program is that the country provides “adequate and effective protection for intellectual property rights.” In 2003, nearly \$1.35 billion worth of Indonesian goods (or 14.25% of Indonesia’s total imports to the U.S.) entered the U.S. under the duty-free GSP Code. During the first 11 months of 2004, \$1.2 billion worth of Indonesian goods (or 11.9% of Indonesia’s total imports to the U.S.) entered the U.S. under the duty-free GSP Code. Indonesia’s failure to address effectively the endemic problem of copyright piracy creates serious questions about whether it meets the criteria for continuing favorable treatment under the GSP program.

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cooperation among economies’ Computer Emergency Response Teams (CERTs), law enforcement, and the public and private sectors; training SMEs in network security; and increasing law enforcement capacity-building.”)