

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE



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December 12, 2002

Via Electronic Filing
ntecomments@ita.doc.gov

Ms. Carmen Suro-Bredie
Chairman
Trade Policy Staff Committee
Office of the U.S. Trade Representative
1724 F Street NW
Washington, DC 20508

Re: The 2003 National Trade Estimate Report
on Foreign Trade Barriers, 67 Fed. Reg. 66700
(November 1, 2002)

To the TPSC:

The International Intellectual Property Alliance (IIPA) takes this opportunity to provide the Trade Policy Staff Committee (TPSC) with our continuing efforts toward identifying significant market access barriers to U.S. goods and services for inclusion in the preparation of the 2003 National Trade Estimate Report.

IIPA's complete filing on copyright issues for this NTE process will appear in our mid-February 2003 Special 301 submission to USTR. We are filing this non-confidential submission electronically in order to provide the NTE drafters with guidance on country developments, including our finalized 2001 estimated trade losses due to piracy in over 50 countries. We acknowledge that the TPSC requested that individual filings be made for each country; however, given that IIPA will be providing detailed information on various countries in our February 2003 Special 301 filing, we have included a summary list of estimated trade losses for those countries we reported in 2002 within this single letter.

The International Intellectual Property Alliance (IIPA)

The IIPA is a private sector coalition formed in 1984 to represent the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of six trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,100 U.S. companies

producing and distributing materials protected by copyright laws throughout the world – all types of computer software including business applications software and entertainment software (such as videogame CDs and cartridges, personal computer CD-ROMs and multimedia products); theatrical films, television programs, home videos and digital representations of audiovisual works; music, records, CDs, and audiocassettes; and textbooks, tradebooks, reference and professional publications and journals (in both electronic and print media).

Our Submission for the 2003 NTE

In February 2002, IIPA provided USTR and all its interagency colleagues with our detailed report on copyright legislation, piracy and certain other market access barriers in 64 countries. Our 2002 Special 301 submission has been distributed to the TPSC and many U.S. government officials who work on these in-country issues and who contribute to preparing the National Trade Estimate. Our Special 301 submission is available to the public in the USTR Reading Room and on our website, www.iipa.com.

Of the ten categories of issues identified by the TPSC for the 2003 NTE, IIPA's 2002 Special 301 submission already addressed at least three of them: (1) lack of intellectual property (copyright) protection; (2) trade restrictions affecting electronic commerce; and (3) discussion of intellectual property rights practices which violate existing U.S. trade agreements as well as multilateral obligations under the WTO TRIPS Agreement;

Since our February 2002 Special 301 submission, IIPA and its members have kept USTR and other interagency officials informed of legislative, enforcement and related developments which have taken place in the scores of countries appearing in the NTE 2002 Report. IIPA and its members are gathering information for our February 2003 Special 301 submission. As in prior years, IIPA will provide our 2003 Special 301 submission directly to the TPSC in February for its consideration in the NTE process. That submission will contain detailed developments in-country since our 2002 submission, including trade loss and piracy level estimates for the year 2002. Traditionally, the NTE report published at the end of March has used the most current IIPA information and statistics, even though our submission arrives later in the NTE production process.

We also direct your attention to the IIPA website for the following information, should the TPSC or other officials wish to refer to it before we forward our 2003 Special 301 filing to the TPSC in February:

- A list of USTR's April 30, 2002 Special 301 decisions which includes IIPA's finalized estimated trade losses due to copyright piracy in 2001 in the targeted countries. See http://www.iipa.com/pdf/2002_Jul11_USTRLOSSES.pdf. A copy of this master chart appears at the end of this letter.
- Our methodology for these trade loss and piracy calculations is available at <http://www.iipa.com/pdf/2002SPEC301METHODOLOGY.pdf>

- To reach the main page of our 2002 Special 301 filing and the table of contents of all the countries discussed in our 2002 submission, please go to http://www.iipa.com/special301_TOCs/2002_SPEC301_TOC.html. Additional information on selected countries targetted for Fall 2002 “out of cycle reviews” (such as Indonesia, Israel, Mexico, Philippines, Poland and Thailand) can be accessed from the IIPA home page at www.iipa.com.

Final Note

Please be aware that at least one of IIPA’s member associations will be submitting a report for the 2003 NTE. The submission of the Motion Picture Association of America (MPAA) will include trade barriers related to the export of U.S. filmed entertainment, including piracy as well as other tariff and non-tariff trade barriers. That report will include estimated piracy losses due to motion picture piracy and other trade barriers during 2002. MPAA’s 2002 estimates will appear in IIPA’s Special 301 submission in February 2003, along with additional updated industry estimates provided by the other IIPA member associations.

IIPA and its members appreciate the opportunity to continue to provide the TPSC with our views on the significant barriers to trade faced by the U.S. copyright-based industries around the world. Thank you for your consideration.

Sincerely,



Eric H. Smith
President
International Intellectual Property Alliance

**USTR 2002 "SPECIAL 301" DECISIONS AND
IIPA ESTIMATED U.S. TRADE LOSSES DUE TO COPYRIGHT PIRACY
(in millions of U.S. dollars)
and ESTIMATED LEVELS OF COPYRIGHT PIRACY FOR 2000-2001**

	Motion Pictures				Records & Music				Business Software Applications ¹				Entertainment Software				Books		TOTAL LOSSES	
	Loss		Video Piracy		Loss		Piracy		Loss		Piracy		Loss		Piracy		Loss			
			Level				Level				Level				Level					
	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000
PRIORITY FOREIGN COUNTRY																				
Ukraine (GSP)	40.0	40.0	80%	99%	170.0	200.0	85%	95%	46.7	23.7	87%	89%	NA	NA	NA	NA	NA	NA	256.7	263.7
306 MONITORING																				
Paraguay ²	2.0	2.0	80%	80%	253.6	200.0	99%	90%	3.5	8.5	72%	76%	NA	9.7	NA	99%	3.0	3.0	262.1	223.2
People's Republic of China	160.0	120.0	88%	90%	47.3	70.0	90%	93%	1140.2	765.1	92%	94%	455.0	NA	92%	99%	130.0	130.0	1932.5	1085.1
UNRANKED BUT WITH OCR																				
Mexico (OCR)	50.0	50.0	40%	40%	366.8	300.0	61%	63%	146.9	145.7	55%	56%	202.5	NA	83%	90%	40.0	30.0	806.2	525.7
PRIORITY WATCH LIST																				
Argentina	30.0	32.0	45%	45%	78.2	76.0	47%	46%	72.5	92.9	62%	58%	NA	141.4	95%	94%	8.5	8.5	189.2	350.8
Brazil ³ (GSP)	120.0	120.0	33%	33%	302.0	300.0	55%	53%	272.3	264.1	56%	58%	NA	248.2	99%	94%	14.0	18.0	700.3	950.3
Colombia	40.0	40.0	90%	90%	73.0	60.0	65%	60%	19.5	33.2	52%	53%	NA	39.0	NA	85%	5.3	5.0	137.8	177.2
Dominican Republic (GSP)	2.0	2.0	60%	60%	7.7	2.0	65%	80%	4.0	6.7	64%	68%	NA	6.0	NA	NA	1.0	1.0	14.7	17.7
Egypt	15.0	15.0	35%	35%	9.2	12.0	41%	48%	14.5	10.0	58%	56%	NA	14.9	90%	94%	32.0	30.0	70.7	81.9
European Union	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Hungary	18.0	18.0	40%	40%	4.5	3.0	30%	20%	21.3	33.3	48%	51%	43.3	9.6	90%	86%	4.0	4.0	91.1	67.9
India	70.0	47.0	60%	60%	NA	6.0	40%	40%	256.0	181.6	70%	63%	NA	NA	90%	80%	37.0	36.0	363.0	270.6
Indonesia (OCR)	27.5	25.0	90%	90%	67.9	21.6	87%	56%	63.1	55.7	88%	89%	NA	NA	NA	99%	30.0	32.0	180.5	134.3
Israel (OCR)	15.0	15.0	50%	50%	40.0	45.0	25%	30%	36.9	51.3	40%	41%	66.5	52.0	89%	NA	1.0	1.0	159.4	164.3
Lebanon (GSP petition)	8.0	8.0	80%	60%	2.0	2.0	40%	45%	1.1	1.3	79%	83%	NA	1.5	NA	96%	2.0	2.0	13.1	14.8
Philippines (OCR)	28.0	25.0	80%	70%	23.9	1.4	36%	33%	19.9	21.8	63%	61%	NA	41.0	99%	98%	44.0	44.0	115.8	133.2
Russian Federation (GSP)	250.0	250.0	80%	90%	285.0	250.0	64%	70%	90.6	89.0	87%	88%	173.6	NA	90%	94%	48.0	48.0	847.2	637.0
Taiwan	35.0	30.0	30%	30%	51.7	60.5	48%	44%	106.8	123.9	53%	53%	119.4	319.3	70%	90%	20.0	20.0	332.9	553.7
Uruguay (GSP petition)	2.0	2.0	40%	65%	4.0	4.0	50%	35%	6.4	7.9	63%	66%	NA	16.3	NA	82%	2.0	2.0	14.4	32.2
WATCH LIST																				
Armenia (GSP)	NA	NA	NA	NA	4.5	5.0	85%	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	4.5	5.0
Azerbaijan	NA	NA	NA	NA	13.0	12.0	85%	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	13.0	12.0
Bahamas (OCR)	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Belarus	NA	NA	NA	NA	20.0	28.0	75%	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	20.0	28.0
Bolivia	2.0	2.0	100%	100%	15.0	15.0	85%	85%	4.9	2.8	77%	81%	NA	1.5	NA	NA	5.5	5.5	27.4	26.8
Canada	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Chile	2.0	2.0	40%	40%	12.2	5.0	35%	30%	46.3	33.1	51%	49%	NA	41.0	NA	80%	1.1	1.0	61.6	82.1

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	Loss		Video Piracy		Loss		Piracy		Loss		Piracy		Loss		Piracy		Loss			
			Level				Level				Level				Level					
	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000	2001	2000
WATCH LIST (continued)																				
Costa Rica (OCR)	2.0	2.0	40%	40%	4.8	3.0	40%	40%	6.9	14.9	64%	68%	NA	0.2	NA	50%	NA	NA	13.7	20.1
Greece	10.0	10.0	15%	20%	NA	10.0	NA	15%	38.9	46.9	64%	66%	NA	38.1	NA	78%	NA	7.0	48.9	112.0
Guatemala	2.0	2.0	60%	60%	NA	4.0	NA	60%	14.1	12.3	73%	77%	NA	0.1	NA	60%	2.5	2.3	18.6	20.7
Italy	140.0	140.0	20%	20%	40.0	50.0	23%	25%	338.8	327.0	45%	46%	NA	NA	74%	65%	23.5	23.5	542.3	540.5
Jamaica	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Kazakhstan (GSP)	NA	NA	NA	NA	25.0	25.0	78%	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	25.0	25.0
Kuwait	9.0	8.0	85%	85%	NA	3.0	50%	50%	4.5	6.6	76%	80%	NA	NA	85%	NA	2.5	2.5	16.0	20.1
Latvia	1.5	1.5	NA	75%	NA	4.0	NA	65%	4.6	NA	59%	77%	NA	NA	NA	NA	NA	NA	6.1	5.5
Lithuania	1.5	1.5	NA	80%	7.0	7.0	85%	85%	3.9	NA	56%	76%	NA	3.5	NA	98%	NA	NA	12.4	12.0
Malaysia	40.0	41.0	80%	80%	148.9	15.6	70%	65%	75.0	75.4	70%	66%	56.4	NA	93%	98%	8.2	8.0	328.5	140.0
New Zealand	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Pakistan (GSP petition)	11.0	10.0	NA	60%	60.0	65.0	90%	90%	9.2	24.5	83%	83%	NA	NA	NA	NA	44.0	45.0	124.2	144.5
Peru	4.0	4.0	50%	75%	57.8	55.0	97%	96%	11.2	12.6	60%	61%	NA	3.8	NA	70%	9.0	9.5	82.0	84.9
Poland (OCR)	25.0	25.0	27%	25%	37.0	31.0	30%	30%	77.1	82.7	53%	54%	115.8	103.1	90%	85%	6.5	7.0	261.4	248.8
Qatar	0.5	0.5	30%	25%	NA	0.2	NA	25%	2.2	3.0	78%	79%	NA	NA	NA	NA	0.2	NA	2.9	3.7
Romania	6.0	6.0	65%	60%	14.0	11.0	70%	55%	15.7	17.1	75%	77%	NA	6.9	95%	91%	2.0	2.0	37.7	43.0
Saudi Arabia	30.0	40.0	45%	65%	12.0	8.0	42%	40%	16.4	17.7	52%	59%	115.7	28.0	83%	NA	14.0	14.0	188.1	107.7
Slovak Republic	NA	2.0	NA	20%	NA	0.5	NA	10%	8.1	5.3	46%	45%	NA	7.0	NA	85%	NA	NA	8.1	14.8
South Korea	25.0	20.0	25%	20%	4.0	7.0	14%	19%	100.4	177.2	48%	56%	487.7	157.0	63%	90%	35.0	39.0	652.1	400.2
Tajikistan	NA	NA	NA	NA	3.0	3.0	83%	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	3.0	3.0
Thailand (OCR) (GSP petition)	24.0	24.0	65%	60%	16.6	15.6	45%	45%	32.6	42.7	77%	79%	29.1	130.5	93%	98%	28.0	33.0	130.3	245.8
Turkey (GSP)	50.0	50.0	40%	50%	3.5	4.0	35%	40%	22.4	78.6	58%	63%	23.7	116.2	90%	96%	27.0	28.0	126.6	276.8
Turkmenistan	NA	NA	NA	NA	NA	5.0	NA	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.0	5.0
Uzbekistan (GSP)	NA	NA	NA	NA	NA	30.0	NA	90%	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.0	30.0
Venezuela	25.0	25.0	65%	65%	54.0	30.0	62%	62%	25.7	16.9	55%	58%	NA	47.0	NA	78%	20.0	22.0	124.7	140.9
Vietnam	NA	7.0	NA	100%	NA	NA	NA	100%	26.3	13.5	94%	98%	NA	NA	NA	NA	NA	8.0	26.3	28.5
	1323.0	1264.5			2339.1	2065.4			3207.4	2926.5			1888.7	1582.8			650.8	671.8	9409.0	8511.0

Endnotes:

¹ BSA's trade loss estimates represent losses to U.S. publishers only, and differ from the BSA trade loss numbers generally released by that association which reflect losses to (a) all software publishers in that country and (b) losses to distributors/retailers in the country in question. This chart includes BSA's finalized statistics for 2001.

² Paraguay: RIAA reports that its estimated losses to the sound recording/music industry include both domestic piracy in Paraguay and estimated losses caused by transshipment.

³ Brazil: RIAA reports the 55% piracy level in Brazil for 2001 reflects an amalgamated rate; the level of audiocassette piracy is 99% and the level of CD piracy is 47%.

"GSP" means a GSP IPR Review is being conducted by the GSP Subcommittee; "GSP Petition" means that a petition is pending before that Subcommittee for its acceptance to initiate a Review.

"OCR" stands for "out of cycle review."