



July 16, 2003

The Honorable Robert B. Zoellick  
U.S. Trade Representative  
600 17th Street, NW  
Washington, DC 20508

Re: No CA-FTA for the Dominican Republic

Dear Ambassador Zoellick:

As you know, the International Intellectual Property Alliance is a strong advocate of free trade, and we and our member associations support both the Singapore FTA and the Chile FTA. We view the Free Trade Agreement process as a means to raise the levels of protection globally for our members' products by challenging countries to liberalize their trading regimes. Our support continues for strong and comprehensive provisions in the intellectual property rights chapter in the U.S.-Central America FTA (CA-FTA).

However, we are gravely concerned about the possibility of allowing the Dominican Republic to "dock" to the CA-FTA. Presently, the U.S. government is conducting an investigation of the intellectual property rights practices in the Dominican Republic under the GSP trade program, a review based on a GSP/CBERA petition filed by IIPA in 1999. Estimated trade losses due to copyright piracy in the Dominican Republic amounted to \$13.5 million in 2002.

While there were copyright legislative advances in the Dominican Republic three years ago, progress on enforcement to deter piracy in-practice has been much slower, and significant piracy problems remain in several copyright sectors. For example, broadcast piracy in the Dominican Republic remains the worst in the entire hemisphere. Administrative and criminal authorities have met with difficulty in halting piratical activities by certain television broadcast stations. After some delay, these authorities recently presented criminal complaints to the prosecutors, but the most notorious broadcast station continues to steal U.S. programming with impunity. We appreciate your raising the broadcast piracy issue directly with President Mejía, but sadly this situation has not improved. Broadcast piracy has not stopped, despite the GSP/CBERA petition, despite Special 301 pressure, despite the Trade and Investment Council (TIC) process, and despite your personal intervention.

In fact, the situation has grown worse. The motion picture industry is now concerned that the preference given to political and family connections over even-handed law enforcement extends to video as well as television rights. In a series of resolutions issued July 11, 2003 (Resolutions 4-



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03, 5-03, 6-03, 7-03), the Ministry of Culture disallowed motion picture studios from determining their own method of distribution and eliminated the Copyright Office's (ONDA) ability to independently investigate copyright violations of audio-visual works (administratively weakening Law 65-00). These decisions continue to show the Government's predisposition towards political and personal considerations over its legal commitments. The industries are very concerned about these regulations and the adverse precedent it might have to undermine enforcement actions.

Furthermore, the recording industry continues to experience severe roadblocks at the judicial level, where 55 criminal cases are pending trial and all of its adjudicated cases (some dating back to 1999) are on appeal, resulting in no practical deterrence on-the-ground. Although the business software industry has reported some enforcement successes in the Dominican Republic, piracy levels of its copyrighted works remain high (61%) as well.

The lack of enforcement in the Dominican Republic, especially represented by the pervasive broadcasting piracy problem, fails to conform to the "adequate and effective protection" demanded of our trading partners in U.S. trade laws, including the GSP and CBERA. We believe that, until the government of the Dominican Republic acts swiftly and effectively to halt broadcast piracy and improve its prosecutorial and judicial results in copyright cases, the reward of additional trade concessions – such as docking to the CA-FTA – should be withheld.

We are well aware of the vocal efforts being made by various groups and Congressmen to support the Dominican Republic's docking to the CA-FTA process. We hope that you and your colleagues will continue to work with this government to address our copyright problems in all available bilateral trade contexts, but not by prematurely rewarding the Dominican Republic with the benefits of CA-FTA.

Sincerely,

Eric H. Smith  
President

cc: Patricia Schroeder (AAP)  
Jean Prewitt (AFMA)  
Robert Holleyman (BSA)  
Doug Lowenstein (IDSA)  
Jack Valenti (MPAA)  
Cary Sherman (RIAA)