



March 6, 2002

**REQUEST FOR HIGH-LEVEL BILATERAL ENGAGEMENT
ON COPYRIGHT PIRACY AND ENFORCEMENT PROBLEMS
IN
MEXICO**

Mexico is a top priority for the U.S. copyright industries. Copyright enforcement in Mexico deteriorated during 2001, with estimated dramatic trade losses due to piracy rising to US\$809 million. The Attorney General has initiated some successful raids and large seizures, but due to lack of sufficient resources, those actions were restricted mainly to Mexico City. In addition, no significant arrests were made, and in the limited cases where arrests were made, the defendants were released from jail quickly due to a very reluctant judiciary. It is this kind of inconsistency which caused the industries' anti-piracy campaigns to achieve erratic to poor results, in general. Given endemic piracy in Mexico, the number of criminal prosecutions moving forward remains extremely low. There is a lack of coordinated effort in copyright enforcement as a whole, and no single authority is held accountable for the burgeoning piracy problem. Administrative enforcement through the Mexican Industrial Property Institute (IMPI) showed some improvement but would benefit from more training and commitment. The Finance Ministry and Customs have yet to play any significant role in fighting piracy. The Mexican judiciary continues to view copyright infringement as a minor offense, and fails to issue deterrent criminal sentences. The Minister of the Interior (*Gobernación*) needs to coordinate efforts by local authorities.

More than ever, it is imperative that President Fox address the urgent need for effective copyright enforcement to combat endemic piracy in his country and implement specific measures to achieve practical results. The Office of the Attorney General lacks the human resources to cover all Mexican territory. Only 6 attorneys cover the entire country for the copyright industries. Given the special relationship that exists between our countries, our Presidents, and our cultures, we believe that both governments must make the issue of Mexico's copyright piracy and inadequate copyright enforcement a high priority in the bilateral relationship.

COPYRIGHT PIRACY IN MEXICO

The copyright industries continue to engage in active anti-piracy efforts in Mexico. Nevertheless, the levels of piracy remain extremely high for such a developing market. Piracy will only be effectively addressed when all necessary Mexican government agencies and ministries are effectively coordinated in their anti-piracy efforts. Prosecutions must be initiated. Jail sentences must be issued, and include deterrent sentences. Administrative authorities need to prosecute

street vendors selling pirate and counterfeit products (in most cases state and city governments have issued permits or vending licensing to the street vendors of illegal product). Cooperation with other Mexican agencies must improve and coordination with the Judiciary and state and local authorities is urgent.

MEXICO: ESTIMATED TRADE LOSSES DUE TO PIRACY
(in millions of U.S. dollars)
and LEVELS OF PIRACY: 1996 – 2001

INDUSTRY	2001		2000		1999		1998		1997		1996	
	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level	Loss	Level
Sound Recordings / Musical Compositions ¹	366.8	61%	300.0	63%	80.0	50%	80.0	50%	70.0	50%	60.0	50%
Business Software Applications ²	150.0	58%	145.7	56%	108.8	56%	122.0	61%	108.0	62%	108.4	67%
Entertainment Software	202.5	83%	NA	90%	NA	NA	170.1	85%	163.2	82%	150.0	75%
Motion Pictures	50.0	40%	50.0	40%	60.0	55%	62.0	55%	55.0	55%	61.0	55%
Books	40.0	NA	30.0	NA	37.0	NA	35.0	NA	35.0	NA	35.0	NA
TOTALS	809.3		525.7+		285.8+		469.1		431.2		414.4	

Sound Recordings and Music: Recording piracy in Mexico in 2001 represents \$366.8 million in losses and covers approximately 61% of total market units, according to a survey conducted by BIMSAs, a renowned market research company. This survey was recently coordinated by the recording industry in Mexico to obtain a more scientifically accurate picture of the full piracy impact. The legitimate market for recorded music amounted to only 57 million units in 2001, a 15% drop from the 67 million units sold in 2000. Mexico was the eighth largest music market in 2000 (a position which will unlikely hold when the new rankings come out for 2001). Moreover, the industry was forced to reduce personnel by approximately 15% during last year; it also reduced the number of recordings and releases which ultimately will endanger the future of the business. The neighborhood of Tepito in Mexico City has been a major problem for the recording industry for too many years, and accounts for approximately 65% of the pirate music product manufactured and distributed in the country. All this product is widely and freely available. Cassette piracy has long been a serious problem in Mexico, and remains at a very high 75% piracy level; sadly, pirates have mostly shifted from cassettes to CD-R format, thereby greatly threatening the remaining market in Mexico for legitimate music. CD-R pirate sales in 2001 are estimated at 73 million units (versus 47 million legal units for that same period). Retailers and medium-sized wholesalers are closing, and the legitimate businesses (both multinational and independent labels) are under a great deal of pressure to remain in operation.

Business Software: The estimated level of piracy for business software applications in Mexico has remained basically the same over the past few years, with the 2001 piracy level placed

¹ RIAA reports that the 2001 and 2000 estimated losses due to recording piracy in Mexico reflect losses experienced by the overall industry, including both U.S. and Mexican record companies. The 1999 numbers reflect U.S. losses only.

² In early 2001, BSA provided to the U.S. government a preliminary estimate of trade losses in Mexico of \$129.3 million for 2000. BSA's 2000 numbers were finalized in mid-2001, and the revised loss estimate is reflected above. The estimated piracy level for 2000 was unchanged.

at 58%. Preliminary estimated trade losses due to software piracy in Mexico rose to \$150.0 million last year.

Entertainment Software: Videogame piracy on all platforms (from cartridges to CD-ROMs) continues to be widespread in Mexico. Distributors of entertainment software estimate piracy levels to be at 85%. For example, pirate industrial-produced (silver) CD-ROMs for PlayStation are shipped from Asia and through the U.S., making this entire market in Mexico pirate. Pirate CD-ROM games for PlayStation2, all made in Asia, have taken over half the Mexican market (50% piracy). For PC-based games, the biggest piracy challenge is local CD-burning. Estimated trade losses due to videogame piracy are \$202.5 million in 2001.

Book Publishing: Reports indicate that estimated losses due to book piracy in Mexico rose from the \$30 million range for 2000 to \$40 million in 2001 (increase believed to be due primarily to improved research on the piracy situation, not a specific rise in piracy). AAP reports that there has been no reduction in the level of photocopying of published materials in universities in Mexico during 2000. Major universities (like UNAM) and educational institutions (like ITESM) have photocopy centers on their premises. In some cases, materials taken from U.S. books are posted on the institution's intranet for classroom use, without permission and without payment to the publishers. The Mexican copyright law is deficient in that it allows students to copy one complete copy of every work, provided it is not done for profit. Universities in Mexico are estimated to consume anywhere from 5 to 10 billion pages of copyrighted materials each year, all without paying anything. This includes the many commercial copyshops outside universities, as well as subsidized photocopies done inside the universities. The local reprographic rights organization (RRO), CEMPRO (*Centro Mexicano de Protección y Fomento a los Derechos de Autor*), was established in mid-1998, but only started collecting small amounts for the first time in 2001 (these are voluntary payments, not required by law). There are also indications that trade publishers are starting to have some books pirated. This would affect legitimate licensees of American authors, either published in Mexico or imported from Spain. Some book piracy also is beginning to be seen in ELS titles published in Mexico by wholly owned subsidiaries of U.S. companies. Most books sold in Mexican and Latin American universities are translated into Spanish, or published originally in Spanish; these are published primarily in Mexico by wholly-owned subsidiaries of U.S. companies, and so losses on translations include both lost royalties as well as the entire publishing profit.

Motion Pictures: Estimated annual losses to the U.S. motion picture industry due to audiovisual piracy in Mexico are estimated to be \$50 million in 2001. MPA's primary concern in Mexico is black-market video piracy. Piracy rates in video stores is significantly lower in 2001 in several parts of the country, but piracy continues to dominate the video stores in the Guadalajara and southern Mexico areas. Although general street sales of pirated video tapes have been reduced in Mexico City, the organized video pirates in Tepito continue to function, and the CD-R format for pirated movies is growing quickly. Several video reproduction networks work out of the Tepito bazaar distributing their product via on-site sales, as well as shipping to established customers throughout the country. Plaza San Juan de Dios in Guadalajara is the second most important pirate reproduction and distribution center. Some of these illegal reproductions are in current theatrical release, competing directly with the theatrical window, although there is also previously released product available, especially of animated product. The low average price of this pirate product competes with a similar charge for a movie ticket and is much lower than the price of a legitimate home video sell-through title. Street markets continue to be the main distribution system for these pirate videos. Although extensive raids have reduced the volume of pirate VHS available, these street markets are permanent and institutionalized (with their own unions and political representation) and thus provide a ready infrastructure for a resurgence of piracy if enforcement

efforts are reduced. There are other pirates that specialize in distributing higher quality videos exclusively to video rental outlets. This pirate distribution system is sophisticated due to high quality reproduction, which competes directly with the legitimate home video industry in the rental market, marketing their counterfeit product at about US\$9 compared to the legitimate price of about US\$21. In addition to video piracy, television piracy in Mexico continues to be a concern, although it is being effectively addressed by government authorities in coordination with MPA. Distributors of grey-market satellite systems often sell to hotels and individuals. Of primary concern for the MPA are the distributors of grey-market satellite systems and the hotels that purchase these unauthorized systems.

BILATERAL ENGAGEMENT ON COPYRIGHT MATTERS

IIPA and its members have been working with both the Mexican and the U.S. government on the following issues for the last several years, and our current views are outlined below.

(1) The Federal Office of the Attorney General (PGR) should intensify anti-piracy enforcement.

During much of 2001, the public attitude of the new PGR administration was positive regarding the need to address copyright piracy and improve enforcement. The new Attorney General, Rafael Macedo de la Concha, specifically mentioned anti-piracy as one of his priorities, and indications were that he intended to get to the root of this problem. However, many in the copyright industry expressed serious concern throughout 2001 that the level of actual criminal enforcement under the Fox Administration was less than that of the Zedillo Administration, which in late 2000 achieved a flurry of positive results in criminal copyright cases.

The copyright industries report mixed results on criminal enforcement in 2001, despite the positive attitude of the Attorney General. It is possible that the lackluster results were due to the internal disorganization resulting from the restructuring of the PGR's offices.³ For example, in mid-2001, the PGR chose to limit its street raids in Tepito until further notice because of social unrest and disruptions caused by police actions there, thus giving the public the impression that piracy was not a priority and that pirates were exempt from the rule of law. The PGR lacks sufficient resources to fight piracy and resolve the huge problems faced by the copyright industries. Unfortunately, the Federal Budget for 2002 does not contemplate increased resources for the PGR, and the Attorney General has not been empowered to request assistance from other agencies. The PGR is divided into three geographic zones, each headed by a Deputy Attorney General. Basically, the only Deputy Attorney General who conducts copyright-related actions is the one for Zone "A". This means that pirates act with impunity in about two-thirds of the country. Also, the local PGR offices (Delegaciones) in each of the states do not conduct actions on their own. Most of the actions need to be coordinated by the Deputy Attorney General for Zone "A" and his team of 6 assistants. Furthermore, certain copyright industries reported a variety of difficulties in obtaining preliminary investigations and search orders and running criminal raids during much of 2001. In the absence of its own police unit, the PGR has to request special assistance from the Federal Preventive Police (PFP), thus adding bureaucratic and political steps to the anti-piracy process.

³ In early 2001, most, if not all, of the members of the special IPR prosecutor's office of Mexico City were fired. Seven new prosecutors were assigned to do the job. The PGR's office has trained 110 prosecutors on IPR crime in order to act throughout the country. In addition, 31 special IPR prosecutors have been appointed (one per each state) with specific instructions to deliver results (the results of which are not yet apparent). And as mentioned above, a new IPR prosecutor joined the PGR in early 2002.

It is imperative that criminal investigations and prosecutions of copyright infringements be actively and consistently pursued by the PGR. The PGR needs resources and a strong commitment to face such a task. IIPA and its members have long believed that, at the very least, the following two steps should be taken by the Mexican Government and the PGR:

- IIPA and its members believe that the public announcement of a specific, intensified copyright anti-piracy campaign, combined with immediate specific action, would give credence to President Fox's efforts to fight corruption and improve economic development in Mexico. Such an announcement must be accompanied by specific actions. The authorities at all levels need to be aware that piracy is not to be tolerated.
- The Attorney General should encourage his prosecutors, all the *subprocuradores*, the special IPR prosecutor and all the local *Delegados* to intensify their efforts to initiate and prosecute copyright piracy cases, and to remove millions of illegal products from the streets. In fact, the PGR had instructed the State PGR Offices (*Delegaciones*) to include IPR crimes in their reports last year, but to no avail. Constant changes, the lack of human and economic resources, the lack of training, and the lack of specific institutional goals all contributed to the lack of success in the PGR's anti-piracy efforts last year. .

Despite all of the recent structural and personnel changes in the PGR, one very important fact remains clear. No deterrent criminal sentences for copyright infringement have been imposed in Mexico. This dearth of results undermines the prosecutorial efforts of the PGR. IIPA suggests that the PGR direct its focus on effective enforcement toward two specific areas:

- Serious investigation of the *capos* (leaders) of pirate organizations in Tepito and Guadalajara. As long as there is no effort to aggressively investigate and prosecute the leaders of the pirate organizations in the Tepito Bazaar, Plaza Meave and Plaza San Juan de Dios in Guadalajara, the Fox Administration will lose the battle against audiovisual piracy. The anti-piracy effort needs to encompass copyright infringement, tax evasion, customs-related crimes, fraud, consumer fraud, and trademark infringement.
- Greater emphasis on adequate case preparation for deterrent-level sentencing. As recently as January 2002, the PGR has exhibited a renewed interest in pursuing criminal raids; this result is likely due to the appointment of a new IPR prosecutor. The industries are hopeful that the PGR will aggressively pursue piracy cases immediately, but the experience has shown that existing resources are no match for the size of the problem.

(2) Increase the number of criminal prosecutions by the PGR and the imposition of deterrent-level sanctions by the judiciary.

Mexico passed criminal law amendments in May 1999 which made certain copyright infringements a "serious crime" (*delito grave*), akin to a felony in the U.S. These amendments permitted the denial of bail to arrested infringers other than street vendors, accelerated the securing of search warrants, increased penalties (particularly prison terms) and included other measures. When the amendments went into force, there was an apparent improvement in criminal enforcement against piracy. The pretrial detention measures were being used. And, for the first time, the copyright industries saw some convictions for copyright infringement. However, the

initial trend suddenly stopped and many District Judges found ways to free defendants on technicalities.

These actions must be continued, indeed, intensified if piracy levels are to be reduced significantly. Both the PGR and the Mexican courts need to prosecute cases. The PGR should self-initiate more investigations and cases involving visible, *in flagrante* violations, especially outside Mexico City in key locations such as Guadalajara, Tijuana, Puebla, and Monterrey; fewer detainees should be freed before trial; and fewer defendants should be called "street vendors" and liberated, even when their stalls are permanent or semi-permanent.

In summary, there is inadequate deterrence of copyright piracy in Mexico. The number of indictments in 2001 is almost the same as those in 2000, as are the number of cases prosecuted (citing statistics compiled by three industry associations, see the chart at the end of this paper). However, the number of copyright cases resulting in fines or jail terms dropped precipitously in 2001 compared to 2000 (7 cases versus 24). Mexico's efforts to indict, prosecute and sentence copyright pirates must be significantly elevated if significant results are to be achieved.

The need for judicial reform and training in Mexico has never been greater. Notwithstanding the powerful enforcement sanctions enacted by the Mexican Government almost three years ago, judges and magistrates continue to view copyright piracy as a minor offense, and frequently misapply the law. District judges release defendants on the assumption that the crime does not warrant jail time. The intervention of the President of the Supreme Court is needed in order to coordinate the efforts of the two branches (Executive and Judiciary) on this matter.

(3) Deterrent-level administrative sanctions must be imposed by IMPI.

IMPI has the authority to impose administrative fines for both commercial copyright piracy and trademark counterfeiting cases. Historically, the fines imposed by IMPI have been low, slow in coming, and often not collected when assessed. In addition, the potential copyright fines reach a maximum of 10,000 times the minimum daily salary in the Federal District, approximately \$40,000, which is only half the level of the maximum trademark penalties, and inadequate as a maximum fine in terms of deterrence. Moreover, in the experience of the IIPA members, IMPI rarely imposes fines close to the maximum permitted levels.

However, some progress was made with IMPI with respect to deterrent-level fines against computer software defendants that refused IMPI inspections. In June 2001, IMPI imposed an aggregate US\$105,000 fine, in a case brought by BSA members, against three companies (US\$35,000 each) operating within the same building, and suspected of belonging to the same business group that refused inspection by IMPI. Previously, IMPI had never imposed fines higher than US\$2,000 on defendants who refused inspections. Moreover, approximately 30% of the BSA inspections in Mexico City in 2001 failed for denial of entry, coupled with lack of deterrent-level fines. BSA applauds this decision and hopes that similar criteria will be applied by IMPI should inspections be refused in other copyright infringement cases. BSA also would like to receive evidence that the fine was actually collected, as historically they rarely been collected. IMPI has not yet determined the fines that it may impose on the significant number of companies that denied entry to IMPI inspectors during the second half of 2001, and this delay amounts to an exoneration of the defendants. On audiovisual enforcement matters, MPA reports continued success in working with IMPI in 2001. In coordination with the MPA, IMPI has developed a system of inspecting all video stores in a specific city in a matter of days in an attempt to bring the entire market back to a legal condition. IMPI inspectors have been able to sweep several cities and, when followed by

MPA-coordinated commercial activity, such activity has measurably reduced piracy and positively impacted the market. In these cases, IMPI's sanctions, while not as deterrent as a criminal sanction, are effective, MPA reports.

(4) The Mexican government needs to be more proactive in completing the legalization of business software piracy by the government itself.

The Mexican federal government has made great strides toward legalizing its installed software base. During meetings between representatives of the software industry and SECODAM in 2000, SECODAM agreed that the software industry's methodology for reporting piracy rates in government agencies had some merit. The BSA provided a list of federal agencies that still had significant piracy rates, and requested detailed follow-up from that agency or its successor.

Certain state governments in Mexico, such as Jalisco, have taken steps to legalize their installed base; Jalisco is noteworthy because the governor issued a legalization decree in August 1999 to cover the entire state government. In 2001, BSA tried to convince the governors of the states of Guanajuato and Sinaloa of the importance of issuing a governmental software legalization decree in order to completely legalize their software, but unfortunately, they decided to sign individual software licensing agreements with specific software publishers. BSA encourages Mexican state and municipal governments to pursue complete legalization of the software being used in their official agencies and offices, and would appreciate support from the Federal Government in this respect.

On December 1, 2000, President Fox announced the implementation of an ambitious technological project named "e-Mexico." The Mexican Government plans to create a mega-network through the interconnection of all telecommunication networks operating in Mexico, in order to expand the provision of basic services such as education, health, economy, science, technology and industry, public bidding and permits procedures, as well as other services through the Internet. E-Mexico includes the provision of computers and connectivity to approximately 2,500 Mexican municipalities. During the first stage of this project (January to March 2001), 60 Internet centers were installed in urban and rural communities. During the second stage (April 2001 to December 2003), another 2,000 Internet centers are expected to be created. President Fox expects that by December of 2006, approximately 85% of the Mexican population will benefit from this project.

(5) Sustained and aggressive involvement by the customs authorities is needed in pursuing their jurisdiction in connection with piracy.

IIPA has recommended to the U.S. Government that it raise with its Mexican Government counterparts the need to establish formal custom procedures in Mexico which would detect illegal imports and prosecute the importer (e.g., illegally recorded CD-Rs declared as blank CD-Rs; the recorded CD-Rs may contain music, films, videogames or business software; the CD-R's may be brought into Mexico at impermissibly low prices or using forged places of origin), as well as the contraband of duplication equipment or material used to violate copyrights in Mexico.

In addition, Mexican customs should issue directives and guidelines to all of its offices, instructing them to focus on and investigate copyright-related cases (e.g., any import of CDs, CD-Rs, duplication equipment, satellite equipment, polycarbonate) and report them to central

locations, along with randomly selected samples for further verification. This central unit could then request technical assistance from the copyright industries. .

Mexican customs has agreed to restrict the importation of CD-Rs and CD burners to six points of entry. The recording industry has discussed a cooperation agreement with custom authorities that calls for training on IPR violations and exchange of information whenever allowed by law. This agreement would provide a clear signal by local authorities that a real commitment exists to improve border measures. Unfortunately the agreement has not yet been fully executed by Customs.

(6) Sustained and aggressive involvement by the tax authorities is needed in pursuing their jurisdiction in connection with piracy.

Since virtually every act of piracy is also an act of tax evasion, the tax police (SAT & Hacienda) should be more involved in anti-piracy enforcement, and the historic lack of cooperation between Mexican enforcement agencies that has harmed joint efforts should be addressed. Mexico should also consider tax legislation to this effect, which would have a positive impact on Mexico's need to generate additional tax revenues.

(7) IMPI needs to streamline certain procedures to make copyright enforcement more swift and sure.

IMPI only received the legal authority to address copyright infringement in the 1998 copyright law reform, and got funding to carry it out a year later. The historical lack of funding and personnel had been a significant problem. IMPI now has a copyright enforcement division, although it still needs experienced inspectors. Moreover, the Industrial Property Law should be modified to give IMPI clearer authority to impose deterrent-level fines, particularly when IMPI inspectors are denied entry by a defendant.

(a) Industry experts should be allowed to participate in inspections: In some of the business software actions handled by IMPI, BSA experts are not allowed to participate in the inspection. BSA has proposed to IMPI, without notable success, that BSA experts be present as "authorized persons" to participate in the action, as is the case with the promoters of the action. Mexican law does not prohibit this, and the presence of the BSA experts would in fact enhance the quality of the inspection, by helping the IMPI inspectors enormously to resolve uncertain or complicated technical, licensing and copyright situations which confront the inspectors during the inspection.

(b) IMPIs fees should not be raised: IMPI has recently announced that its fees for 2002 will increase approximately 100%; opposition from Mexican associations resulted in a delay of the increase until March 1, 2002. These new fees will substantially increase the already high IPR enforcement costs in Mexico. Such a fee increase would not be opposed by the copyright industry if it were indicative of a quantum leap in the quality and effectiveness of enforcement, but at present there is little expectation of this.

(c) Permanent inspectors should be appointed in major cities outside Mexico City: All IMPI inspectors are based in Mexico City, which means that when an inspection is to be conducted outside of the capital, plaintiffs have to pay for the inspectors travel and accommodation costs.

These costs have been very high; in the case of software actions, costs are based on the estimated number of computers to be inspected. IMPI has appointed up to four inspectors to conduct a particular raid. The lack of permanent inspectors outside the Federal District has also caused significant delays in initiation of the inspections. Given that IMPI has opened offices or “delegations” in other cities, such as Monterrey and Guadalajara, it is unfortunate that there are no qualified inspectors among employees at those IMPI offices to expand enforcement into other regions without travel from the capital.

(d) Significant delays have been experienced in obtaining inspections in software cases handled by IMPI: It takes up to 1-½ months from the date the inspection petition has been filed for IMPI to order and conduct the inspections, in cases involving business software piracy. Historically, the average time lapse was only about 2 weeks. The explanation given by IMPI for the delays is that the same inspectors who conduct the raids are those working at headquarters to draft case resolutions. In this event, additional inspectors should be appointed at IMPI.

(8) The status of copyright and industrial property law reform in Mexico.

There are certain law reforms that should be considered to strengthen the Mexican IP protection system. For example, fines for commercial copyright violations (10,000 minimum salaries) would play a more deterrent role if they were elevated to at least the same amount as the fines provided for trademark violations within the Industrial Property Law (20,000 minimum salaries). In order to harmonize penalties assessed by IMPI and the Fiscal Tribunal criteria, it would be optimal to provide for a minimum level of fines applicable to defendants’ denials of IMPI inspections within the Mexican copyright and industrial property laws. Also, it would simplify the estimation of damages caused to copyright and trademark owners if statutory damages for IP violations were provided in the copyright and industrial property laws, along the lines of effective models in Brazil and the United States.

Mexico has deposited its instruments of ratification for the WIPO Performances and Phonograms Treaty (WPPT) on November 17, 1999 and for the WIPO Copyright Treaty on May 18, 2000. IIPA applauds Mexico for taking this action which will raise the minimum standards of copyright protection, particularly with respect to network-based delivery of copyrighted materials. Proper implementation of the WIPO Treaties’ obligations will protect against Internet and other forms of digital piracy, and encourage e-commerce. IIPA has highlighted, over the years, several deficiencies in the Mexican copyright regime.⁴ It is IIPA’s understanding that the Mexican Government has no immediate plans to amend its copyright law to fully and effectively implement the WIPO Treaties, but is in the process of internally considering such amendments.

(9) A U.S.-Mexico law enforcement partnership needs to grow.

Piracy on both sides of the U.S.-Mexico border affects U.S. and Mexican copyright owners, and adversely affects both governments. Pirate products, raw materials, and those individuals responsible for distribution of these products regularly cross the border. In the past, the record industry conducted a number of border operations, with the U.S. record industry association (RIAA)

⁴ Appendix A of IIPA’s 1999 Special 301 report on Mexico contains a detailed analysis of the Mexican copyright law and then-pending regulations; this document is available on IIPA’s website at http://www.iipa.com/rbc/1999/rbc_mexico_301_99.html. IIPA and its members reserve the right to provide additional information on the law, as it deems necessary.

working with U.S. law enforcement while the Mexican industry (AMPROFON/APDIF) worked with the government of Mexico. This type of engagement and an increased flow of information between law enforcement authorities of the two governments should be formalized.

IIPA has long advocated that the U.S.-Mexican governmental effort should be expanded to include administrative, customs and tax authorities. A formal launch of a joint law enforcement partnership would be beneficial in a number of respects – operational, political, and a worthwhile precedent. Such a partnership should establish a task force which is long-term and calls for the meaningful exchange of information between both governments.

U.S. Attorney General John Ashcroft has been working to facilitate improved bilateral cooperation between U.S. and Mexican law enforcement officials.⁵ Copyright enforcement in Mexico was raised at the Senior Law Enforcement Plenary held between our two governments in late July 2001 in Mexico City. Governmental efforts resulted in the launch of the first Bilateral Working Group on Intellectual Property and Cybercrime, as mandated by the September 2001 agreement between both enforcement agencies.

(10) The Minister of the Interior needs to be actively involved in the national anti-piracy coordination effort.

The Minister of the Interior needs to assist President Fox in closely coordinating the efforts of all related Federal agencies and the cooperation of state and local authorities. Moreover, given evidence that piracy activities has links to organized crime and possibly even to terrorist activities, anti-piracy efforts should be contemplated within the National Plan for Security, and specific goals should be included in this Plan.

COPYRIGHT ENFORCEMENT SUMMARY IN MEXICO (2001)

Mexico 2001	Motion Picture Association (MPA) Cases	Business Software (BSA) Cases	Recording Industry (Local and U.S.) Cases	Totals
Number of raids	910	50 [1]	302	1,262
Number of PGR raids	93	0	301	394
Number of IMPI raids	817	50	1	868
Number of persons held In pretrial detention	0	1	175	176
Number of indictments	0	0	48	48
Number of cases resulting in fines or jail terms	0	0	7	7
Level of sentences Imposed	N/A	0	3 years and fines up to US\$8,000.00	(see columns)
Ratio of convictions to number of PGR raids conducted	0%	0%	2.3%	0.17%

⁵ See U.S. Department of Justice, July 24, 2001 press release on the Binational Meeting between the U.S. and Mexico, held in San Diego.

Pirate copies seized	315,000	15,000 CD's	17,134,229	17,464,229
Other materials seized (itemized)	275 duplication VCRs Over 1.5 million cover sheets for packaging tapes	15 CD burners	776 CD-recordable drives, 19 high-speed duplicating machines, 33,530,500 inlay cards, 278,015 jewel boxes	(see columns)

Notes:

[1] This figure takes into account inspections that failed because the defendants opposed the visit.

COPYRIGHT ENFORCEMENT SUMMARY IN MEXICO (2000)

Mexico 2000	Motion Picture Association (MPA) Cases	Business Software Alliance (BSA) Cases	Recording Industry (Local and U.S.) Cases	Totals
Number of raids	1,025	43 [1]	216	1,284
Number of PGR raids	81	3	216	300
Number of IMPI raids	944	40	0	984
Number of persons held in pretrial detention	9	8	64	81
Number of indictments	18	0	36	54
Number of cases resulting in fines or jail terms	16	0	8	24
Level of sentences Imposed	3-4 years and fines of about US\$55,000 (500,000 pesos)	None	3 years and fines up to US\$8,000.00	(see columns)
Ratio of convictions to number of PGR raids conducted	19.8%	0%	3.7%	1.7%
Pirate copies seized	311,707	See below	2.6 million	(see columns)
Other materials seized (itemized)	710 duplication VCRs 24 monitors Over one million cover sheets for packaging tapes	623 CD ROMs containing illegal software 712 diskettes 21 CPUs 33 computers 1 keyboard 2 mice 1 monitor 1 burner	364 CD-recordable drives, 80 high speed duplicating machines, 103,000,000 inlay cards, 486,000 jewel boxes	(see columns)

Notes:

[1] This figure takes into account inspections that failed because the defendants opposed the visit.