

**INTERNATIONAL INTELLECTUAL PROPERTY PIRACY
OPENING STATEMENT
CHAIRMAN RICHARD G. LUGAR
SENATE COMMITTEE ON FOREIGN RELATIONS
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It is my pleasure to welcome our distinguished witnesses and guests to this hearing, which will examine the issue of intellectual property piracy. Our economy depends increasingly on the work of authors, artists, inventors, programmers and many others who create intellectual products of high value. Theft of intellectual property results in competitive disadvantages to U.S. industries and job losses for American workers. In addition, when intellectual property is not adequately protected, the incentives to invest in innovation are reduced. As the sharing of goods and ideas transcends national boundaries, it is vital that intellectual property protections are applied on a global basis.

Existing international agreements seek to provide substantial protections for intellectual property. Under an annex to the WTO Charter, known as the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement, all WTO members must provide minimum standards of protection for intellectual property rights. The TRIPS agreement also requires effective enforcement of each nation's domestic intellectual property regulations. Two copyright treaties developed under the auspices of the United Nations World Intellectual Property Organization (WIPO) are also in force. These treaties, the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, help raise the minimum standards of intellectual property protection around the world, particularly with respect to Internet-based delivery of copyrighted works.

Most of our trading partners have national domestic laws protecting intellectual property and many are parties to the TRIPS and WIPO agreements. Yet, the existence of laws protecting intellectual property does not guarantee that piracy will not occur. Often the intent of statutes is undermined by the lack of enforcement. Counterfeiting of copyrighted products in digital and other formats, as well as counterfeiting of all types of trademarked products, has grown to an enormous scale because these illegal activities offer a high rate of return. Pirates can establish operations with a small capital investment, and in many countries, they face little risk of apprehension. Even when pirates are apprehended, the penalties in some nations are too minor to constitute a deterrent.

Although intellectual property piracy occurs in numerous countries, the records of four nations are particularly troubling. Piracy is rampant in China, Russia, Brazil and Pakistan. All of these nations are on the Administration's Special 301 Priority Watch List, which designates what countries are failing to provide intellectual property protection.

China has become a leading exporter of counterfeit and pirated goods. At the April 2004 meeting of the Joint Commission on Commerce and Trade, the Chinese government pledged to undertake a series of actions to reduce infringement of intellectual property rights. But piracy activities in China have continued unabated for at least the past decade, despite the seizure and destruction of millions of pirated products, often in highly publicized steam-rollings of counterfeited discs.

Piracy in Russia is a growing problem. Up until the late 1990s only a few pirate optical disc factories existed in Russia. But today, reports indicate that Russia has more than 30 such factories that churn out pirated products. This activity ruins the Russian market for American right holders and substantially reduces the value of other markets in Europe as well. The Russian Government has

promised to solve this problem, but meaningful results have yet to occur. Russia recognizes that its domestic laws and enforcement measures still do not meet the requirements of the TRIPS agreement.

Brazil continues to fall short in providing adequate and effective enforcement of intellectual property. Despite some positive developments, including enhancement of domestic laws, enforcement has not significantly improved. Brazil is one of the largest markets for legitimate copyrighted products, but it is also one of the world's largest pirate markets. The U.S. copyright industry estimates that losses in Brazil are the largest in the hemisphere, exceeding \$785 million in 2003.

Pakistan is a recent addition to the priority watch list. It has become one of the world's leading exporters of pirated sound recordings, motion pictures, business software, and published materials. In 2003, Pakistan was the fourth largest source of counterfeit and piratical goods seized by the U.S. Customs and Border Protection. Pakistan has taken some initial steps to improve protection of intellectual property, but these steps have fallen far short of what is required for effective enforcement.

Today, we will discuss not only the problem of piracy, but potential solutions. In particular, we would like our witnesses' views on how global enforcement can be improved. What enforcement methods should be utilized that are not being employed? Would revisions to our international agreements and treaties improve enforcement? Can the United States provide willing partners in other nations with greater assistance in enforcing intellectual property laws?

We look forward to the insights of our distinguished panel. We welcome Jack Valenti, the President and CEO of the Motion Picture Association of America; Mitch Bainwol, the Chairman and CEO of the Recording Industry Association of America; Robert Holleyman, the President and CEO of the Business Software Alliance; and Doug Lowenstein, President of the Entertainment Software Association.

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