

## **PRIORITY WATCH LIST**

### **CHINA**

China remains a top intellectual property enforcement and TRIPS compliance priority for the United States. China will remain on the Priority Watch List, and remain subject to Section 306 monitoring. The United States has also requested WTO dispute settlement consultations with China on a number of IPR protection and enforcement issues. (See the “Dispute Settlement” section above).

In addition, the United States conducted a special provincial review over the past year to examine the adequacy and effectiveness of IPR protection and enforcement at the provincial level. The resulting report (see the “Special Provincial Review of China” section below) spotlights strengths, weaknesses, and inconsistencies in and among specific jurisdictions, and has informed this year’s Special 301 review of China as a whole.

The United States recognizes and appreciates the efforts of the many officials in China who continue to give voice to China’s commitment to protecting intellectual property rights and are working hard to make it a reality. In spite of these efforts, the shared goal of significantly reducing IPR infringement throughout China has not yet been achieved.

China has made welcome progress in some areas. Notable IPR improvements included completion of China’s accession to the WIPO Internet Treaties, and its ongoing implementation of new rules that require computers to be pre-installed with licensed operating system software. The United States believes that continued bilateral dialogue and cooperation can lead to further progress in these and other areas, and the United States will continue to put serious efforts into its joint work with China on innovation policy, intellectual property protection strategies, and the range of other important matters in our bilateral economic relationship through the U.S. – China Strategic Economic Dialogue and the Joint Commission on Commerce and Trade (JCCT). At the same time, the United States looks forward to continuing an active dialogue with China in an effort to resolve certain other issues with the help of the WTO dispute settlement mechanism.

Despite anti-piracy campaigns in China and an increasing number of IPR cases in Chinese courts, overall piracy and counterfeiting levels in China remained unacceptably high in 2006. The U.S. copyright industries estimate that 85 percent to 93 percent of all copyrighted material sold in China were pirated, indicating little or no improvement over 2005. Trade in pirated optical discs continues to thrive, supplied by both licensed and unlicensed factories and by smugglers. Small retail shops continue to be the major commercial outlets for pirated movies and music and a wide variety of counterfeit goods, and roaming vendors offering cheap pirated discs continue to be visible in major cities across China. Piracy of books and journals and end-user piracy of business software also remain key concerns. In addition, Internet piracy is increasing, as is piracy over closed networks such as those of universities. The share of IPR infringing product seizures of Chinese origin at the U.S. border increased to 81 percent in 2006 from 69 percent in

2005. Chinese counterfeits include many products, such as pharmaceuticals, electronics, batteries, auto parts, industrial equipment, toys, and many other products, that pose a direct threat to the health and safety of consumers in the United States, China and elsewhere.

Inadequate IPR enforcement is a key factor contributing to these shortcomings. Rights holders report that enforcement efforts, particularly at the local level, are hampered by poor coordination among Chinese Government ministries and agencies, local protectionism and corruption, high thresholds for initiating investigations and prosecuting criminal cases, lack of training, and inadequate and non-transparent processes.

Several factors contribute to China's poor IPR enforcement record. One major factor is China's chronic underutilization of deterrent criminal remedies. China channels the vast majority of enforcement to administrative authorities. The trademark and copyright industries continue to point out that administrative fines are too low to provide a deterrent, and as a result, infringers continue to consider administrative seizures and fines as a cost of doing business. Rules designed to promote transfer of cases to criminal authorities do not appear to have solved the problem. For example, China's 2006 data reportedly showed that the main administrative trademark enforcement body transferred 50 percent fewer cases to police in 2006 than in 2005.

At the 2005 JCCT, China agreed to increase the number of criminal prosecutions for IPR violations relative to the total number of IPR administrative cases. Unfortunately, there has been no sign yet of a significant shift in emphasis toward criminal enforcement. The safe harbors from criminal liability created by China's high thresholds for criminal liability (*i.e.*, minimum values or volumes required to initiate criminal prosecution, normally calculated on the basis of the infringer's actual or marked price) continue to be a major reason for the lack of an effective criminal deterrent. These safe harbors are among the matters on which the United States has requested WTO consultations.

Other legal obstacles in the area of criminal enforcement include, for example, the lack of criminal liability for certain acts of copyright infringement, the profit motive requirement in copyright cases, the requirement of identical trademarks in counterfeiting cases, and the absence of minimum, proportionate sentences and clear standards for initiation of police investigations in cases where there is a reasonable suspicion of criminal activity. At the same time, the United States has also been pressing China for a variety of changes to its administrative and civil enforcement regimes, such as the restoration of minimum (and deterrent) fines in administrative trademark enforcement cases, increased referral of administrative enforcement actions for criminal prosecution, elimination of the need for legalization and consularization of foreign evidence, implementation of a discovery process with compulsory measures for evidence protection, provision of meaningful injunctive relief, and enforcement of judicial orders.

In addition to urging China to address legal obstacles to criminal enforcement, the United States calls upon China to take more aggressive action to prosecute manufacturers of counterfeit goods, producers of pirated optical discs, and entities engaged in commercial

reproduction of pirated books, journals, and periodicals. Authorities should investigate when right holders present evidence supporting a reasonable suspicion of illegal production, and should permanently close down, revoke the business licenses, and confiscate and destroy the machinery and materials of commercial pirates and counterfeiters, as well as criminally prosecute the persons responsible. Specific locations and products of concern are highlighted in the Special Provincial Review of China below.

Trade in pirated optical discs continues to thrive, supplied by smugglers and by both licensed and unlicensed factories. China prosecuted a significant optical disc smuggling case in 2006 and raided a large packaging facility in 2007. However, China needs to do more to criminally prosecute the manufacturers of pirated optical discs. China's actions against 14 plants in early 2006 appear to have so far resulted in only administrative penalties. The United States also encourages China to facilitate cooperation in fighting optical disc piracy by sharing exemplar discs from Chinese factories with the international library and forensic facility maintained by right holder organizations.

Right holders report only moderate success in reducing piracy of pre-release titles. Lack of copyright protection for pre-release titles is another area in which the United States has requested WTO consultations. The United States urges China to adopt and apply deterrent penalties for piracy of any title not yet authorized for distribution.

Strong action to curb counterfeiting and piracy on the Internet is critical to the future of IPR protection in China. Authorities in some areas have taken notable enforcement actions (see Special Provincial Review of China). Building on that foundation, China should significantly increase criminal prosecutions and other enforcement actions against Internet-based piracy and counterfeiting operations through a coordinated, national effort backed by appropriate resources.

The United States welcomes China's recent accession to the WIPO Internet Treaties. A number of gaps remain to be filled for China to meet the challenges of Internet piracy and fully implement the WIPO Internet Treaties. In May 2006, the State Council adopted an important Internet-related measure, the Regulations on the Protection of Copyright Over Information Networks, which went into effect in July 2006. Although it does not appear to fully implement the WIPO Internet Treaties, this measure represents a welcome step, demonstrating China's determination to improve protection of the Internet-based right of communication to the public. Several aspects still require further clarification. For example, China could benefit from further clarification that certain Internet "deep linking" and other services that effectively encourage or induce infringement are unlawful.

China should also provide strong administrative supervision, backed by penalties, to ensure that Internet service providers take down infringing content and/or links immediately upon receipt of a notice from internationally recognized rights holders' representatives; take steps to suspend or terminate the accounts of serious or repeat infringers when they become aware of such infringers; and provide information about the

identity of direct infringers to rights holders (or to groups representing rights holders) when requested.

China also maintains market access barriers, such as import restrictions and restrictions on wholesale and retail distribution, which discourage and delay the introduction of a number of legitimate foreign products into China's market. These barriers create additional incentives for infringement of products like movies, video games, and books, and inevitably lead consumers to the black market, again compounding the severe problems already faced by China's enforcement authorities. The United States has requested WTO consultations on several market access barriers affecting U.S. copyright industries.

Retail and wholesale counterfeiting in China is a major source of frustration for international brand owners. In spite of significant attention and resources from brand owners, administrative supervision, civil lawsuits, agreements with landlords, and attention from China's central government and foreign governments, counterfeiting remains pervasive in many retail and wholesale markets. It appears that further measures, including criminal sanctions, will be necessary to bring this problem under control.

The United States recognizes that China recently announced a 2007 Action Plan laying out detailed strategies for improving IPR protection. China has the opportunity to achieve real and transparent results for U.S. rights holders through implementation of the Action Plan. In addition to stepping up administrative and criminal action against trademark counterfeiting at the manufacturing, wholesale, and retail levels, the United States calls on China to launch and publicize significant administrative and criminal enforcement actions against optical media piracy, Internet piracy, software end-user piracy, and other forms of piracy affecting U.S. copyright owners.

The United States also looks forward to working with China to examine a variety of reforms that would contribute to improving IPR enforcement. In addition to reforming China's criminal laws as discussed above, other areas that China should explore include the positive results that could be achieved through specialized national IPR courts and prosecutors (expanding a practice that already exists in some areas); reducing pendency and backlog in trademark opposition and cancellation proceedings; introducing regulatory mechanisms to ensure that active pharmaceutical ingredients produced in China are not used in counterfeit medicines; implementing effective, detailed plans and strategies for reducing the use of infringing materials by students, staff, and lecturers on school and university campuses; and ensuring that the resources available to local administrative, police, and judicial authorities charged with protecting and enforcing IPR are adequate to the task.

*Customs Enforcement:* The export of infringing products from China is of grave concern worldwide. Right holders have praised the achievements of China Customs over the past year in increasing seizures, starting to refer criminal cases to police and prosecutors, and cooperating with U.S. right holders. Nonetheless, the statistics on seizures of Chinese-

origin goods at the U.S. border, cited above, indicate that additional efforts are needed to stop outbound infringing products at China's borders. The United States calls on China to begin an aggressive campaign to prosecute exporters of infringing products and to expand enforcement cooperation as agreed at the 2004 and 2005 JCCT meetings. Also, the United States remains concerned about China's rules for disposal of confiscated goods, which appear generally to require that such goods enter the channels of commerce following removal of infringing features, rather than to require the destruction of the infringing goods. The United States has requested WTO consultations on this issue.

*Civil Enforcement:* U.S. right holders won several victories in civil IPR litigation in China in 2006. However, the United States continues to hear complaints of a lack of consistent, uniform, and fair enforcement of China's IPR laws and regulations in the civil courts. Litigants have found that most judges lack necessary technical training; that court rules regarding evidence, expert witnesses, and protection of confidential information are vague or ineffective; and that costs of investigation and bringing cases are prohibitively high. In the patent area, where civil enforcement is of particular importance, the process is inefficient and unpredictable.

*Patents and Data Protection:* While China's patent laws are largely compliant with the TRIPS Agreement, rights holders have noted that the narrow scope of patentable subject matter under Chinese law makes patents for transgenic plants and animals and methods of treatment or diagnosis virtually unobtainable. Concerns have been raised that draft amendments to the Patent Law that were recently made available for public comment will require disclosure of origins of genetic resources used in the completion of an invention, and that claims in a patent application may be rejected on the basis that this disclosure requirement is not met. Also, U.S. industry has expressed frustration over the quality of design patents being issued, due in part to the lack of a better system of examining design patent applications. A lack of clarity in laws involving generic drug patent infringement is contributing to the continued growth of drug counterfeiting, with corresponding health and safety problems. In addition, the United States has concerns about the extent to which China provides adequate protection against unfair commercial use for data generated to obtain marketing approval.

*Emerging Developments:* Apart from longstanding concerns over IPR enforcement, the United States is alert to U.S. industry concerns about the possibility that laws or policies in a variety of fields might be used or misused to favor domestic over foreign IPR. Such concerns are especially acute in light of Chinese government policies establishing a procurement preference for domestically innovated products, statements and consideration of legal changes regarding such areas as compulsory licensing and the use of IPR in setting standards, and other emerging legal and policy developments that have the potential to affect IPR protection and market access for IPR-bearing goods and services. The United States will monitor these developments closely to ensure fair treatment for U.S. rights holders.

The treatment of intellectual property in standards-setting processes has garnered recent attention in China and elsewhere. In China, standards for third generation (3G) wireless

technology are an example. At the April 11, 2006 JCCT, China renewed the commitment made to the United States in 2004 to accord technology-neutral treatment to different 3G standards. To date, China has not licensed any 3G wireless technology. However, in the past year, Chinese operators have taken steps to procure equipment and services for the installation of a network that appears will be dedicated to support wireless communications based on the TD-SCDMA standard. Such steps to advance the standard containing Chinese technology raise questions about China's commitment to accord technology neutrality to the different 3G standards.

More generally, the Chinese Electronics Standardization Institute (CESI) is in the process of drafting IPR rules for standards-setting organizations (SSOs). These draft rules provide for SSOs to report to government authorities on the possible relevance of patent claims in draft standards submitted for examination and approval by the authorities. It is unclear what purpose is envisaged for this governmental review, including whether such a review of the possible relevance of patent claims could involve governmental authorities in the determination of the terms and conditions for licensing essential patents.

## **RUSSIA**

Russia will remain on the Priority Watch List in 2007 and the United States will conduct an Out-of-Cycle Review to monitor progress on IPR issues.

The U.S. copyright industries estimate that they lost in excess of \$2.1 billion in 2006 due to copyright piracy in Russia. The U.S. copyright industries also reported that in 2006 Russia's optical disc production capacity continued to be far in excess of domestic demand, with pirated products apparently intended not only for domestic consumption, but also for export. Internet piracy continues to be a serious concern. The United States notes that criminal investigations are ongoing in Russia and other countries against operators of the Russia-based download website [www.allofmp3.com](http://www.allofmp3.com), which offers global distribution of pirated music and is the most notorious of several problem websites operating from within Russia.

Poor enforcement of IPR in Russia is a pervasive problem. The United States notes that prosecution and adjudication of IP cases remains sporadic and inadequate in Russia; there is a lack of transparency and a failure to impose deterrent penalties. Russia's customs administration also needs to significantly strengthen its enforcement efforts. Russian authorities initiated some enforcement actions in 2006, which included raids on some optical disc production facilities and investigation of Internet sites.

The United States worked with Russia throughout 2006 to encourage appropriate actions to protect and enforce IPR. On November 19, 2006, the U.S. Government and the Government of Russia entered into a Bilateral Market Access Agreement on Intellectual Property Rights ("IPR bilateral agreement") on actions that Russia will start taking immediately to address piracy and counterfeiting and improve protection and enforcement of intellectual property rights. As part of the IPR bilateral agreement, the Government of Russia has committed to fight optical disc and Internet piracy, protect against unfair commercial use for pharmaceutical test data, deter piracy and counterfeiting through criminal penalties, strengthen border enforcement, and bring Russian laws into compliance with WTO and international IPR norms. Russia's implementation of commitments on IPR will be essential to completing the final multilateral negotiations on the overall WTO accession package.

The most significant legislative development in 2006 was the Duma's adoption of Part IV of the Civil Code, which replaces most of Russia's IPR legislation with a single law. Part IV and implementing regulations to be developed over the next year will go into effect on January 1, 2008. While Russian government ministries and the Duma took steps to address some concerns of certain rights holders and the U.S. Government regarding the new legislation, Part IV still contains provisions that raise serious concerns regarding consistency with WTO and other international agreements. The Government of Russia has pledged in the IPR bilateral agreement to ensure that Part IV and its other IPR measures will be fully consistent with the TRIPS Agreement upon Russia's accession to the WTO. The United States and other WTO Members are discussing Part IV and its compliance with the TRIPS Agreement in the Working Party on Russia's accession to the WTO.

Russia continues to deny national treatment for the protection of geographical indications. Although Russia has committed in the IPR bilateral agreement to implement Article 39.3 of the TRIPS Agreement to protect against unfair commercial use for data generated to obtain marketing approval, Russia currently does not provide such protection for pharmaceutical products.

In addition to the multilateral work to ensure Russia's compliance with the TRIPS Agreement and Russia's other international IPR obligations, the United States will continue to work with Russia on the enforcement of IPR and Russia's compliance with its bilateral obligations through the United States – Russia Bilateral Working Group on Intellectual Property Rights and the Out-of-Cycle Review. In addition, the United States is reviewing Russia's status as a beneficiary country under the U.S. Generalized System of Preferences (GSP) Program.



## **ARGENTINA**

Argentina will remain on the Priority Watch List in 2007. The United States notes that Argentina made progress in decreasing its backlog of patent applications, due in part to hiring additional patent examiners, changing filing procedures, and reducing the number of patents waiting to be examined. However, Argentina still does not provide adequate protection against unfair commercial use for data generated to obtain marketing approval. The United States urges Argentina to implement an effective coordination system between its health and patent authorities to prevent the issuance of marketing approvals for patent-infringing pharmaceutical products, as well as to address problems that rights holders encounter in attempting to obtain timely and effective injunctions to stop such unfair commercial use. Copyright piracy also remains a significant problem in Argentina. Although cooperation has improved between Argentina's enforcement authorities and the U.S. copyright industry, and the Argentine Customs authority has taken steps to improve enforcement, the United States encourages stronger IPR enforcement actions to combat the widespread availability of pirated and counterfeit products. The United States will continue to monitor Argentina's efforts to address these concerns.

## **CHILE**

Chile will remain on the Priority Watch List in 2007. Chile was elevated from the Watch List to the Priority Watch List at the conclusion of an Out-of-Cycle Review in January 2007. The United States remains concerned about inadequate protection against unfair commercial use for data generated to obtain marketing approval; insufficient coordination between Chile's health and patent authorities to prevent the issuance of marketing approvals for patent-infringing pharmaceutical products; continuing copyright piracy and trademark counterfeiting; and the need for greater efforts to meet standards set out in the TRIPS Agreement, the United States – Chile FTA, and other international agreements. The United States notes in particular that Chile apparently has not fully implemented legislation to comply with FTA obligations where the transition periods expired as of January 1, 2006. Copyright piracy in Chile remains high and digital piracy continues to grow. In addition, copyright and trademark enforcement must be significantly improved, including the imposition of deterrent penalties in criminal IPR cases. Significant amendments to Chile's IPR legislation are needed to bring Chile's IPR regime into line with its multilateral and bilateral commitments. The United States will continue to work with Chile, with the expectation of imminent progress through the implementation of its IPR commitments in the FTA.

## **EGYPT**

Egypt will remain on the Priority Watch List in 2007. The United States remains concerned about continuing deficiencies in Egypt's IPR enforcement regime, problems with its judicial system, a backlog of pending patent applications, the lack of protection against unfair commercial use for data generated to obtain marketing approval, and the lack of an effective coordination system between its health and patent authorities to prevent the issuance of marketing approvals for patent-infringing pharmaceutical products. The United States recognizes Egypt's efforts to improve IP protection and enforcement in 2006, especially in modernizing its infrastructure and training key

personnel such as judges and civil inspectors, and encourages Egypt to continue to make institutional IP reforms, strengthen its IPR legislation on copyrights, patents, and enforcement, as well as ratify and implement the WIPO Internet Treaties. The United States urges Egypt to improve its court system by increasing its efficiency and transparency, as well as ensuring that courts impose deterrent sentences in copyright and trademark cases. The United States is concerned with the transshipment of counterfeit and pirated goods through Egypt, including in the Damietta Port and Port Said Free Trade Zones. The United States will continue to work with Egypt on improving its IPR regime and IPR enforcement efforts.

## **INDIA**

India will remain on the Priority Watch List in 2007. The United States remains concerned about inadequate IPR protection and enforcement in India. The United States continues to urge India to improve its IPR regime by providing stronger protection for copyrights, trademarks, and patents, as well as protection against unfair commercial use for data generated to obtain marketing approval. The United States encourages India to implement the WIPO Internet Treaties, strengthen its copyright laws, and improve its IPR enforcement system, including by enacting and implementing an effective optical disc licensing scheme to combat optical disc piracy. Piracy of copyrighted works remains rampant in India. India's criminal IPR enforcement regime remains weak, with improvements needed in the areas of expeditious judicial dispositions for copyright and trademark infringement, border enforcement against counterfeit and pirated goods, police action against pirates and counterfeiters, and imposition of deterrent sentences for IPR infringers. The United States urges India to strengthen its IPR regime, and stands ready to work with India on these issues during the coming year.

## **ISRAEL**

Israel will remain on the Priority Watch List in 2007. Israel appears to have left unchanged its intellectual property regime that results in inadequate protection against unfair commercial use of data generated to obtain marketing approval. Israel also left unchanged aspects of its 2005 law that significantly reduced the term of pharmaceutical patent protection by reducing the time granted to compensate for delays in obtaining regulatory approval of a drug. Information provided by Israel regarding steps it has taken to preclude reliance on data generated to obtain marketing approval for exports is a positive step towards addressing the United States' concerns on this issue. However, the United States remains concerned by the weak protections offered by Israel to pharmaceutical innovators. The United States looks to Israel to provide a higher level of protection that reflects its status as a partner in the U.S. – Israel FTA and its objective of becoming a member of the OECD. The United States is also monitoring proposed amendments to Israel's copyright regime to ensure that there is no weakening of national treatment for U.S. rights holders in accordance with the 1950 agreement between the United States and Israel. The United States urges Israel to strengthen its IPR protection and enforcement regimes and hopes to expand its engagement with Israel on these issues during the coming year.

## **LEBANON**

Lebanon will remain on the Priority Watch List in 2007, despite some positive movement in 2006 by a Lebanese Government IPR task force against copyright piracy. Lebanon's protection of IPR is inadequate, and particular areas of concern include rampant cable piracy, inadequate protection against unfair commercial use for data generated to obtain marketing approval, retail piracy of copyrighted works, and IPR enforcement. The United States recognizes that many of the positive initiatives started by the Lebanese Government in early 2006 (including the formation of a High Tech Crime Unit within the police) were interrupted by significant political unrest during the year. The United States reiterates its concerns regarding IPR protection and enforcement in Lebanon and hopes to see renewed attention to IPR by Lebanon in the coming year, particularly in light of Lebanon's bid for accession to the WTO.

## **THAILAND**

Thailand will be elevated to the Priority Watch List in 2007, reflecting a concern that the past year has been characterized by an overall deterioration in the protection and enforcement of IPR in Thailand. The United States appreciates that many Thai law enforcement officials continue to work, amid challenging circumstances, to conduct actions against infringing activity. However, these efforts appear not to have had a measurable effect on piracy and counterfeiting rates, which remain unacceptably high. The weak nature of Thailand's legislation governing optical disc media constitutes a particular challenge in addressing the large scale of pirated disc production. Book piracy, cable and signal theft, and entertainment and business software piracy have likewise not been addressed in a meaningful way. Production and distribution of infringing copies of trademarked products, such as apparel and footwear, also remain widespread. With respect to all of these areas, insufficiently deterrent legal penalties contribute to ongoing infringement problems. In addition to these longstanding concerns with deficient IPR protection in Thailand, in late 2006 and early 2007, there were further indications of a weakening of respect for patents, as the Thai Government announced decisions to issue compulsory licenses for several patented pharmaceutical products. While the United States acknowledges a country's ability to issue such licenses in accordance with WTO rules, the lack of transparency and due process exhibited in Thailand represents a serious concern. These actions have compounded previously expressed concerns such as delay in the granting of patents and weak protection against unfair commercial use for data generated to obtain marketing approval.

## **TURKEY**

Turkey will remain on the Priority Watch List in 2007. Turkey made some progress on copyright enforcement during 2006, including an increased number of raids against copyright pirates and seizures of pirated goods, impositions of stronger penalties by the courts, and cooperation between law enforcement authorities and the private industry. The United States encourages Turkey to build upon this progress and to take at least the following steps: continue to address copyright piracy, including book piracy, business software piracy in the private sector, and government use of legal software, as well as increase judicial efficiency and reduce backlogs of court cases by allocating sufficient resources to the judiciary. The United States also encourages Turkey to further

strengthen protection against unfair commercial use for pharmaceutical data generated to obtain marketing approval, particularly with respect to the start date of the period of protection and the inappropriate linkage of the term of data protection to the remaining term of the patent. The United States hopes to see Turkey's continued progress on these issues during the coming year, and will continue to monitor Turkey's progress in strengthening its IPR regime.

## **UKRAINE**

Ukraine will remain on the Priority Watch List in 2007. After concluding an Out-of-Cycle Review in 2006, the United States lowered Ukraine from the Priority Foreign Country list to the Priority Watch List and reinstated Ukraine's benefits under the GSP program based on Ukraine's passage and implementation of amendments to its Laser-readable Disc Law to combat optical disc pirate production and improved IPR enforcement efforts. As agreed in the Out-of-Cycle Review, the Government of Ukraine has participated regularly in an Enforcement Cooperation Group with the U.S. Embassy in Ukraine and U.S. industry representatives throughout 2006. Although Ukraine now has a comprehensive optical disc regime and is no longer a major producer of pirated optical discs, it remains a transshipment point and storage location for illegal optical media produced in Russia and elsewhere, and retail piracy remains rampant. The United States encourages Ukraine to continue to improve border enforcement efforts, impose deterrent criminal penalties for unauthorized production and export of pirated and counterfeit products, and work to stem the growth of Internet piracy and the use of pirated business software. In 2006, Ukraine amended its Law on Medicines to provide protection against unfair commercial use for pharmaceutical data generated to obtain marketing approval. The United States recognizes Ukraine's improvements in 2006 in IPR protection, and will continue to monitor closely Ukraine's further progress on IPR protection and enforcement in a number of fora, including bilateral engagement, the Enforcement Cooperation Group, and WTO accession negotiations.

## **VENEZUELA**

Venezuela will remain on the Priority Watch List in 2007. Venezuela made minimal progress in strengthening its weak IPR regime in 2006. Already high levels of copyright piracy continue to climb, while proposed copyright legislation, if re-introduced, would severely undercut the existing Venezuelan copyright law, as well as bilateral and international standards of IP protection. The U.S. copyright industries report good cooperation with SENIAT, Venezuela's customs and tax authorities, but note continuing problems with a lack of overall IPR enforcement. The U.S. pharmaceutical industry reports that Venezuela has not issued a patent to a foreign pharmaceutical product since 2003. Venezuela also does not provide protection against unfair commercial use for data generated to obtain marketing approval. In April 2006, Venezuela withdrew from the Andean Community, raising questions about Venezuela's ability to fulfill its international IPR obligations and whether it will provide for the effective administration of its IPR system. The United States urges the Venezuelan government to take immediate action to improve IPR protection, particularly by addressing piracy and counterfeiting, amending inadequate legislative proposals, protecting against unfair commercial use for data generated to obtain marketing approval, and improving IPR enforcement.