

VENEZUELA

Venezuela will remain on the Priority Watch List in 2009. Protection and enforcement of IPR deteriorated in Venezuela in 2008. Copyright piracy continues to worsen, while proposed copyright legislation, if re-introduced, would severely undercut the existing Venezuelan copyright law, as well as bilateral and international standards of IP protection. The U.S. pharmaceutical industry reports that Venezuela has not issued a patent to a foreign pharmaceutical product since 2003. Further, in 2008, Venezuela reinstated a 1955 law that prevents the patenting of medicines and food. Venezuela also does not provide sufficient protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products. In April 2006, Venezuela withdrew from the Andean Community. This raises questions about Venezuela's ability to fulfill its international IPR obligations since the Andean Community Decisions establish basic IP law for the region. The United States urges the Venezuelan Government to take immediate action to improve IPR protection, particularly by amending unsatisfactory legislative proposals or laws and by protecting against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products, and to improve IPR enforcement, particularly by addressing piracy and counterfeiting.

WATCH LIST

BELARUS

Belarus will remain on the Watch List in 2009. In the 2008 Special 301 Report, the United States reiterated its concern about Belarus' delayed implementation of its IPR commitments under the United States-Belarus Trade Agreement. There has been no apparent progress since that time. The Belorussian market is dominated by illegal optical disc, with pirated DVDs of films sometimes making it to the market before they are released in U.S. cinemas. The Government reportedly misuses software licenses openly. Enforcement officials have no *ex officio* authority to investigate, seize or prosecute IPR cases. Reports indicate that IPR enforcement is virtually non-existent.

The United States continues to urge Belarus to strengthen its IPR laws and to enforce against piracy and counterfeiting. In 2008, there were reports that Belarus planned to amend its copyright law; Belarus is urged to move forward with this plan including the proper implementation of the WIPO Internet Treaties, which Belarus ratified in 1998. We also encourage Belarus to amend its IPR laws to provide much needed *ex officio* authority to its enforcement officials for cases of piracy and counterfeiting.

BOLIVIA

Bolivia will remain on the Watch List in 2009. Rampant piracy and counterfeiting, including counterfeiting of medicines, persist in Bolivia. In particular, concerns remain about the erosion of IP protection for pharmaceutical products. There were no notable improvements to Bolivia's IPR regime during 2008. As a WTO member, Bolivia committed to increase its levels of IPR

protection substantially. The United States encourages Bolivia to accede to and implement the WIPO Internet Treaties. The United States encourages Bolivia to improve its IPR protection regime in 2009, as well as increase its IPR enforcement efforts to combat piracy and counterfeiting.

BRAZIL

Brazil will remain on the Watch List in 2009. Brazil has illustrated a commitment to anti-piracy and anti-counterfeiting policies by public awareness and education campaigns. Enforcement actions, including investigations into IPR violations, raids, and seizures of pirated and counterfeit products, have continued. The United States encourages Brazil to continue these actions as well as strengthen its IPR enforcement legislation, take more vigorous action to address book and Internet piracy, and accede to and implement the WIPO Internet Treaties. Concerns remain regarding patent protection for pharmaceuticals and medical devices, including with respect to: the decision against granting patents for polymorphs and second-use inventions; and the role of Brazil's health authority, ANVISA, in the patent application process. In addition, the United States continues to urge Brazil to provide effective protection against unfair commercial use of undisclosed test and other data generated to obtain marketing approval for pharmaceutical products. The United States will continue to engage with Brazil bilaterally on these IPR issues, including through the U.S.-Brazil Bilateral Consultative Mechanism and other means.

BRUNEI

Brunei will be added to the Watch List in 2009. The sale of illegal optical discs including unlicensed software is open and pervasive in Brunei and the Government's record on enforcement is weak. Additionally, industry reports that locally burned pirate DVD-Rs and VCDs are ubiquitous. Despite increased bilateral engagement on this issue, Brunei has made little progress on IPR issues over the past year. The Government has been slow in responding to the concerns of rightsholders, including with respect to raids and prosecutions. The United States urges Brunei to make a concerted effort to address these problems.

COLOMBIA

Colombia will remain on the Watch List in 2009. The United States commends Colombia for its continued efforts to combat IPR violations, including through conducting raids seizing counterfeit and pirated products and deterring the counterfeiting of pharmaceuticals. The United States remains concerned, however, that further IPR improvements are needed, including actions to reduce book and optical media piracy. The United States encourages Colombia to develop an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. The United States will work with Colombia to achieve progress on these issues. The pending United States-Colombia Trade Promotion Agreement (CTPA), once in force, would establish high standards of IPR protection and enforcement in Colombia.

COSTA RICA

Costa Rica will remain on the Watch List in 2009. During the implementation process of the United States–Central America–Dominican Republic Free Trade Agreement (CAFTA-DR), Costa Rica passed legislation providing for stronger IPR protection and enforcement. The United States remains concerned, however, about weak IPR enforcement in Costa Rica, particularly with respect to copyright piracy and trademark counterfeiting. The United States encourages the Government of Costa Rica to address the shortcomings in its IPR enforcement system by assigning higher priority and greater resources to combating piracy and counterfeiting, including to the Special IPR Prosecutor, and by seeking deterrent penalties. The United States will continue to monitor Costa Rica's compliance with IPR commitments made in connection with implementation of CAFTA-DR.

CZECH REPUBLIC

The Czech Republic will remain on the Watch List in 2009, where it was placed as the result of an OCR in January 2008. The United States remains concerned about the significant quantity of pirated and counterfeit goods sold in retail markets on the Czech Republic's borders with Germany and Austria, particularly as some of these markets are located on government-owned property. We note progress by the Czech Customs Administration and Trade Inspectorate officials in patrolling these markets frequently, increasing raids and confiscations, and heightening attention to this problem by Czech IPR officials. Despite this progress, however, further enforcement action is needed, especially by revoking the licenses of businesses involved in illegal IPR activities. The United States urges the Czech Republic to continue efforts to implement its IPR Action Plan and to take concrete enforcement actions, including prosecutions and deterrent-level sentencing of IPR infringers, to reduce substantially the sale of pirated and counterfeit goods at these border markets. The Czech Republic passed a new criminal law in January 2009, which will hopefully result in higher criminal penalties and stronger IPR enforcement when it takes effect on January 1, 2010. The United States will continue to monitor this situation and work with the Czech Republic to address the border market and other IPR problems.

DOMINICAN REPUBLIC

The Dominican Republic will remain on the Watch List in 2009. While the Dominican Republic undertook legislative reforms to implement its commitments under CAFTA-DR that provided for stronger IPR protection and enforcement, the United States is concerned about weak enforcement of these laws. The United States encourages the Dominican Republic to enhance its enforcement efforts by providing resources for and greater coordination between law enforcement entities. The United States will continue to monitor the Dominican Republic's compliance with its bilateral and multilateral obligations to protect against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and encourages the Dominican Republic to provide an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. The United States will also continue to monitor the Dominican Republic's compliance with its IPR obligations under CAFTA-DR.

ECUADOR

Ecuador will remain on the Watch List in 2009. Ecuador's Intellectual Property Institute continued to make progress in 2008 towards eliminating its backlog of pending patent applications. Further, Ecuador has established special IPR units for investigations and seizures of pirated and counterfeit products. Despite these achievements, overall IPR enforcement in Ecuador remains a serious problem, resulting in high piracy levels in the software, publishing, recording, and film industries. Concerns also remain regarding Ecuador's lack of effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, as well as Ecuador's lack of an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. The United States urges Ecuador to strengthen its IPR regime and to enhance its IPR enforcement efforts and will monitor Ecuador's efforts to address these concerns.

EGYPT

Egypt will remain on the Watch List in 2009. Egypt stated in its Special 301 submission that it will be amending its laws and joining several international IPR conventions to increase IPR protection in Egypt, which the United States views as positive steps. In 2008, Egypt passed a law establishing new economic courts that will provide specialized training to judges and will have jurisdiction over civil and criminal IPR cases. We note some improvements in IPR protection and enforcement over the past year, particularly in the area of enforcement against entertainment and business software piracy by Egypt's Information Technology Industry Development Agency (ITIDA). Specifically, ITIDA reported on an increased number of raids, improved cooperation between ITIDA and U.S. industries on enforcement, and several IPR court cases that resulted in criminal convictions with sentences of imprisonment for IPR offenders, a new trend in Egypt for IPR cases. Serious concerns remain, however, about weak copyright enforcement by the Ministry of Culture against piracy of books, music, and films, which the U.S. copyright industries describe as virtually unchecked. The United States urges Egypt to take strong action against piracy of books, music, and films, comparable with the commendable enforcement actions taken against software piracy. U.S. industries report the recent growth in Internet piracy, which needs to be effectively addressed by law enforcement officials and courts. With respect to pharmaceutical products, the United States recognizes the Ministry of Health's efforts to combat counterfeit pharmaceuticals, streamline its regulatory processes for pharmaceutical products, and to establish a website to increase transparency. We continue to urge the Ministry of Health, however, to clarify its commitment to protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to provide an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. We intend to continue our in-depth IPR discussions with Egypt and will continue to work closely with Egypt on improving its IPR regime.

FINLAND

Finland will be added to the Watch List in 2009. The United States is concerned about the lack of product patent protection for certain pharmaceutical products. U.S. industry has expressed concern that the regulatory framework in Finland regarding process patents filed prior to 1995 and pending in 1996 will deny adequate protection to many of the top-selling U.S. pharmaceutical products currently on the Finnish market. The United States will continue to encourage Finland to resolve this issue.

GREECE

Greece will remain on the Watch List in 2009. Greece made some progress last year, including establishing the Interministerial Coordinating Committee on IPR. This committee led by the Ministry of Foreign Affairs published a National Action Plan for IPR in February 2009 to address IPR protection and enforcement. We encourage Greece to continue its efforts to implement its National Action Plan for IPR and to include private stakeholders in its discussions and efforts. The U.S. copyright industries report that Greek law enforcement officials improved cooperation with the private sector in 2008. IPR enforcement in Greece, however, remains weak and uneven. The United States continues to urge Greece to improve its IPR enforcement regime, including undertaking sustained enforcement actions against street vendors, more effective raids and seizures, investigations and legal actions against on-line infringers, increased prosecutions, deterrent-level penalties, and strengthened border enforcement. An emerging problem for the Greek Government to address is the rise in Internet piracy. The United States will continue to work cooperatively with Greece on the measures outlined in its National Action Plan to improve IPR protection and enforcement.

GUATEMALA

Guatemala will remain on the Watch List in 2009. Through the implementation of Guatemala's IPR obligations under the CAFTA-DR, Guatemala's laws provide for stronger IPR protection and enforcement. Nevertheless, IPR enforcement remains a problem. The United States encourages the Government of Guatemala to provide higher priority to and greater resources for combating piracy and counterfeiting in order to ensure effective and consistent IPR enforcement. In this regard, the United States urges the Government of Guatemala to extend its efforts to pursue raids and prosecutions, not just against small-scale sellers, but also against manufacturers of pirated and counterfeit goods. The United States will continue to monitor Guatemala's compliance with its IPR obligations under CAFTA-DR.

HUNGARY

Hungary will remain on the Watch List in 2009. Hungary's National Board Against Counterfeiting and Piracy, established in January 2008, has promoted collaboration on IPR issues between the Government and the private sector, and issued a two-year IPR strategy to combat counterfeiting and piracy. The United States urges Hungary to take concrete steps to implement its IPR strategy and to improve its IPR enforcement regime. Further improvements are needed to ensure that prosecutors follow through with cases against IP infringers, and that

judges are encouraged to impose deterrent-level sentences for civil and criminal IP infringement. U.S. copyright industries also report that Internet piracy in Hungary is a major problem, and note that the Hungarian Government should provide adequate resources to its law enforcement authorities to combat IPR crime, especially on the Internet. The United States will continue to work with the Hungarian Government to address these IPR concerns.

ITALY

Italy will remain on the Watch List in 2009. Italy's Economic Development Ministry established a General Directorate for Intellectual Property in 2008, which appears committed to raising public awareness of the value of IPR. We hope that this office will strive to make much-needed progress on IPR protection and enforcement in Italy, especially after an apparent lag in high-profile government attention to IPR last year. In early 2009, the Prime Minister's Office created an interministerial task force to combat Internet piracy. This appears to be a positive step, and we urge the Italian Government to create an IPR action plan and use the new task force to guide prompt and significant action against Internet piracy. The Finance Police and Customs police have carried out investigations and seizures throughout Italy. However, notable concerns last year included a lack of deterrent-level sentences for IPR crimes imposed by Italian courts. The U.S. copyright industries continue to report that Italy has one of the highest overall piracy rates in Western Europe, with Internet piracy remaining a significant problem. The United States urges Italy to make IPR enforcement a top priority, including encouraging judges to impose deterrent-level sentences and establishing a national action plan to address commercial-scale piracy, with a focus on Internet piracy. The United States will continue to work with Italy, with the goal of improving IPR protection and enforcement.

JAMAICA

Jamaica will remain on the Watch List in 2009. The United States remains concerned over Jamaica's continued delay in enacting the Patents and Designs Act, which is intended to implement Jamaica's obligations under the TRIPS Agreement and to comply with the United States-Jamaica Bilateral Intellectual Property Agreement. The United States urges the Government of Jamaica to reform its patent law as soon as possible in accordance with international standards for patent protection.

KUWAIT

Kuwait will remain on the Watch List in 2009. Although Kuwait customs, police, and Ministry of Interior officials continued to make progress on IPR enforcement in 2008, Kuwait failed to make similar progress on amending its outdated IPR laws. The United States remains concerned that several key pieces of IPR legislation have been pending for many years, including legislation regarding copyrights, protection of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, geographical indications, trademarks, patents, and customs, and urges Kuwait to enact and implement this legislation in the near term. In the United States-Kuwait Trade and Investment Framework Agreement, Kuwait recognized the importance of membership in and adherence to IPR conventions, but has not yet joined many important conventions, such as the Paris Convention and the Patent Cooperation Treaty. The

United States encourages Kuwait to pass this IPR legislation, accede to these conventions, and improve IPR enforcement.

LEBANON

Lebanon will remain on the Watch List in 2009. Lebanon made significant progress in 2008 in addressing the long-standing issue of cable piracy through the efforts of several IPR ministries and law enforcement cooperating with the private sector. These efforts led to cable operators signing licenses with rightsholders, resulting in at least 80 percent of the estimated 600 to 800 illegal cable providers in Lebanon securing licenses. The United States commends Lebanon's success in combating this cable piracy. The U.S. copyright industries cite continued cooperation with the Cyber Crime and Intellectual Property Rights Bureau within Lebanon's police department. The United States remains concerned, however, about weak enforcement against piracy of books, music, films, and software. It is imperative that Lebanon provide opportunities for IPR training to its prosecutors and judges, and encourage its courts to issue deterrent-level sentences for IPR crimes; pending legislation to increase penalties for IPR crimes may help to address this problem. The United States remains concerned about inadequate protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, as well as a growing problem with counterfeit pharmaceutical products in Lebanon. The United States urges Lebanon to improve IPR protection and enforcement in the coming year. We will work together with Lebanon on strengthening its IPR laws and improving its enforcement regime through Lebanon's WTO accession process, a pending review under the U.S. Generalized System of Preferences, and other bilateral fora.

MALAYSIA

Malaysia will remain on the Watch List in 2009. Malaysia continues to recognize the importance of a strong IPR regime to its economic development, but we are concerned that its enforcement efforts appear to have declined in the past year. The U.S. copyright industries note a decrease in the level of attention copyright piracy received in Malaysia in 2008, particularly reflected in the markedly fewer enforcement actions taken by the Ministry of Domestic Trade and Consumer Affairs (MDTCA) than had been taken in previous years. Of particular concern is MDTCA's reported reluctance to initiate *ex officio* IPR raids, which are authorized under Malaysian law and had taken place frequently under prior MDTCA leadership. The United States urges Malaysian authorities to step up enforcement actions against piracy and counterfeiting as they have in the past. Also, the U.S. copyright industries reported backlogs in the adjudication of cases in the specialized IPR courts. The United States has welcomed Malaysia's establishment of these specialized courts, but strongly encourages that the Malaysian Government to provide the requisite training and resources to its prosecutors and judges to enable these courts to adjudicate cases effectively and efficiently. In addition to these enforcement issues, the United States urges Malaysia to continue its efforts to update its IPR laws, including by acceding to and fully implementing the WIPO Internet Treaties. The United States also encourages Malaysia to provide effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and to create an effective system to prevent the issuance of marketing approvals for

unauthorized copies of patented pharmaceutical products. The United States will continue to work with Malaysia to make progress on these pressing IPR issues.

MEXICO

Mexico will remain on the Watch List in 2009. While overall IPR enforcement efforts improved in Mexico in 2008, particularly at the federal level, the United States encourages Mexico to increase further its enforcement efforts. The United States urges Mexico to devote greater resources to its enforcement agencies, enhance coordination among enforcement agencies—particularly between the federal, state and municipal authorities—and continue to build a consistent record of aggressive prosecutions and deterrent-level penalties imposed by courts. The United States also urges Mexico to strengthen its IPR regime by enacting legislation to: provide *ex officio* authority to law enforcement and customs authorities; criminalize camcording in theaters; and implement fully the WIPO Internet Treaties. The United States encourages Mexico to provide effective protection against unfair commercial use of undisclosed test or other data generated to obtain marketing approval for pharmaceutical products, and provide an effective system to prevent the issuance of marketing approvals for unauthorized copies of patented pharmaceutical products. The United States will continue to work with Mexico to address and resolve these IPR concerns.

NORWAY

Norway will remain on the Watch List in 2009. The United States continues to be concerned about the lack of product patent protection for certain pharmaceutical products. U.S. industry has expressed concern that the regulatory framework in Norway regarding process patents filed prior to 1992 and pending in 1996 denies adequate patent protection for a number of pharmaceutical products currently on the Norwegian market. The United States will continue to encourage Norway to resolve this issue.

PERU

Peru will remain on the Watch List in 2009. As a result of the U.S.-Peru Trade Promotion Agreement (PTPA), Peru enhanced its IPR legal framework significantly to strengthen IPR protection and enforcement. Nevertheless, there is inadequate enforcement carried out by enforcement agencies, due in part to the lack of resources provided to agencies. As a result, piracy rates are high and counterfeit clothing and toys continue to be easily found throughout the country at markets, street corners, and beach areas.

As part of the PTPA implementation process, Peru amended its laws and regulations to provide procedures and remedies for improved enforcement of IPR. For example, the Government reorganized the Intellectual Property Office, INDECOPI, to help expedite the hearing and granting of precautionary measures; revised its customs law and regulations to strengthen the procedures for suspending IPR infringing goods and ensuring that infringing goods are seized and destroyed absent the allowable exceptions; and put in place deterrent-level penalties for copyright and trademark infringement both in civil and criminal violations. The United States will work closely with Peru ensure the effective enforcement of its obligations under the PTPA.

PHILIPPINES

The Philippines will remain on the Watch List in 2009 with an OCR review to be conducted this year. The United States is troubled by the amendments to the patent provisions in the Philippines Intellectual Property Law only as they apply to pharmaceuticals. The amendment significantly weakens patent protection for pharmaceutical products. Unfortunately, despite the continuing efforts of some Philippine officials – notably, in the Intellectual Property Office, Optical Media Board, and Customs – to improve enforcement there is no true deterrent mechanism in place to dissuade IPR infringers from their illegal activities. Additionally, the digital environment has created more challenges that the Government has not addressed, such as peer-to-peer piracy, mobile device piracy, and illegal camcording. The United States urges the Government to put in place mechanisms and laws that will address the weaknesses in its current system, such as specialized IP courts and legislation to implement the WIPO Internet Treaties and to address illegal camcording.

POLAND

Poland will remain on the Watch List in 2009 and the United States will conduct an OCR to monitor progress on IPR protection and enforcement. The OCR will focus in particular on Poland's implementation of the National IPR Action Plan for 2008-2010 issued by Poland's Team for Counteracting Infringements of Copyright and Related Rights. The development of this plan may reflect a renewed Polish Government commitment to addressing persistent IPR problems. The United States recognizes: the police closure in early 2009 of one of the largest pirated optical disc distribution operations in Europe; the Government closure in 2007 of the notorious Warsaw Stadium market, where large quantities of counterfeit and pirated goods were being sold; and the efforts by law enforcement agencies to combat hard goods piracy. Poland has yet to make adequate progress against Internet piracy and the trade in pirated and counterfeit goods in markets on Poland's border with Germany. The U.S. copyright industries report that raids conducted at these border markets in early 2008 by Poland's Border Guard have begun to have a positive effect, but sustained enforcement actions are needed. In addition, Poland should take concrete steps to achieve its goal of increasing the effectiveness of criminal proceedings and prosecutions of IPR crimes, including encouraging its prosecutors and judges to seek and impose deterrent-level sentences. The United States encourages Poland to commit additional resources and attention to addressing these IPR protection and enforcement issues. We will monitor Poland's implementation of its National IPR Action Plan through the OCR.

ROMANIA

Romania will remain on the Watch List in 2009. Romania took some positive steps in 2008, including establishing an electronic IPR database to facilitate the sharing of information between its law enforcement and customs authorities, as well as improving the speed at which Internet piracy cases were processed for prosecution. There was a decrease in illegal optical discs sold by street vendors, but Internet piracy continued to grow in 2008. The ability to prosecute successfully IPR crimes remains weak. Although some courts imposed jail sentences for IPR violations in 2008, Romanian judges often dismiss IPR cases due to a perceived "lack of social

harm.” The United States urges Romania to encourage its prosecutors to prosecute IPR cases vigorously as well as encourage its judges to impose deterrent-level sentences against IPR infringers, and to remove delays and obstacles in criminal investigations. The United States will work with Romania to improve its IPR enforcement efforts.

SAUDI ARABIA

Saudi Arabia will remain on the Watch List in 2009, and the United States will conduct an OCR to monitor further progress on IPR enforcement. In March 2009, the first United States – Saudi Arabia Intellectual Property Rights Working Group was held, which resulted in progress on certain IPR issues and facilitated improved cooperation between the governments and the private sector. Saudi Arabia has made progress in IPR enforcement, including an increased number of IPR raids, the disposition of numerous cases by the copyright enforcement Violations Review Committee, and improved transparency through the Ministry of Culture and Information website. Saudi Arabia needs to make further IPR improvements to its IPR enforcement system by sustaining raids and inspections to combat piracy and counterfeiting; encouraging courts to impose deterrent-level sentences, including jail sentences for serious IPR offenses; completing its efforts on the Ministry of Culture and Information website; ensuring that Saudi Government ministries are utilizing legal software; and improving border enforcement. The United States welcomes the renewed IPR dialogue and will work closely with Saudi Arabia to address the outstanding IPR issues during the coming year through the IPR Working Group, the U.S.-Saudi Arabia Trade and Investment Framework Agreement, and the OCR.

SPAIN

Spain will be maintained on the Watch List in 2009. The United States strongly urges that the Spanish Government take prompt and significant action to address the serious problem of Internet piracy. The Spanish Government has expended minimal effort to change the widespread misperception in Spain that peer-to-peer file sharing is legal. Further, while Spanish law enforcement authorities have taken some positive measures against pirate Internet websites, prosecutors have failed to pursue IPR cases, judges have failed to impose deterrent-level sentences against IPR infringers, and rightsholders do not have access to important legal tools needed to bring meaningful civil infringement suits. The United States urges Spain to make it clear that unauthorized peer-to-peer file sharing is illegal, and to rescind problematic IPR policies such as the May 2006 Circular from the Office of the Prosecutor-General, which appears to legitimize such illicit activity. The United States will continue to work closely with Spain to address these IPR enforcement issues during the next year.

TAJIKISTAN

Tajikistan will remain on the Watch List in 2009. Tajikistan has been on the Watch List since 2000, as it has yet to fully implement its IPR commitments under the 1993 U.S.-Tajikistan Trade Agreement (Bilateral Trade Agreement). There has been some positive movement; however, in that Tajikistan became a contracting party to the WCT as of April 5, 2009, ratified the Rome Convention, and applied for accession to the WTO; however, significant issues remain. Tajikistan does not provide protection for U.S. and other foreign sound recordings and does not

clearly provide protection for pre-existing works or sound recordings under its Copyright Law. Tajikistan's IPR enforcement regime remains weak. Criminal penalties for IPR violations are insufficient to deter infringers, and officials lack proper *ex officio* authority to commence criminal cases. Further, the Tajik Customs Code does not provide customs officials with *ex officio* authority to interdict suspected infringing materials at the border.

TURKEY

Turkey will remain on the Watch List in 2009. Enforcement efforts including notable seizures of pirated materials have increased; however, there have been significant setbacks. Applications for marketing approvals of generic pharmaceuticals have been pending before Turkish authorities for more than two years, creating uncertainty as to the status of protection of the undisclosed test or other data generated to obtain marketing approval for the pharmaceutical products involved. Additionally, following a Constitutional Court ruling in July 2008 that effectively eliminated the criminal sanctions provisions of the Trademark Law, the Government passed new legislation reinstating the penalties, but failed to meet the Court's six month deadline for doing so, thus nullifying sentences handed out in over 9,000 criminal trademark cases. The Government has vowed to retry the 9,000 cases under a different law, though this would involve lesser penalties. Book piracy also continues to be a major problem in Turkey as it is well-organized and prevalent throughout the country, and particularly acute on university campuses. Piracy of business and entertainment software continues to be significant. Turkey reportedly remains a significant source of counterfeit goods seized at the borders of nearby countries.

TURKMENISTAN

Turkmenistan will remain on the Watch List in 2009. Turkmenistan has been on the Watch List since 2000, and it has yet to fully implement its IPR commitments under the 1993 bilateral U.S.-Turkmenistan Trade Agreement (BTA). Turkmenistan is neither a member of the Berne Convention nor of the Geneva Phonograms Convention, and it has not yet signed the WIPO Internet Treaties. Although the Civil and Criminal Codes provide some degree of protection against IPR infringement, Turkmenistan has yet to adopt comprehensive procedures and penalties for IPR infringement as required under the BTA. Turkmenistan has not adopted a separate Copyright Law and consequently does not provide any protection to foreign sound recordings or preexisting works. Additionally, IPR enforcement is inadequate because the Customs Code does not provide *ex officio* authority to interdict suspected infringing material at the border. The United States urges Turkmenistan to join appropriate international agreements and adopt the national legal reforms that will fully implement Turkmenistan's BTA IPR commitments and to undertake enforcement activities that will help strengthen its IPR regime.

UKRAINE

Ukraine will remain on the Watch List in 2009. While Ukraine continues to make progress on IPR protection and enforcement, enforcement overall remains weak, piracy levels remain high and piracy on the Internet is growing. The transshipment of pirated and counterfeit goods, particularly optical discs produced in Russia, is a major challenge for Customs officials. Ukraine is also a major transshipment route for counterfeit products bound for other markets and

counterfeit goods, particularly apparel, are readily available in Ukraine. Industry reports that many Ukraine-based websites offer pirated material for download, and add that nearly 100 percent of downloads of music, movies, and software are from illegal websites. However, there are signs that the Government is trying to adapt its enforcement strategies to address this new challenge. The Ministry launched the first ever criminal case involving unauthorized file sharing in 2008. The United States urges Ukraine to continue raids and arrests of IPR infringers; follow through with vigorous prosecutions and imposition of deterrent-level sentences by courts; continue its efforts to combat the growing problem of Internet piracy in Ukraine; ensure that Government ministries use only legal software; curb the production and distribution of pirated and counterfeit products throughout Ukraine, including in notorious markets in Ukraine; and effectively address the flow of pirated and counterfeit goods transshipped through Ukraine.

UZBEKISTAN

Uzbekistan will remain on the Watch List in 2009. Uzbekistan has been on the Watch List since 2000 and it has yet to fully implement its commitments under the 1994 U.S.-Uzbekistan Trade Agreement. Uzbekistan's 2006 Copyright and Related Rights Law is weak in that it does not protect pre-existing works nor does it provide any protection or rights to U.S. and other foreign sound recordings. Additionally, the Government has taken only modest steps to implement the law. Uzbekistan has not joined the Geneva Phonograms Convention. The Uzbek enforcement regime is weak: criminal penalties for IPR violations are low and its enforcement officials do not have *ex officio* authority necessary for effective enforcement by police and customs authorities.

VIETNAM

Vietnam will remain on the Watch List in 2009. Piracy rates remain high in the country, and in some categories, rates appear to be increasing. Also, growing Internet penetration has been accompanied by greater online piracy. Vietnamese enforcement authorities have achieved some success in increasing enforcement capacity over the past year; however, in some areas, particularly with respect to copyright enforcement, additional enforcement efforts have not kept pace with rising piracy levels. To date, administrative enforcement actions and penalties have not been sufficient to deter infringing activities. The United States recognizes the strides Vietnam has made in IPR protection and enforcement over the past several years. The Government of Vietnam took substantial steps to address deficiencies cited in last year's Special 301 Report including: initiating the revision of the Criminal Code to include updated IPR provisions; and increasing administrative fines and strengthening capacity in enforcement agencies. Over the past year, Vietnamese agencies took steps for the first time to address concerns raised by rightsholders regarding Internet-based piracy and the United States looks forward to increased cooperation with Vietnamese agencies in this area of growing concern. The Vietnamese Government also took steps to improve the capacity of its agencies and to conduct outreach to its domestic rightsholders and private sector. The United States continues to watch with interest the positive developments in Vietnam, in particular, improvements in enforcement for copyrighted products in both physical and digital form, and the revisions under consideration on the Criminal Code with respect to remedies for copyright piracy and trademark infringement. We look forward to continuing our engagement under the U.S.-Vietnam Trade and Investment Framework Agreement IPR working group and through cooperative capacity-building programs.