

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

2005 SPECIAL 301 REPORT

LEBANON

EXECUTIVE SUMMARY

Special 301 Recommendation: Lebanon should remain on the Priority Watch List.

Overview of Key Problems: In late 2004, Lebanon took some steps toward controlling and reducing piracy in certain sectors. In November, a significant police raid was carried out against three warehouses located in a dangerous suburb of Beirut called Sabra, yielding over 100,000 pirate optical discs worth over US\$2 million. As a result, and for the first time in Lebanon's anti-piracy history, the owners of the three warehouses, including a notorious pirate were arrested, put in jail, and denied bail. They have been kept in jail for over two months. A week later, a sweep was conducted on an exhibition filled with pirate vendors. Unfortunately, these latter raids failed to result in permanent closure — indeed, the pirates were back in business as usual less than one week after the raids. In 2004, the Lebanese government cooperated with the Business Software Alliance and other right holders in conducting several raids against pirate end-users and resellers. IIPA hopes that the recent spate of raids marks the beginning of a crackdown in domestic piracy and piracy coming in at the borders, to finally create a healthy commercial environment for the copyright sector in Lebanon. Estimated losses to the U.S. copyright industries in 2004 due to copyright piracy in Lebanon were \$31 million, with piracy rates at 70% or above for all industries reporting such statistics.

While the aforementioned raids signify a new willingness of the Lebanese government to take more serious action against the most egregious forms of piracy in Lebanon, they have not benefited all industries equally. Despite some actions brought by some content owners and local broadcasters in 2003, cable piracy continues to harm the Lebanese market for U.S. right holders in audiovisual materials, as between 600 to 700 pirate cable operators continue to serve some 80% of Lebanon's households. Retail piracy of optical discs (CDs, VCDs, DVDs, CD-ROMs, "burned" CD-Rs, etc.) continues in Lebanon. Some pirated discs are known to be produced locally in one unregulated optical disc plant, while many more are imported from Asia, particularly Malaysia, and lesser quantities from Eastern Europe. Syria is a major transit country for pirated optical discs from Malaysia and China, and a source country for locally burned pirate CD-Rs, which are being smuggled into Lebanon.¹ Book piracy remains serious, including increasingly widespread photocopying of academic materials in and around university campuses as well as production for export of pirated scientific, medical and technical materials to other countries in the Middle East and the Gulf. Lebanon's 1999 copyright law provides the necessary tools to fight piracy, including cable piracy, but remains deficient with international norms in certain respects.

¹ One industry indicates that some quantities of pirate discs are coming from Syria.

Lebanon's failure to adequately protect copyright has a detrimental effect on the local economy.² And on September 3, 2003, USTR accepted a Petition brought by IIPA against Lebanon under the Generalized System of Preferences (GSP) program for failure to meet the criteria of "adequate" and "effective" copyright protection, and review of that Petition is currently underway (after initial hearings in October 2003).³

Actions to be Taken in 2005:

Enforcement

- Continue raiding the major pirates in the country, run redundant raids to empty the shelves, and, importantly, ensure shop closures; take enforcement actions against problems such as book piracy, where little action has been taken to date.
- Raid pirate retail stores and street vendors on an *ex officio* basis and prosecute persons found to be involved in such activities without the need for private sector complaints.
- Instruct law enforcement officials to seize and always immediately remove all clearly infringing materials during raids.
- Seize, secure, and eventually destroy all pirated materials, as well as equipment used in the course of the infringing activity, such as computers, CD burning machines, printing presses and photocopy machines; even items not specifically listed in a complaint should be seized if they evidence piratical behavior.
- Criminally investigate and prosecute all persons found to be involved in piracy activities;
- Address priority piracy cases and hand down deterrent sentences, taking into account that the majority of those involved are operating as part of a criminal organization.
- Close down all unlicensed "community cable" television stations in Lebanon.
- Close down the one known optical disc plant, pending verification that it is engaged in legitimate activities.
- Instruct Customs authorities to take *ex officio* action to interdict and seize pirate product entering the country.

Coordination

- Form, as a matter of priority, a specialized IPR Unit within the police, with dedicated resources and power to act *ex officio* anywhere in Lebanon.
- Appoint a national network of specialized prosecutors dedicated to copyright cases.
- Increase manpower from 10 personnel (4 MOET, and 6 Consumer Protection) to 20 dedicated IPR officers, and 120 additional officers from the Consumer Protection division who would be available for copyright infringement/piracy matters.
- Engage in public education activities, including issuance of statements from the Prime Minister's office that copyright infringement and piracy will not be tolerated in Lebanon.
- Create an enforcement reporting mechanism for all ministries, customs, the Prosecutor's Office, etc., so that raids do not go without adequate follow up.
- Improve the efficiency of the court system, through the streamlining of IPR cases, creation of specialized courts, or other equivalent methods.

² It is telling that Showtime, a major cable corporation, recently chose Dubai (over Beirut) as the site for its new regional headquarters, leading to the construction of a multi-million dollar center and the creation of 400 new jobs, according to the company's regional manager, Lina Abi Abdallah. She noted, "Lebanon has a lot to offer but it was not chosen because of its relaxed attitude towards copyright infringement."

³ The goods that would be affected on the way into the United States from Lebanon should GSP benefits be removed are staples of the Lebanese economy.

Legislative

- Amend the copyright law to comply with TRIPS and the WIPO Internet Treaties, including deletion of overly broad exceptions (e.g., for educational use of business software); accede to the WCT and WPPT.
- Adopt an optical disc regulation, requiring optical disc manufacturing plants to obtain licenses and conduct themselves in accordance with specific business practices that promote due care and discourage piracy.

For more details on Lebanon's Special 301 history, see IIPA's "History" Appendix to this filing.⁴ Please also see previous years' reports.⁵

LEBANON Estimated Trade Losses Due to Copyright Piracy (in millions of U.S. dollars) and Levels of Piracy: 2000-2004⁶										
	2004		2003		2002		2001		2000	
	Loss	Level								
Motion Pictures	10.0	80%	10.0	80%	8.0	80%	8.0	80%	8.0	60%
Records & Music⁷	3.0	70%	2.5	70%	2.0	65%	2.0	65%	2.0	68%
Business Software⁸	15.0	75%	14.0	74%	3.5	74%	1.1	79%	1.3	83%
Entertainment Software	NA	75%	NA	80%	NA	NA	NA	NA	1.5	96%
Books	3.0	NA	2.0	NA	2.0	NA	2.0	NA	2.0	NA
TOTALS	31.0		28.5		15.5		13.1		14.8	

COPYRIGHT PIRACY

Cable Piracy Continues to Decimate Audiovisual Market

Cable piracy (80% piracy level for U.S. content) continues to devastate the theatrical, video, and television markets for U.S. copyrighted materials. There remain between 600 to 700 cable operators that serve some 80% of Lebanon's households retransmitting domestic and foreign terrestrial and satellite programming without authorization to their subscribers for an average monthly fee of US\$10. Occasionally, these systems also use pirate videocassettes and DVDs to broadcast directly to their subscribers, including the broadcasting of recent popular movies and TV shows, and movies that have yet to be released theatrically in Lebanon.⁹ The theatrical market continues to suffer, as films are frequently retransmitted by these pirate cable operators prior to their theatrical release or legitimate broadcast by television stations in Lebanon. The legitimate video market has been almost entirely destroyed by the various forms

⁴ <http://www.iipa.com/pdf/2005SPEC301HISTORICALSUMMARY.pdf>.

⁵ <http://www.iipa.com/countryreports.html>.

⁶ The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA's 2005 Special 301 submission at <http://www.iipa.com/pdf/2005spec301methodology.pdf>.

⁷ Loss figures for sound recordings represent U.S. losses only.

⁸ BSA's final 2003 figures represent the U.S. software publisher's share of software piracy losses in Lebanon, as compiled in October 2004 (based on a BSA/IDC July 2004 worldwide study, found at <http://www.bsa.org/globalstudy/>). In prior years, the "global" figures did not include certain computer applications such as operating systems, or consumer applications such as PC gaming, personal finance, and reference software. These software applications are now included in the estimated 2003 losses resulting in a significantly higher loss estimate (\$22 million) than was reported in prior years. The preliminary 2003 losses which had appeared in previously released IIPA charts were based on the older methodology, which is why they differ from the 2003 numbers in this report.

⁹ Each pirate cable operator retransmits an average of 100 different television channels to their estimated 460,000 subscribers. Included among those channels is a minimum of four movie channels that engage in unauthorized broadcasts of motion pictures 24 hours a day.

of piracy in Lebanon. Local broadcast television stations have canceled long-standing licenses with copyright owners because they cannot compete with the pirates.

Optical Disc and Traditional Piracy Continue to Harm Local Market

Retail piracy of CDs, VCDs, DVDs, CD-ROMs of business and entertainment software, sound recordings,¹⁰ and published materials remains blatant, leaving piracy levels for these products at 70% or above.¹¹ Lebanon has become a producer of pirated materials and an exporter of piracy. One unregulated CD plant operating in Beirut has been producing over 150,000 discs per month, of a range of unauthorized copies of copyrighted products including entertainment software, business software, and sound recordings. There is also increasing evidence of massive on-demand “burning” of CD-Rs of music and other copyrighted materials in copy-shops. Some of the CD-Rs are sourced back to Syria¹² and the Palestinian territories, while most imported optical discs come into Lebanon from Asia (mainly Southeast Asia and China),¹³ Ukraine, or elsewhere in Eastern Europe.

Book piracy is unfortunately on the increase in Lebanon. Illegal photocopying in and around university campuses is on the rise and threatens to spiral out of control if action is not taken soon. Two universities¹⁴ have recognized the illegal nature of copyright piracy and have taken active measures to nominally crack down on illegal photocopying by students, even reprimanding some students found using illegal copies. IIPA commends these universities for their stance. Despite these efforts, however, illegal photocopying, especially in commercial establishments near the campuses, remains a serious problem even for these two universities, as major commercial photocopying enterprises are situated in order to serve these institutions with illegal copies of books. Other universities have taken little or no action to even discourage use of photocopied materials on campus.¹⁵ Enforcement and education officials should work together to target the massive illegal photocopying taking place in and around these institutions.¹⁶ In addition to commercial photocopying, the publishing industry is being hurt by offset print piracy, especially in the scientific, technical and medical sectors. Not only are these books produced for domestic consumption, but pirate materials flow out of Lebanon into Jordan, Saudi Arabia and the United Arab Emirates, among other countries.

Internet Piracy

IIPA has become aware of online services like www.Musicoffers.lb or “Millennium Songs,” offering illegal music compilations for sale in Lebanon via the Internet or e-mail. The

¹⁰ The bulk of piracy activity in Lebanon is taking place in copy shops, where thousands of illegal on-demand compilations are being made daily.

¹¹ Locally and regionally manufactured music sound recordings on CD or audiocassette are ubiquitous in Lebanon, including at an airport shop. Retail piracy of business software takes several forms, including the sale of hardware loaded with unlicensed software (“hard-disk loading” piracy), in addition to the mass CD replication of pirate copies of business software.

¹² Syria is being used as a major “transit country” for shipments of pirated discs into Lebanon from Malaysia. The pirated goods are mostly “smuggled” into Lebanon via “military roads” between Syria and Lebanon. There are no real Customs checkpoints at these roads.

¹³ We are also aware that CD-Rs “burned” with “MP3” music data files are being imported from Malaysia.

¹⁴ American University of Beirut and Lebanese American University in Beirut and Byblos.

¹⁵ Most universities in Lebanon are affected by this problem, but an illustrative list of institutions for which enforcement is overdue includes Notre Dame University, Haigazian University, Balamand University and Lebanese University.

¹⁶ One case, brought against the well-known Ghali Copy Center in Hamra, has been pending (now on appeal) for two years, while the business continues to operate.

Lebanese government has been regularly alerted to the existence of these illegal services, but has taken no action regarding these sites to date. Piracy at Internet cafés is also of concern to entertainment software publishers. There are about 500 Internet cafés in the country, only 30% of which are licensed.

COPYRIGHT ENFORCEMENT

IIPA was given the opportunity this year to correspond directly with the Ministry of Economy and Trade, providing a non-exhaustive list of some locations/services suspected of engaging in copyright infringement of various kinds. The list included over 400 potential targets. As noted above, several raids were carried out in the end of 2004; nonetheless, many more raids against a more diverse list of targets will need to be run to eradicate piracy in Lebanon. Inspections, investigations, and raids must be sustained, i.e., multiple raids against the same targets, immediately followed by aggressive prosecution, in order to effectively reduce piracy levels in Lebanon. Piracy levels in Lebanon cannot be successfully brought down without criminal prosecutions resulting in deterrent levels of fines/imprisonment at the end of the day.

Overall, the level of activity by the Ministry of Economy and Trade (MOET) increased in 2004. While sporadic at times, the enforcement efforts of the Ministry in the past year represent a greater commitment to enforcement of the law. For example, in January 2005, the Intellectual Property Protection Office at the MOET confiscated tens of copies of CDs containing pirated software and filed reports against the offenders. These raids were the result of a field tour conducted by an office of local computer system builders. Also, the MOET has increased its cooperation with copyright holders.¹⁷

Warehouse Raid Largest of Its Kind; Proof Will Come in Court Results

As noted, in late 2004, Lebanese authorities ran several raids raising hopes that the government had finally made the commitment long sought to eradicate piracy from Lebanon. The first took place on November 25, 2004, in which more than 15 armed policemen accompanied by industry representatives stormed three warehouses in one of the most dangerous areas of Beirut (Sabra & Chatila), and confiscated an estimated 100,000 pirate DVDs, computer programs, music CDs, and computer games. The confiscated materials filled three vans. One of the warehouses raided belonged to the infamous “Fneish” family. The retail value of the confiscated products was about US\$2 million. It is worthy of note that on January 10, 2005, a local court refused the warehouse owners’ application to be released on bail. As of February 5, 2005, the three pirates were still in custody. Some DVDs seized in the raids were found to have the same labeling and spelling mistakes as discs found in the UK and South Africa, and were believed to be sourced from as far away as China. IIPA looks to the Lebanese authorities to follow up on these raids with swift prosecutions leading to deterrent criminal sentences. It should be noted in this context that the Fneish family has been involved in piracy activities for many years. The damage its illegal activities have inflicted on the copyright sector in Lebanon over the last years runs in the dozens of millions of dollars. Such blatant organized criminal activity can only be stopped if the perpetrators are severely punished with unsuspended prison sentences in combination with massive fines.

¹⁷ The MOET signed a Memorandum of Understanding with a software company, in which both parties agreed to work jointly on increasing IP awareness in the country. The MOET has also collaborated with the Business Software Alliance to increase the efficiency of the BSA hotline aimed at identifying software pirates in Lebanon.

Set of Retail Raids Not Effective Without Repeat Visits

Another set of raids, this time by the Ministry of Economy and Trade, took place as a result of repeated private sector complaints beginning on December 1, 2004 against pirates at the “Futuroscope Exhibition,” continuing one day later at ExpoBeirut. In the first action, two major outlets were raided (other outlets immediately closed when the raid was launched), yielding seizures of hundreds of pirated CDs and DVDs. The raids took place in a very tense and threatening context, and some of the pirates tried to use their contacts to get the Minister to call off the raid. Unfortunately, IIPA understands that, apart from the stand “Compugraphics,” the other stands at the expositions were back selling pirated materials again by December 4, just three days after the first raids. Two weeks later, the exhibitions were raided again, yielding seizures of a number of pirate CDs and DVDs (about 1,000), but, again, not resulting in the removal and/or definitive closure of the pirate stands. These actions by the Ministry of Economy and Trade were a welcome development and more effective than what we have seen in the past, but they will remain without a lasting effect if the raids are not carried out more thoroughly and the selling points found to be involved in pirate activity are not completely emptied, closed down and definitively sealed so that they cannot be reopened. In addition, as a result of such raids, all the perpetrators involved should be subject to immediate criminal investigation and prosecution. Other raids were run in late 2004 against 50 software retail outlets, yielding some seizures,¹⁸ but no computer hard discs or CD burners.

Cable Piracy Actions Lead to No Cases, No Results

After years of frustration trying to resolve the massive cable piracy problem, in Lebanon, in 2004, a criminal complaint was filed against all cable pirates with the office of the Chief Public Prosecutor. The complaint was referred to the police for investigation. The police questioned over 400 cable pirates, nearly all of whom confessed that they were engaged in unauthorized transmissions of copyrighted materials. Those admitting their actions signed an undertaking before the police to stop pirating. However, instead of seeking indictments and referring the cases to trial court, the Chief Public Prosecutor thereafter shelved the complaint. In early February 2005, a new criminal complaint was filed with the Chief Public Prosecutor against these 400 admitted cable pirates, and the Prosecutor has referred the new complaint to the central detective agency for investigation. It is hoped that this new complaint will result in the arrest of a number of cable pirates.

In late 2004, IIPA understood that the Ministry of Economy and Trade (MOET) would be making a public announcement in which it would give cable pirates a two month amnesty to legitimize their activity, or cease transmission, and that after the passage of the two month period, MOET would start cracking down on pirates on the basis of complaints filed with it. Cable operators, in turn, were to launch a publicity campaign to announce the availability of an affordable alternative to the cable pirates. However, the MOET seems to have reneged on its commitment after the formation of a new cabinet. This is a very disappointing development.

Courts Have Failed to Deter, Adequately Compensate for, Piracy

The Lebanese courts continue to have difficulties meting out justice against even blatant copyright pirates.¹⁹ An important first step in 2005 toward judicial reform would be the

¹⁸ In the December raids, 300 pirated cassettes, 15,000 CDs and 7,000 DVDs were seized.

¹⁹ IIPA has noted in previous reports detailed instances of prosecutorial error in preparing piracy cases which have doomed straightforward piracy cases to failure (e.g., the prosecutors filed the cases in the wrong court).

establishment of a specialized group of prosecutors to work with the IPR unit or other enforcement officers (e.g., Customs), trained in copyright, to handle all copyright cases, and the development of a cadre of judges who have received specialized training in copyright and who could be regularly assigned to hear such cases.

Due to various problems in the judicial system, no results were obtained via the courts in 2004 that had any noticeable effect on piracy in Lebanon.²⁰ The criminal justice system did show some promise in 2003, as 41 defendants were convicted and sentenced for cable piracy in the first such criminal convictions in the country's history. Unfortunately, the sentences included no jail time, and the fines ranged from a mere US\$4,533 for some defendants to \$9,335 for the most egregious defendants, hardly a deterrent.²¹ Most other cases get bogged down by procedural problems, judges' relative lack of familiarity with intellectual property laws, inefficient handling, and delays in adjudication. It should be noted that in a recent case, a judge refused to issue an injunction because the plaintiff did not register his copyright in Lebanon with the Ministry of Economy and Trade. This bench decision, if not reversed, would directly place Lebanon in violation of international copyright standards, which do not permit formalities (such as a registration) to interfere with the enjoyment and exercise of rights.

In late 2004, the court of appeals of Beirut reversed a conviction handed down by the trial court against Jammal Trust Bank, a local bank which was adjudged, on the basis of a court-appointed expert, to be using unlicensed software. The court of appeals reached its decision, ruling that the use of the software by the bank did not result in any commercial benefits to the bank. This decision is very troublesome, and shows the lack of familiarity of the judge with the problem of piracy and its implications.

As copyright owners in motion pictures and television broadcasting have not been able to seek redress for copyright violations through the courts against blatant cable pirates, beginning in 2003, they pursued a new approach, working with satellite broadcasters to pursue actions based on those channels' broadcasting rights. In August 2003, a judge in Beirut issued the first ever injunction against seven cable pirates, based on the broadcasting right.²² It remains to be seen whether the judicial system can be used effectively to enforce such orders. As another new strategy, in 2004, U.S. motion picture industry representatives assisted local licensees in bringing civil cases against infringing DVD distributors on the basis of the commercial agency law. This remedy is not available for all right holders, however, and is not a substitute for concerted *ex officio* action by the public authorities.

²⁰ Civil copyright cases brought against pirates in Lebanon have never led to deterrent results. In 2002, while one conviction resulted in a one-month jail sentence – the first jail sentence ever in Lebanon for copyright piracy – the sentence has never been served. In addition, most fines are non-deterrent. Meanwhile, civil cases languish, and those decided have led to laughably low damages. For example, in some cases, no damages were awarded for harm done in the past, and were only awarded prospectively for infringements occurring in the future! Procedural problems in two cases in 2002 resulted in ineffective enforcement against known cable pirates. In one case (the “Elio Sat” matter), lack of police cooperation following a court-ordered inspection rendered it impossible to obtain the evidence necessary to successfully conclude the case. In yet another cable piracy case (the “Itani” matter), a court-appointed expert was unable to act quickly enough to catch the pirate cable operator to obtain the evidence necessary to proceed.

²¹ The total awards to the two right holders, US\$160,000 for one and US\$20,000 for the other, were relatively substantial for copyright cases decided in Lebanon. The court also ordered the confiscation of equipment and directed that details of the convictions be published in two local newspapers. This constituted the first time a Lebanese court has penalized cable pirates. The decision has been appealed by the pirates, and the case is still pending before the court of appeals.

²² The two petitioners in the case were Showtime and Arab Radio & Television. The judge also imposed a fine equal to US\$333 per day for any of the pirates that violated the injunction.

COPYRIGHT LAW AND RELATED ISSUES

The Copyright Law of Lebanon (effective June 14, 1999) provides, on its face, a sound basis for copyright protection for U.S. works and sound recordings,²³ including stiff penalties (on the books) for copyright infringement, stiff penalties against cable pirates, confiscation of illegal products and equipment, the closure of outlets and businesses engaged in pirate activities, and a Berne-compatible evidentiary presumption of copyright ownership. The law also provides right holders with a broad communication to the public right (Article 15), but does not take other necessary steps to fully implement the WIPO Internet Treaties, the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).²⁴ The government of Lebanon should be encouraged to fully implement these important treaties, and accede to them as soon as possible.

Unfortunately, the law remains deficient with respect to international standards in several respects,²⁵ including:

- There is no direct point of attachment for U.S. sound recordings (however, point of attachment for U.S. sound recordings can be achieved by simultaneous publication in the U.S. and any Rome Convention Member).
- Works and sound recordings are not explicitly given full retroactive protection in accordance with international treaties.
- Article 25, even as implemented by decision No. 16/2002 (July 2002), still does not meet the standards/requirements of the Berne Convention or the TRIPS Agreement. While many modern copyright laws include specific exceptions for the copying of computer programs under narrowly defined circumstances, and/or exceptions allowing the copying of certain kinds of works for “personal use” (but almost never computer programs, except for “back-up” purposes), Article 25 sweeps far more broadly than comparable provisions of either kind, to the detriment of copyright owners. The implementing decision addresses some areas of concern raised by IIPA in the past, but not the chief area, which is that the exception is essentially a free compulsory license for students to make multiple copies of a computer program. Such an exception violates the requirements of Berne and TRIPS since it “conflicts with a normal exploitation of the work” (software aimed at the educational market) and it “unreasonably prejudices the legitimate interests of right holders” (eliminating completely the educational market for software).

²³ Lebanon is a member of the Berne Convention (Rome [1928] Act) and the Rome Convention. Lebanon should accede to the Berne Convention (Paris 1971 Act), and should join the Geneva (phonograms) Convention in order to provide clearer protection to international sound recordings; Lebanon should also join the WIPO “Internet” treaties, the WCT and WPPT.

²⁴ For example, the law should prohibit circumvention of technological protection measures used by copyright owners to protect their works in the digital environment from unlawful access or unlawful exercise of rights. The law should also prohibit preparatory acts (e.g., manufacture) of circumvention devices or provision of circumvention services.

²⁵ A more detailed discussion of remaining deficiencies in Lebanon’s copyright law can be found in the 2003 Special 301 report, at <http://www.iipa.com/rbc/2003/2003SPEC301LEBANON.pdf>. The government of Lebanon must consider the far-reaching consequences of its failure to bring its law into compliance with international standards, including potential negative effects on its chances to quickly accede to the World Trade Organization. WTO members will expect Lebanon to achieve minimum standards of intellectual property protection as spelled out by the TRIPS agreement.

- There are certain other overly broad exceptions to protection (e.g., Article 32).
- Most significantly, since the deterrent penalties provided on the books are not carried out in practice, Lebanon’s legal framework at present pays only lip-service to the severe problem of piracy. Each of the items noted would arise in the WTO accession process, and Lebanon must take measures to address these deficiencies.

Because Lebanon has emerged as a producer of pirated optical discs (including “burned” CD-Rs), Lebanese authorities must move toward implementation of effective measures against optical disc piracy. In particular, the Lebanese government should introduce effective optical media plant control measures, including the licensure of plants that produce optical discs; the registration of locations engaging in the commercial duplication of optical discs onto recordable media (CD-R “burning”); the tracking of movement of optical disc production equipment, raw materials, and production parts (so-called stampers and masters); the compulsory use of identification codes (both mastering codes and a mould code), in order to successfully track the locations of production; plenary inspection authority as to licensed plants and search and seizure authority as to all premises; and remedies, including revocation of licenses, civil, administrative, and criminal penalties for violations of the law.

Generalized System of Preferences

On September 3, 2003, the United States Trade Representative “accepted for review” a Petition filed by the IIPA with the U.S. government as part of its “Country Eligibility Practices Review” of the Generalized System of Preferences (GSP) trade program. To qualify for benefits under the GSP Program, namely, duty-free imports of many important Lebanese products into the United States, USTR must be satisfied that Lebanon meets certain discretionary criteria, including whether it provides “adequate and effective protection of intellectual property rights.” IIPA’s Petition noted three major deficiencies in Lebanon’s protection of copyright that caused economic harm to U.S. right holders that result in Lebanon failing to meet the GSP standard of providing “adequate and effective” copyright protection in practice: (1) deficiencies in the copyright law in Lebanon that render legal protection inadequate and ineffective; (2) the failure to enforce criminal remedies against pirate cable TV operators, making protection of U.S. audiovisual works inadequate and ineffective; and (3) enforcement efforts against piracy in Lebanon that are inadequate and ineffective.

Lebanon must take concrete steps toward eradicating piracy in 2004; otherwise, its trade benefits under GSP should be suspended (IIPA urges Lebanon’s industrial sector to review the goods that benefit from current GSP benefits, and to consider whether it is in their interest for the government of Lebanon to further delay action against copyright piracy, at the risk of cutting off the trade benefits they currently enjoy). During 2003, Lebanon imported almost \$29.9 million worth of products into the United States without duty, or more than 31.8% of its total imports into the U.S. In the first 11 months of 2004, Lebanon imported more than \$31.1 million worth of products into the United States without duty, or a staggering 45% of its total imports into the U.S.

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