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Via Email FR0052@USTR.EOP.GOV

Ms. Marideth J. Sandler
Executive Director for the GSP Program
Chairman, GSP Subcommittee
of the Trade Policy Staff Committee (TPSC)
Office of the United States Trade Representative
USTR Annex, Room F-220
1724 F Street, NW
Washington, DC 20508

Re: 2006 GSP Eligibility and CNL Waiver Review
71 Fed. Reg. 45079 (August 8, 2006)

To the GSP Subcommittee:

The International Intellectual Property Alliance (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.¹ We take this opportunity to respond to the GSP Subcommittee's request for comments to determine whether major beneficiaries of the GSP program have expanded exports or progressed in their economic development to the degree that the eligibility should be changed under the Trade Act of 1974.

In brief, IIPA supports the renewal of the GSP trade program. While we offer no comments on the TPSC's request on whether any of the 83 existing competitive need limitation (CNL) waivers are still warranted, we do note that maintaining the GSP program, and providing benefits as broadly as possible, provides leverage that can be used to advance important USG goals such as the effective protection of intellectual property. Finally, IIPA again urges that duty-free treatment for Russia be withdrawn or suspended immediately.

¹ IIPA is comprised of seven trade associations, each representing a significant segment of the U.S. copyright community. These member associations represent over 1,900 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). See www.iipa.com for more details.

The Importance of the GSP IPR Criteria and Renewal of the Program

The IIPA has been a strong supporter of the GSP program because of its explicit inclusion of intellectual property provisions in the eligibility criteria. Over the years, IIPA has filed numerous petitions requesting the U.S. Government to initiate GSP intellectual property rights (IPR) reviews of copyright law and enforcement practices in targeted countries.²

At present, the U.S. government is continuing GSP IPR investigations on the copyright law and enforcement practices in three countries in which IIPA was the original petitioner: Russia, Lebanon, and Uzbekistan. In January 2006, USTR terminated the GSP investigations of Ukraine, Brazil and Pakistan, and in May 2006, terminated the case against Kazakhstan.³

The IIPA has continually stressed that countries should not continue to receive duty-free trade benefits if they fail to provide adequate and effective copyright protection. The U.S. Congress has also made clear that countries should not remain eligible to receive such preferential benefits if they fail to take action against the blatant theft of copyrighted materials. IIPA believes it remains imperative that this very important trade tool – the GSP program – be used in an effective and credible way with our trading partners. The benefits of the program offer developing countries an incentive to improve their economies, and similarly, the possible removal of such benefits presents countries with challenges to solve their domestic problems.

The legislation authorizing the GSP program expires on December 31, 2006. The IIPA and its members support the reauthorization of this important trade program.

Country GSP Review: Russia

The IIPA uses this opportunity to comment directly on one country – Russia. In our view, GSP duty-free benefits to Russia should be immediately withdrawn or suspended because of Russia's failure to provide adequate and effective copyright protection to U.S. copyright owners, as required by the GSP program, specifically section 502(c)(5) of the Act (19 U.S.C. 2462

² Since 1999, IIPA (and in one case, a coalition of 6 of the 7 IIPA members) has filed 18 GSP IPR petitions with USTR, requesting the initiation of IPR investigations against the following countries: Poland, Peru, Lebanon, Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, Kazakhstan, Belarus, the Kyrgyz Republic, Brazil, Russia, Guatemala, Costa Rica, Uruguay, Thailand, and Pakistan. Of these 18 petitions, USTR initiated reviews in 10 countries: the Dominican Republic, Ukraine, Moldova, Uzbekistan, Armenia, Kazakhstan, Brazil, Russia, Lebanon, and Pakistan. IIPA withdrew its request to initiate reviews in three cases (Peru, Uruguay and Thailand). Of these 10 reviews, so far USTR has completed its investigations and terminated its reviews in 8 cases (Armenia, Moldova, Dominican Republic, Ukraine, Brazil, Pakistan, and Kazakhstan, plus Turkey—a case which IIPA petitioned for in 1993 and which was closed in 2001).

³ With respect to two of the 13 countries at issue in this particular GSP docket, IIPA noted that progress has been made in Brazil, especially in improved Brazilian government will and coordination as well as increased seizures of pirated materials, but that some deep systemic problems, particularly involving the Brazilian judicial system (including prosecutors), remain. IIPA remains puzzled over why the Kazakhstan GSP review was terminated because IIPA members are not aware of any improvements in local anti-piracy enforcement results in that country.

(c)(5)).⁴ IIPA and its members have provided numerous public updates on the lack of progress being made in Russia on continuing rampant piracy, ineffective copyright enforcement and the dangers of proposed legislative reform to the Civil Code. There simply is no justification for continuing to give trade benefits to a country which fails to comply with the explicit terms of the GSP trade program. IIPA reported an estimated trade loss due to copyright piracy in Russia of almost \$1.8 billion in 2005 alone. Meanwhile, Russia benefited from \$738.2 million in duty-free GSP imports to the U.S. in 2005; for the six months of 2006, imports from Russia under GSP totalled \$318.8 million.

The granting of hundreds of millions of dollars in GSP benefits while U.S. copyright-based companies continue to suffer the piracy of their creative content in Russia is simply not justified, and ought to be reversed.

We appreciate your consideration of our comments.

Respectfully submitted,



Maria Strong
on behalf of the
International Intellectual Property Alliance

⁴ In 2000, IIPA submitted a GSP IPR petition against Russia to the U.S. government; this petition was accepted and two sets of public hearings have been held. See IIPA's February 13, 2006 report on Russia in IIPA's 2006 Special 301 Submission posted at <http://www.iipa.com/rbc/2006/2006SPEC301RUSSIA.pdf>; see IIPA's March 1, 2006 letter on Russia to the GSP Subcommittee, posted at <http://www.iipa.com/pdf/Russia%20GSP%202006%20Special%20301%20Submission%20FINAL%20psb%20030106.pdf>; and see also IIPA's June 2, 2006 letter to the GSP Subcommittee, posted at <http://www.iipa.com/pdf/IIPA%20Russia%20GSP%202006%20Recommendation%20June%20060206.pdf>. Finally, see USTR's description of the IPR problems in Russia in USTR's April 28, 2006 Special 301 Decisions, posted at page 11, at http://www.ustr.gov/assets/Document_Library/Reports_Publications/2006/2006_Special_301_Review/asset_upload_file353_9337.pdf.