

# **MPAA CALLS ON USTR TO USE SPECIAL 301 TO LEVERAGE PAKISTAN, RUSSIA, TAIWAN, MALAYSIA AND CHINA TO REDUCE PIRACY**

February 13, 2004

<http://www.mpa.org/jack>

Washington, D.C...February 13, 2004 ....The Motion Picture Association of America (MPAA), in a submission to the U.S. Trade Representative (USTR) through the International Intellectual Property Alliance, called on the U.S. Government to take appropriate actions against foreign countries that have failed to provide adequate protection of America's creative products. In particular, the MPAA highlighted five countries: Pakistan, Russia, Taiwan, Malaysia, and China and asked that they be identified in the annual Special 301 report.

Special 301 is a statute of the U.S. Trade Act of 1974 that requires that the U.S. Trade Representative to identify those foreign countries that deny adequate and effective protection of intellectual property rights or fair and equitable market access for Americans relying on intellectual property protection. **Countries that have the most egregious practices can face retaliatory trade measures if they fail to resolve the dispute.** This year's report is scheduled for release on April 30.

"The exports of American films and TV programs is an enormous asset to the U.S. economy. To ensure that America's creative products thrive in the global marketplace, they have to be protected from theft. **Special 301 is an effective and powerful tool that the U.S. Government can leverage with foreign countries to level the playing field,**" said Valenti. "I commend Ambassador Zoellick for engaging foreign governments to take effective enforcement measures to safeguard our creative works."

The MPAA recommended that Pakistan be designated as "Priority Foreign Country." Pakistan leads the world's in export of pirated optical discs (CD, DVDs, VCDs, CD-Roms). Pakistan is known to have eight illegal facilities in operation. In a nine-month span last year, the labs produced well over 100 million discs. These illegal plants have more than the capacity to fully supply the pirate market in Pakistan, with plenty of product remaining for global export.

"We are distressed by Pakistan flagrant acts of piracy, and to compound the situation the Pakistan Government has made no significant efforts to address the illegal activities. The Government has yet to implement its copyright law to allow for improved enforcement, and has not committed sufficient resources to enforce its law. I urge the U.S. Government to use Special 301 to draw attention to the level of piracy in Pakistan and to bring about serious changes," said Jack Valenti, President and Chief Executive Officer of the MPAA.

The MPAA requested that the Russian Federation remain on the "Priority Watch List" with a 60-day Out-of-Cycle Review. Russia is one of the most serious offenders of any country in the world. The country has the distinction of being one of the world's largest producers and distributors of illegal optical discs. Russia's export to growing markets across Europe has eviscerated any progress that has been made in the country towards the creation of healthy legitimate audiovisual market. Sales of legitimate DVDs have fallen despite a significant increase in the number of households with DVD players. The local Russian market is saturated with pirated DVDs. The Russian Anti-Piracy Organization estimated that the five known local DVD plants, often operated by organized crime syndicates, have an annual production capacity of over 20 million DVDs, and that about 1.3 million pirated discs are manufactured each month.

"Russia's problems with piracy are mounting because criminal enforcement is sorely lacking in the country, and legal reform is in dire need of improvement," said Valenti. "We want to highlight the

Russian Federation at this time to encourage Russia to respond to the crisis from all levels of the Government and to demonstrate to the world that Russia is willing to do the right thing.” Similar to Russia, Taiwan should remain on the “Priority Watch List” with an Out-of-Cycle Review. Factories manufacturing pirated optical discs have increased dramatically over the years and piracy has decimated the local audiovisual industry. The Internet is increasingly being used as a distribution channel for pirate product. Moreover, organized crime has become an important factor in Taiwan’s piracy problems.

Although the Taiwanese Government has made progress to curb piracy with some significant enforcement actions against wholesale and retail pirates, Taiwan needs to implement stronger legislative enforcement. Specifically, the Government needs to correct the flawed Copyright Law Amendments that passed in June 2003. The primary weaknesses are the reduction of penalties against piracy and the removal of protections against the circumvention of technological protection measures.

“The priority for Taiwan is to amend the Copyright Law. This is a concrete step that Taiwan must do to have any real impact on reducing piracy,” said Valenti

The MPAA requested that Malaysia remain on the “Watch List” unless the Malaysian Government impose price controls on motion picture optical discs. If the price controls go in effect on April 1, as it was announced, then Malaysia should be elevated to the “Priority Watch List.”

Malaysia has made some significant efforts on the piracy front. An enforcement crackdown last year resulted in the reduction of domestic wholesale and retail piracy. Despite progress, there are still problems with delay in the follow-up actions including cancellation of licenses and prosecution of cases involving optical disc factories.

The MPAA recommended that China be subject to Section 306 Monitoring. Piracy rates in China is at 95%, one of the worst in the world. The Chinese Government’s efforts to reduce optical disc piracy remain poorly coordinated. Any real progress has been hampered by a lack of focus and consistency.

Although the Chinese authorities have closed a number of underground factories, there are still enough plants in operation to continue to produce enormous number of pirated products. Retail piracy is rampant with the pirates’ ability to sell pre-theatrical and pre-video release titles. Exports of pirated DVDs continue to increase. Pirated Chinese optical disc products have been found in Hong Kong, Russia, Europe and even the U.S.

“The Chinese Government has said that it will marshal its efforts to combat piracy, but I’m troubled by the lack of follow-through. Piracy can only be rooted out if there is a sweeping but consistent plan to go after pirates. **I urge the U.S. Government to use its trade weapons to encourage China to fulfill her promises,**” said Valenti.

*NOTE: Emphases added by the Film and Television Action Committee*

# MPA COMMENDS USTR "SPECIAL 301" REPORT

**Taiwan, Russia, and Poland on "Priority Watch List," Thailand on "Watch List"**

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Washington, D.C., Thursday, May 1, 2003...The Motion Picture Association applauds the decision by the United States Trade Representative to place Taiwan and Russia on the "Priority Watch List" again for failure to provide adequate copyright protection in the war against optical disc piracy. Poland, previously on the "Watch List," was elevated to the "Priority Watch List," and Thailand remains on the "Watch List."

The designations were unveiled today in USTR's annual Special 301 "annual review." Special 301 of the 1988 Trade Act gives the United States an effective tool to utilize in dealing with nations that impose barriers against U.S. film, TV programs and home video material, or permit these exports to be pirated. Nations identified by the USTR under Special 301 can face a variety of retaliatory actions by the U.S. unless standards of intellectual property protection are improved.

"Optical disc piracy obliterates the value and vitality of the American film and TV industries. We praise Ambassador Zoellick and the USTR for drawing the world's attention to the countries that have repeatedly failed to protect America's copyrighted works. When so much of the industry's revenues come from overseas, **it is critical that the U.S. Government uses every resource in its power to persuade these countries to confront piracy or ensure that they face the consequences of trade sanctions,**" said Jack Valenti, MPA's Chairman and CEO.\*

Taiwan is one of the biggest producers of unauthorized optical discs in the world. As pirated optical discs factories operate unchallenged and bootlegged VCDs continue to be openly sold by street vendors in markets throughout Taiwan, the MPA noted that Taiwan has not offered any long-term concrete measures to disrupt the excessive levels of piracy. Even though some good copyright amendments have been introduced to the Legislature and that the Taiwanese Government has implemented a new rewards scheme for informers, piracy rates in Taiwan continue to soar.

"With piracy rampant and out of control, the Taiwanese Government has to stop giving lip service to addressing piracy and make every effort to offer substantial remedies. While we believe passing the optical disc legislation will be a step in the right direction, there has to be more evidence of a concerted effort by Taiwan to turn the tide of piracy," said Valenti.

DVD piracy exploded in Russia in 2002 and today, the majority of pirated discs on the Russian market are manufactured locally. Illegal optical disc plants in Russia have an estimated annual production capacity of over 30 million discs, over 10 times the local Russian market demand.

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\* Emphasis added by the Film and Television Action Committee

Many of these plants are owned by organized criminal groups, who control the duplication and distribution of pirated product.

Although the Russian authorities raided an optical disc factory last week that supplied as much as 30% of the pirated DVDs in Russia, the local market is still overwhelmed by pirated products, and valuable markets right across Europe are under serious threat from a flood of pirated DVDs being exported from Russia.

"We welcome and applaud the recent indications of a tougher approach to piracy by the Russian Government, and count on it to continue to take concrete initiatives to bring about real enforcement against optical disc piracy," said Valenti.

Piracy in Poland is increasing to an extremely worrying level. The MPA noted that the continuing failure of the Government to address rampant piracy at the infamous Warsaw Stadium is tantamount to state-sanction for such activities. Poland must also take urgent measures to address the increasing importation and sale of pirated DVDs, which is seriously damaging the local theatrical and video markets. "Unless the Polish Government acts urgently to deal with these issues in the near future, Poland will become a safe haven for pirates right across the region," said Valenti.

Optical disc piracy in Thailand has grown to alarming proportions. There has been a significant increase in the number of pirate retail vendors selling pirated DVDs and VCDs. In addition, the MPA has noticed a dramatic increase of illegal manufacturing facilities.

A draft Optical Disc Piracy Bill still has not been submitted to Parliament for passage. "The Optical Disc bill is critical as a basis for enforcement against the rampant piracy in Thailand," said Valenti. Moreover, Thailand's Copyright Act has yet to be amended to fully meet the standards of the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights. By failing to implement strong legislation, the Thai Government has demonstrated that it is not relying on all available means to combat piracy.

The MPA calls on the United States Government to use the bilateral leverage afforded to it by the U.S. Congress under the Generalized System of Preferences to demonstrate to Thailand that the U.S. Government is not prepared to provide preferential access to the U.S. markets to countries that tolerate widespread manufacture and export of illegal copies of U.S. copyrighted works.

In 2002, annual losses to the U.S. motion picture industry to audiovisual piracy worldwide are estimated at \$3-3.5 billion.

<b>Countries</b>	<b>Est. Losses (\$M)</b>	<b>Piracy Rate</b>
<i>Poland</i>	\$25	30%
<i>Russia</i>	\$250	80%
<i>Taiwan</i>	\$42	44%
<i>Thailand</i>	\$26	70%