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## THAILAND

1. Thailand joins China, India among worst copyright offenders  
*(from Indo-Asian News Service, 1 May 2007)*

Thailand has joined China, India and nine other countries that top the US list of worst offenders of international copyright rules, the US government said. The other countries are Russia, Egypt, Argentina, Chile, Israel, Lebanon, Turkey, Ukraine and Venezuela.

The annual Special 301 report, issued by the US Trade Representative's office Monday, placed the countries on a special "priority watch list" that will be monitored to "encourage and maintain" effective intellectual property rights protections. Another 31 countries were put on lower levels of monitoring.

Only Thailand is new to the priority watch list this year, "reflecting a concern that the past year has been characterised by an overall deterioration in the protection and enforcement" of copyright laws. Presence on the list could eventually lead to sanctions under World Trade Organisation (WTO) rules.

In India, piracy "remains rampant" and its criminal enforcement "remains weak," the study said.

In China, an estimated 85 to 93 percent of all copyrighted material sold is thought to be pirated, the report said.

Russian piracy sales have robbed US copyright holders of an estimated \$2.1 billion in 2006.

Chile and Venezuela remain on the top priority list because of failure to make progress in enforcement and cooperation, and increasing levels of piracy.

Egypt has improved its systems, "especially in modernising its infrastructure and training key personnel such as judges and civil inspectors". But Israel "appears to have left unchanged its intellectual property regime".

Turkey carried out an "increased number of raids against copyright enforcement during 2006," and Ukraine was "no longer a major producer of pirated DVDs", the report said.

It pointed out that Thai officials have worked "amid challenging circumstances" to enforce the law. But the efforts "appear not to have had a measurable effect on piracy and counterfeiting rates".

US trade officials singled out Thailand's lack of control over optical disc media (DVDs). Piracy of trademarked products like footwear, books, business software, cable and signals were also cited.

According to the report, Thailand had insufficient penalties for violations, and there were indications of a further "weakening of respect" for patents such as pharmaceutical products.

## 2. Thailand on priority watch list

*(from The Nation Newspaper, Prime News Section, Page 1A, Thailand, 1 May 2007*

*Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 2 May 2007)*

The US administration has downgraded Thailand to a country with poor intellectual property protection in a move ridiculed by Thai advocates of cheap drugs.

The US Trade Representative Office (USTR) placed Thailand and 11 other countries, including China, India and Russia, on the "Priority Watch List" of countries to be closely monitored for their protection of intellectual property rights. It is a downgrading from the "Watch List" which Thailand was previously on.

The downgrading, outlined in the USTR annual report on intellectual property protection, came as no surprise after the Public Health Ministry enforced compulsory licensing on imported drugs, drawing protests from US drug firms.

Abbot Laboratories was among firms which asked Washington to put pressure on Thailand for allegedly stealing their intellectual property. But US ambassador to Thailand Ralph Boyce said the USTR decision did not only stem from compulsory licensing.

"True, compulsory licensing in Thailand is one of the concerns, but it is not the main reason for Thailand being placed on the Priority Watch List," he told a press conference.

Thailand's protection of copyrights and intellectual property has been seen to have weakened over the past year, but there were also other reasons for the downgrading, he said.

"The fact that Thailand is being placed on the Priority Watch List reflects US and international concerns toward Thailand's recent economic policies such as the Foreign Business Act amendment, the capital control measures and the Retail Act," Mr Boyce said.

According to the US International Intellectual Property Alliance, American businesses selling copyrighted products and services lost US\$368 million in Thailand last year, up from \$355 million in 2005 and \$184 million in 2004.

Commerce Minister Krirk-krai Jirapaet believes Thailand will be downgraded, because influential companies are pressuring the US government. These companies accuse Thailand of being slow in stamping out intellectual property violations.

Many US companies and trade groups - including Levi Strauss, Philip Morris, the Cable Broadcasting Satellite Association of Asia and the American Apparel and Footwear Association - are urging Washington to punish Thailand for growing product counterfeiting. Of most concern are brand-name apparel and accessories and audiovisual products.

The Washington-based US-Asean Business Council expressed concern that the downgrade would hit US investors and their trading partners.

Krirk-krai accepts that the US government must respond to corporate demands to protect domestic businesses. If Thailand is downgraded today, he will seek to mitigate the effects on exports in negotiations with Washington.

A downgrade to priority watch could see the loss of tariff privileges on exports under the Generalised System of Preferences (GSP). The US is scheduled to announce revisions to this by midyear.

A Commerce Ministry source who asked not to be named confirmed the likelihood of a downgrade and cited the influence of US drug companies in Washington.

The source said tariff retaliation would be because Bangkok invoked compulsory licensing of American drugs, which was costing manufacturers profits.

Public Health Minister Mongkol na Songkhla vowed to go on lowering drug prices to expand the poor's access to essential medicine. The decision to put Thailand on the Priority Watch List reflected the influence drug firms had over the USTR, he said.

Intellectual property law expert Jade Donovanik said compulsory licensing was for government use and did not violate the WTO agreement. "It is unfair to interfere with another country's sovereignty by taking unilateral trade action like this," he said, referring to the USTR move.

Another concern that may lead to a downgrade is the September 19 coup. But a US Embassy source said Washington was most concerned trading partners satisfied demands for intellectual property rights protection. The source said patent protection was of greater priority than was the military overthrow of the Thaksin Shinawatra government. The source noted there was a coup in 1991, two years before the country was upgraded to watch-list status as a result of improved intellectual-property protections.

The embassy source suggested any downgrade would be a consequence of slow progress in suppressing violations of intellectual-property rights, especially films and optical discs.

### 3. Minister defends aim of new law

*(from Bangkok Post Newspaper, Business Section, Page B1, Thailand, 2 May 2007)*

Commerce Minister Krirk-krai Jirapaet has asked Washington to be more understanding about Thailand's move to amend the Foreign Business Act and retail law.

Since the Thai government revised the laws to make them more transparent and plug existing loopholes, US officials should not view such moves as a cause for trade punishment, he said.

His comments came after the US ambassador to Thailand said at a press conference that the amendments to the FBA and retail laws might have led the US Trade Representative (USTR) to downgrade Thailand to the Priority Watch List in this year's Special 301 report announced in Washington.

"We've improved the laws for the benefit of our people. We hope the Americans understand the process," Mr Krirkkrai said. He added, however, that he respected the USTR's decision.

But the Office of the USTR said in an official report to the Commerce Ministry that the issue Washington was "seriously concerned" about was the Public Health Ministry's move to impose compulsory licensing to override patents on drugs.

The ministry in January issued compulsory licensing for the Aids drug Kaletra, allowing it to produce a lower priced generic version. The move has provoked a dispute between the ministry and

the American drug giant Abbott Laboratories and incensed pharmaceutical multinationals in general.

Karun Kittisataporn, the permanent secretary for Commerce, said he was of the opinion that inadequate protection of US intellectual property (IP) including movies, cable TV and books had resulted in the downgrade of Thailand by the US Trade Representative, not the revisions of the FBA and retail laws.

"The implication of the move is that America is not happy with the way Thailand treats their innovations," he said.

Although IP protection in Thailand has improved significantly with more arrests during the past year, the information might not have been taken into account in time since the report was finalised in February.

Mr Karun has ruled out the possibility that Thailand would face trade action such as the lifting of preferential import tariffs for Thai products under the Generalised System of Preferences (GSP) programme.

"It will violate the international rules of the World Trade Organisation if Washington punishes us by removing the GSP," he said.

Countries on the PWL are not subject to sanctions but Washington may launch other trade action or seek a dispute settlement process.

#### 4. Raid yields fake printer supplies

*(from Bangkok Post Newspaper, Database Section, Page D3, Thailand, 2 May 2007)*

Five major printer manufacturers have joined forces with the Economic and Cyber-Crime Division (ECOTEC) police to raid a warehouse located in Klongsamwa District, Bangkok and seize more than 100,000 items of allegedly infringing products.

The five companies were Hewlett-Packard, Seiko Epson, Canon Kabushiki Kaisha, Samsung Electronics, and Brother Industries.

The enforcement officials also gained access to a warehouse used for packing and storing fake ink cartridges, toners, stickers, and holograms used in the production of fakes.

The estimated value of the counterfeit goods was over 1 million baht, according to the companies. They noted that it represented the most significant seizure of counterfeit products from any warehouse so far this year.

The owner of the warehouse was charged with trademark infringement offenses, which carry a maximum penalty of four years imprisonment, a fine of 400,000 baht, or both.

Tilleke & Gibbins International, the legal consultant for all five companies, stated that they are maintaining their commitment to stamp out the presence of fake ink/toner cartridges/ribbons in the Thailand market as part of ongoing efforts to ensure that Thai consumers are not harmed by the criminal activities of infringers.

#### 5. Government says IP arrests up 25% last year

*(from Bangkok Post Newspaper, Business Section, Page B1, Thailand, 3 May 2007)*

The government intends to clarify improvements in suppressing intellectual property (IP) violations for US officials during talks next week.

Puangrat Asvapisit, director-general of the Intellectual Property Department, said it was not fair for Washington to downgrade Thailand to its Priority Watch List (PWL) due to failure to suppress IP violations.

"As a matter of fact, the number of arrests improved notably last year," Mrs Puangrat said.

Police brought 9,575 cases of IP violations to court last year, up 25% from 7,689 cases in 2005. More than 2.8 million counterfeit items were seized, up 24% from 2.26 million items confiscated a year earlier.

In terms of value, she said IP violations in Thailand last year caused US trademark and copyright owners US\$219 million in damage, much less than the \$2.2 billion in China and \$1.5 billion in Mexico.

The US also kept Indonesia on the Watch List, one step below the PWL, even though its IP problems are similar to those of Thailand and caused about \$205 million in damage to US property last year.

Officials will highlight this information in talks with the US Intellectual Property Office on May 11.

"We will signal our disappointment over its determination to create negative sentiment among Thais against the US," Mrs Puangrat said.

A working group representing various government agencies would be formed to solve IP problems, she said. It will speed up revisions to the Copyright Law with an aim to put Thailand back on the Watch List next year.

#### 6. Outrage grows at US trade pressure

*(from The Nation Newspaper, Prime News Section, Page 1A&4A, Thailand, 3 May 2007)*

A rally will be held in front of the US Embassy in Bangkok today by the Thai Network of People Living with HIV/Aids, to protest the US Trade Representative's decision to downgrade Thailand's trade status.

Thailand's downgrade to the US Priority Watch List over copyright violations is widely seen as retaliation against the Public Health Ministry's move to enforce compulsory licensing on certain drugs - including an Aids medicine sold by a US-based company.

"We have found that the affected company hired a lobbyist firm - USA for Innovation - that recently spread false information about Thailand's compulsory-licensing process," Aids Access Foundation director Nimit Tienudom said.

The executive director of USA for Innovation is Ken Adelman, who is also a senior adviser to Edelman Public Relations, which is also used by Merck, Abbot Laboratories, Sanofi.

An informed source disclosed that USA for Innovation - which claims to be a non-profit organisation - recently launched a campaign about violations of US intellectual-property rights that contained misleading information.

For example, the campaign alleged that Thailand was going to enforce compulsory licensing "on 30 medicines".

"It's untrue," Public Health Minister Mongkol na Songkhla said in response to the allegation. He insisted that his ministry had announced breaking the patents of three medicines only. Of them, only the compulsory-licensing process for the HIV/Aids drug efavirenz, sold by US-based global pharmaceutical giant Merck under the trade names Sustiva and Stocrin, had already been completed.

7. CEBF views Thailand should improve understanding with USA quickly  
(from *Thai News Service*, 4 May 2007)

The Center for Economic and Business Forecasting (CEBF) of the University of the Thai Chamber of Commerce views Thailand must quickly create understanding with USA quickly after being put on the patent and medicine infringement priority watch list.

CEBF Director Thanawat Pholwichai says USA has been much concerned on patent and medicine infringement and needed Thailand to solve problems rapidly. Although, USA has not suggested solutions for Thailand, he remarked Thailand should have a discussion with USA soon for fear it would encounter reprisal by increasing tariffs.

Mr. Thanawat says the subject might affect the country's image and decrease investors' confidence.

At the same time, CEBF Director suggests private sector to prepare for relevant details if the government starts investigating into its case.

8. Mongkol seek support for Compulsory Licensing  
(from *The Nation Newspaper, Local News Section, Page 2A, Thailand*, 4 May 2007  
*Organisation of Asia-Pacific News Agencies*, 5 May 2007)

Public Health Minister Mongkol na Songkhla hopes to win international support for Thailand's move to enforce compulsory licensing on several life-saving medicines while attending the upcoming 60th World Health Assembly.

The World Health Assembly is the supreme decision-making body of the World Health Organisation (WHO).

"We will discuss the issue with friendly states," Mongkol said yesterday. The minister said seven or eight countries had already contacted him for a talk on the sidelines of the assembly - officials mainly from Asia, Latin America and Africa.

The World Health Assembly meets in Geneva each year, and this year the meeting will run from May 14 to 23. Delegates from 193 member states attend the event, the main function of which is to determine the WHO's policies.

Mongkol said he had received more than 200 emails and letters from foreigners in support of the Thai move to enforce compulsory licensing on medicines to treat HIV/Aids and heart disease.

"We have done it transparently and in good faith. We hope that Thai patients with Aids or heart diseases will have access to quality medicines at an affordable price," Mongkol said.

He spoke after the US Trade Representative (USTR) announced this week it was downgrading Thailand's trade status to its "Priority Watch List" over intellectual-property violations.

The move is widely seen as a retaliation against the Ministry's move to enforce compulsory licensing on certain drugs - including an Aids drug sold by a big US-based firm.

Early next week, Mongkol and Dr Vichai Chokevivat, the head of a panel overseeing compulsory licensing, will fly to the US to sign a deal with the Clinton Foundation - along with several other countries - to bulk buy drugs at cheaper prices.

Dr. San-guan Nityarumpong, secretary-general of the National Health Security Office (NHSC), said Thailand can save Bt1 to Bt1.7 billion annually on Efavirenz, Kaletra and Plavix medicines used by government-sponsored "gold card" holders.

The HIV/AIDS drug Efavirenz was used by some 25,000 patients during Fiscal year 2006, which ended September 30, last year, and not less than 30,000 patients are expected to use 360,000 bottles of this medicine during the current fiscal year while the Public Health Ministry anticipates that it could save as much as Bt252 million.

9. World first antibody test strip devised for HIV  
(from *The Nation Newspaper, Thailand, 4 May 2007*)

A Chiang Mai University researcher has successfully invented the world's first antibody strip test for HIV/Aids patients, possibly saving Thailand from importing a Bt5-million flow cytometer.

National

Centre for Genetic Engineering and Biotechnology (Biotec) deputy director Dr Prasit Palittapongarnpim announced the "outstanding research" done by Dr Watchara Kasinrerak, of the university's department of clinical immunology.

Watchara discovered the monoclonal CD4 antibody and developed a test kit called CD4 Select that can be applied to blood-analysis devices at general hospitals without using the expensive cytometer, which is used to examine cells in fluid.

Prasit said the strip test was the first of its kind in the world.

Testing the absolute number of CD4 positive lymphocytes is important in treating Aids patients because it helps to assess the state of the disease, prognosis and treatment, according to Prasit.

Biotec deputy director Darunee Edwards said the new test would be very useful in treating Aids patients. The centre has transferred the technology to iMED Laboratories, a Thai diagnostic test manufacturer, to produce and distribute the test kit so that it can be thoroughly accessed.

The test kit should be on sale late this month. Biotec has already obtained a patent in Thailand and is applying for patents in the United States and other countries.

10. Impacts after Thailand placed on PWL  
(from *Thai News Service, 7 May 2007*)

Kasikorn Research Center (KResearch) holds the view that the US downgrade of Thailand's IP status this year from the former 'WL' that we had been on for more than 10 years since 1995 to the 'PWL' may impact Thailand's trade and investment as follows:

## Impact on Thailand's Image toward Investment

The US downgrade of Thailand's IP status not only affects Thailand's image toward investment by American businesses, but also harms the view of other foreign investors. Specifically, if comparing Thailand with other countries in ASEAN where violations of intellectual property rights are less serious than Thailand, this downgrade may cause foreign businesses who produce patented or copyrighted goods (or have registered trademarks) to invest in other countries instead.

In addition, Thailand's legal amendments are still unclear, i.e., the Foreign Business Act B.E.2542 (A.D.1999) and the Retail Business Act. Therefore, these factors may cause foreign investors to reassess investments in Thailand this year.

## Impact on Thai Exports to the USA

The fact that the USA has reassessed the intellectual property protection status of Thailand to a lower level this year may influence revisions in the granting of their Generalized System of Preferences (GSP) to Thai exports.

The US has established that protection of intellectual property rights as one of their more important conditions for consideration in granting GSP privileges to developing and undeveloped countries, including Thailand. The US will announce the new GSP list on July 1, 2007. It is expected that Thai gems and ornaments made from precious metals will be deprived of the US' GSP benefits this year because they are within the scope of exclusion as regulated by the US in 2007. As a result, Thai gems and jewelry made from precious metals exported to USA would be levied import tariff at the most-favored nation rate (MFN rate) of 5.5 percent (in the past, these products were duty-free).

Hence, the price of Thai exports such as gems and jewelry will be at a disadvantage to rivals in the US market, such as India and China, which also have lower labor and production costs than Thailand. In addition, they currently dominate larger market shares in gems and jewelry than Thailand in the US market.

### 11. Aids groups call for placing US on 'watch list' for violating patient rights (from *Thai News Service*, 7 May 2007)

Activists gathering under the banner of the Thai Network of People Living with HIV/AIDS have called for international action to place the United States on notice for violating national sovereignty and the rights of the sick and the poor worldwide, in retaliation for the US putting Thailand on its "Priority Watch List" (PWL) for alleged intellectual property piracy.

Dozens of network members, with representatives of the AIDS Access Foundation, on Thursday gathered at the US Embassy here and issued a statement denouncing Washington's move as an action taken for commercial purposes only, in disregard for the importance of morality and human lives.

They said the US accusation of Thailand's failure to sufficiently protect American producers from widespread piracy lacked factual information.

Virat Poorahong, head of the Thai Network of People Living with HIV/AIDS, called on Thailand's ministries of foreign affairs and commerce to give clear support to the Ministry of Public Health's application of compulsory licencing of medicines for better living of patients and the poor, procedures which he said were clearly indicated by WTO procedures.

The network said they believed Public Health Minister Dr. Mongkol Na Songkhla would not change his position regarding the application.

Should the minister change his stance, his credibility among the Thai public would definitely fall, Mr. Virat said.

12. PM orders Commerce Ministry to develop plan to curb IPRs violations  
(from *Thai News Service*, 7 May 2007)

Prime Minister Surayud Chulanont has ordered the Commerce Ministry to work with US embassy in Bangkok in preparing an implementation plan to remove Thailand from the US Trade Representative's Priority Watch List.

Still, Surayud made clear that his government would not back down from its move to enforce compulsory licensing on some necessary medicines.

The ministry oversees the Intellectual Property Department, which works to protect intellectual-property rights.

"Thailand will abide by requirements that will remove the country from the list...We will try to work out a solution with the right balance and compromise. In areas where our flaws exist, we will try to solve the problems. But in other areas, we will stick to humanity reasons," Surayud said.

13. USA for Innovation launches thailies.com  
(from *Asia Pulse*, 8 May 2007)

ThaiLies.com (<http://www.thailies.com>), a project of USA for Innovation, was unveiled to draw attention to the deceit in Thailand's decision to steal American and European innovation.

Each business day for two weeks from May 7 - May 18, ThaiLies.com will release additional information regarding one of the ten recent lies by the Health Minister Mongkol na Songkhla.

ThaiLies.com is a project of USA for Innovation intended to expose the web of deceit by Thailand's Health Ministry.

14. Exercise trademark revoked  
(from *The Nation Newspaper, Local News Section, Page 2A, Thailand*, 9 May 2007)

The Japan Patent Office has revoked the trademark it had awarded to a Japanese businessman for the commercial use of the name of an ancient Thai exercise - rusie dut ton or hermit body twists. The name refers to a style of posture-based exercises that can be traced back to the reign of King Rama I.

Controversy broke out after Masaki Furuya registered the Thai phrase and his English translation, "Rusie dutton", for the print media and his Thai massage and yoga business. Although his company website purports to promote the routine as Thai massage, along with pictures of the poses, concerns were raised that anyone else trying to use the term, especially operators of Thai massage businesses, would be prohibited from doing so.

The Intellectual Property Department submitted a letter of protest to the Japan Patent Office a year ago, arguing that the steps were created with Thai local wisdom and must be reserved as the intellectual property of Thailand.

Also, Furuya is not a Thai citizen and did not receive official permission from the School of Thai Traditional Medicine at Wat Po.

15. Project targets counterfeiters

*(from The Nation Newspaper, Thailand, 9 May 2007)*

The Thai-Italian Chamber of Commerce has conducted a research project into intellectual property rights (IPR) in Thailand to assist the European Commission's drive against counterfeiting.

Financed by the EU-Thailand Economic Cooperation, the EU-Thailand Small Projects Facility Programme is an initiative of the European Commission and supports innovative projects in areas of joint interest to Thailand and the EU.

Project SILK deals with the issue of improving IPR protection in Thailand.

"In fact, counterfeiting and piracy not only pose a significant threat to fruitful economic relations across a broad range of sectors between Thailand and EU member states, but are also a threat to local economic and social development. Accordingly, Project SILK aims at further improving cooperation between EU and Thailand in order to transfer knowledge and to support Thai public authorities, law enforcement and private organisations in increasing Thai standards of IPR protection and enforcement," says part of the questionnaire sent out by the researchers.

The questionnaire aims to collect information about how multinational companies perceive and manage risks related to IPR infringements in Thailand, about their direct experience and expectations, and about solutions they would suggest.

There are numerous forms of IPR infringements, many playing fields and players, and various points of contact between the manufacturing, distribution and sale of both genuine and fake goods. Project SILK focuses on both institutional and business dimensions to the problem. It tries to understand how IPR violations impact on both Thai public authorities and national and multinational companies, in order to increase awareness, knowledge and cooperation.

This questionnaire is primarily focused on the business standpoint and regards IPR infringements from the logistics perspective. The aim is to achieve in-depth knowledge of how and at what stage of the product lifecycle counterfeiters succeed in infiltrating the legitimate market. The project is based on the statement that the legitimate product lifecycle itself presents some vulnerability or organisational problems such as numerous suppliers, difficulties in setting up effective controls and lack of specific procedures related to IPR protection.

16. Activists reject US condition for removing Thailand from PWL for IP violations

*(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 9 May 2007)*

Aids activists and academics called on the Commerce Ministry on May 8 to reject the "action plan" proposed by the United States to remove Thailand from its priority watch list for intellectual property violations.

Jon Ungphakorn, secretary-general of the Aids Access Foundation, said if the government agreed with the action plan, not only would its use of compulsory licensing to make generic copies of patented drugs for medical emergencies be more restricted, it would also have to tighten drug patents for US companies.

After insisting last week that the downgrading of Thailand's trade status reflected increased piracy of CDs and software, the US Trade Representative (USTR) came up with an action plan full of demands to tighten Thailand's drug patenting system, he said.

Kannikar Kijtiwatchakul, from FTA Watch, said the demands listed in the action plan were similar to those the US made in its talks with the Thai government about a free-trade agreement. She said the key demands were an extension of drug patents from the normal 20 years to compensate for administrative delays in granting patents; imposition of data-exclusivity provisions, which mean a delay in the production of generic versions of patent-expired drugs reaching the market; expansion of drug patents to cover the diagnosis process and surgery; and restricting reasons for the Thai government to issue compulsory licences.

Commerce Ministry officials are due to meet representatives of the US on the action plan on Friday.

Vithaya Kulsomboon, a pharmacology lecturer at Chulalongkorn University, said that helping people with HIV get access to cheaper drugs, and lead normal lives, would boost the Thai economy much more than trade privileges from the US.

"The Commerce Ministry should place more concern on the lives of patients not on commercial profit," Jon said. And the ministry should not be afraid of pressure from the US, as the government was not alone in the struggle for easier access to key medicines.

Last Friday, the Brazilian president issued a compulsory licence to allow the import of a generic version of Efavirenz, after the drug's patent holder Merck & Co failed to match the 60-per-cent price reduction requested.

Jon hoped that more developing countries would follow suit. Many developing countries want to use compulsory licensing as allowed by the World Trade Organisation, but were afraid of US economic sanctions, he said.

"This is not just a fight for Thai patients, but for all in developing countries," he said.

#### 17. Business leaders fear drug row could affect GSP, hurt economy

*(from Bangkok Post Newspaper, Business Section, Page B1, Thailand, 9 May 2007)*

Business leaders warned that the government's showdown with foreign pharmaceutical companies over compulsory licensing could hurt the economy if the United States retaliates against Thailand by revoking special tariffs offered to Thai goods.

Members of the Joint Standing Committee on Commerce, Industry and Banking met yesterday to discuss Washington's move last week to place Thailand on its priority watch list of intellectual property violators. Thailand had earlier been ranked on the US watch list, a step below in the severity or alleged offences, and was last on the priority watch list in 1992.

The downgrade is widely seen as a reaction to the Public Health Ministry's move to issue compulsory licences to import or produce several HIV and heart drugs for government use. Thailand has insisted that it is within its rights to do so under World Trade Organisation rules.

Santi Vilassakdanont, chairman of the Federation of Trade Industries, said it was still too early to say what impact the latest developments might have on the Thai economy.

"It's good that the Thai government has launched an initiative to clarify the issue abroad," he said. "But certainly, Thailand would be affected [by the issue] if the US retaliates by cutting GSP."

More than 1,000 Thai products receive favourable import tariffs under the US Generalised System of Preferences, including agricultural goods, electrical appliances, jewellery and auto parts. Local producers saved an estimated \$4.25 billion through the programme last year.

Mr Santi said economic conditions remained weak, but business activity should improve going into the second half of the year.

"We won't see a significant jump in investment until there is greater clarity on a number of issues," he said. But passage of the new constitution and an election later in the year should help improve business and consumer confidence, Mr Santi said. Declining interest rates and a plan for state banks to accelerate lending to small businesses should also help economic growth, he said.

#### 18. Clinton backs Thailand, as HIV drug deal signed

*(from The Nation Newspaper, Prime News Section, Page 1A, Thailand, 10 May 2007)*

Former US president Bill Clinton has backed Thailand's decision to award compulsory licences to generic brands of anti-HIV/Aids drugs, Public Health Minister Dr Mongkol na Songkhla said yesterday.

His comments followed the announcement by Clinton yesterday of a deal, reached in partnership with international drugs organisation Unit aid and generic drug manufacturers Cipla and Matrix, that would drastically reduce the cost of second line anti-retroviral HIV/Aids medicines for 66 developing nations in Africa, Asia, Latin America and the Caribbean.

The drugs in the Clinton Foundation's pricing agreement include both first and second-line drugs essential to HIV/Aids patients. The second-line anti-retroviral drugs, used when a patient becomes resistant to initial treatment, cost 10 times as much as the first-line drugs, Clinton said. Nearly half a million patients will require these drugs by 2010.

#### 19. Activists slam 'misleading' advert by US lobby group

*(from Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 11 May 2007)*

Health activists have accused the American lobby group USA for Innovation of doing everything in its power to mislead the public about Thailand's efforts to expand access to medicines by overriding drug patents.

"They are trying to do everything they can, even buying the media to protect the benefits of pharmaceutical companies they are working for," said former Bangkok senator and Aids advocate Jon Ungpakorn.

He was referring to the American NGO's action in placing full page advertisements in local newspapers yesterday and today. The executive director of USA for Innovation, Ken Adelman, is a senior counsellor for Edelman Public Relations, which reportedly works for several drug firms.

"Information shown in the ad is completely misleading and baseless," Mr Jon said. The issuing of compulsory licences by the government was totally in line with the World Trade Organisation's rules.

In the advertisement, USA for Innovation says Thailand refused American and European technology at the expense of the poor and sick of Thailand. It also claimed that most Thai people living with HIV/Aids had no access to quality medicines.

Jiraporn Limpananont, of Chulalongkorn University's faculty of pharmaceutical science, believed the strategy of putting adverts in English-language newspapers was aimed at reaching a group of educated people and some business groups, particularly shrimp and jewellery exporters, which depend on the Generalised System of Preferences (GSP) from the US.

She called on the Commerce Ministry's Department of Intellectual Property not to submit to US demands on several issues, such as patenting on diagnostic and surgical procedures, in exchange for taking Thailand off the Priority Watch List during discussions with US representatives on intellectual property rights today.

The US wants an extension of the patent protection on drugs and agricultural chemical products from two to four years, and that compulsory licensing be used only in emergency situations.

20. Positions and facts from Ministry of Foreign Affairs of Thailand  
(from *Thai News Service*, 11 May 2007)

The Ministry of Foreign Affairs found that the misunderstandings reported in the foreign media and wrong accusations made by certain NGOs with regards to the Ministry of Public Health's decision to use compulsory licensing (CL) on three life-saving drugs: Efavirenz, Kaletra, and Plavix have underscored the need to set the facts straight. We wish to clarify Thailand's position on CL as follows.

First, the use of CL is permissible under the Trade Related Aspects of Intellectual Properties (TRIPs) Agreement. So, our action is WTO consistent. Even the USTR has not disputed this.

Second, we recognize the importance of balancing between the protection of innovation and the access to medicine to protect public health. The decision to use CL on the three drugs as made by Ministry of Public Health did not come lightly. So, it is presumptuous to speculate that CL will be used on other medicines.

Third, public health is a top priority of the Government. We have been making vigorous efforts to provide people with universal access to health care. Currently, over 80% of Thailand's population is covered by the Government's healthcare programme. For many years, the budget for health and health care ranks number 2 just after education. In the current fiscal year, health accounts for 9.5% of the total expenditure, or over US\$ 100 million (4,373 million baht). However, the prices of certain life-saving drugs preclude many people in need from getting treatment. The use of CL will increase the number of people who can have access to treatment, including more than 500,000 people estimated to be living with HIV. The number of those in need is climbing.

Fourth, the use of CL will be for public non-commercial use only. It will cover only the patients under the Government healthcare programs. Those not covered will continue to purchase the medicines at the market prices.

Fifth, while Thailand is not a poor country, we are a developing country. The gap in income disparity and distribution of wealth remains wide. 20% of poorest population owns less than 5% of national income, while 20% of the richest owns more than 50% of national income. Many of the less-well off people cannot afford necessary treatment, particularly when it comes to HIV/AIDS

medicines which the patients have to take all their lives. The Government needs to increase their access.

Sixth, it took the Ministry of Public Health more than 2 years, which included discussions with pharmaceutical companies before finally deciding on CL. After the CL was announced, dialogue has been on-going with all stakeholders to find mutually acceptable solutions.

Seventh, manufacturing generic drugs by the Government Pharmaceutical Organization is but one source of affordable medicines. Importing generic versions from other countries is another option. The first batch of 66,000 bottles of generic Efavirenz imported from India has resulted in the reduction of price by more than half, and allowed an additional 20,000 AIDS patients to get the medicine. Certainly, negotiations with pharmaceutical companies to lower drug prices will continue to increase accessibility of necessary drugs for the people.

Eighth, the use of CL has no link with the current political situation in Thailand. Nor does it have any connection with other economic or financial measures. Unfortunately, one foreign NGO has ignorantly attempted to make such connection as a part of their scheme to discredit Thailand. The CL is used to protect public health and save lives; it should not be politicized.

#### 21. US offers FBI in war on piracy

*(from The Nation Newspaper, Business Section, Page 1B, Thailand, 12 May 2007)*

The United States has offered to provide agents from its Federal Bureau of Investigation (FBI) to help combat the piracy of intellectual property in Thailand, citing a lack of stringent suppression.

Economic officer Peter Thorin and commercial officer Jennifer Ness from the US Embassy met with Puangrat Asavapisit, director-general of the Intellectual Property Department, to jointly draw up an action plan to crack down on piracy.

To ensure adequate suppression, the US officers offered to provide assistance in different forms, one of which is to offer FBI officers now based in Bangkok to support the investigation of major illegal Thai manufacturers of fake products.

The matter is now urgent after the US last week downgraded Thailand from Watch List to Priority Watch List (PWL) status under the US Trade Law. The action plan also aims to unlock Thailand from PWL status.

Puangrat said the US would also provide training and knowledge about intellectual-property suppression to Thai officials.

"The US emphasised that the suppression should not only focus on small retailers but also take legal action against major copyright violators," Puangrat said.

The US also blames government agencies - including the Royal Thai Police, the Department of Special Investigation and the Customs Department - for a lack of coordination in tackling illegal goods.

The US has been satisfied with the strong level of suppression in Malaysia and the Philippines, which have been moved to the Watch List.

Washington has insisted that PWL status will not lead to removal of tariff privileges under the Generalised System of Preferences (GSP). The US has transparent guidelines for ending GSP with partners, the US officials added.

In addition, the US government will no longer consider the recent announcement of compulsory licensing by the Thai government, but instead demand that Thai agencies hold talks with owners of drug patents before implementing compulsory licensing in the future.

The US officials will report to the US Trade Representative on the progress of intellectual-property protection measures and suppression in Thailand. Officials from the USTR will later visit the Kingdom.

The Intellectual Property Department reported that suppression cases reached 9,575 with 2.82 million confiscated products in 2006. The figures jumped to 19,150 cases and 5.81 million goods in the first quarter this year.

22. GPO may sue US lobby firm

*(from Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 12 May 2007)*

The Government Pharmaceutical Organisation (GPO), the manufacturer of the local anti-Aids drug GPO-VIR, is considering suing USA for Innovation for publishing advertisements containing misleading details about the drug's efficacy and the country's move to override Aids drug patents through compulsory licensing.

Vichai Chokewiwat, chairman of the GPO board, yesterday said he was in consultation with legal experts to prepare lawsuits against the group which lobbies for US pharmaceutical companies, in addition to the media that published the advertisement.

"We have to do something in response to such a provocative public relations campaign.

"What USA for Innovation claimed in its advertisement is not true and that damages the country," he said, adding that GPO-VIR's fact file, including the latest study on drug resistance, would be sent to the Foreign Affairs Ministry.

The full-page advertisement in English-language newspapers claimed that GPO-VIR was an HIV treatment copy. Citing a study by Mahidol University, it added that a high resistance rate of 39.6-58% was found among users.

23. Life-saving drug prices could get cheaper

*(from The Nation Newspaper, Prime News Section, Page 1A & 4A, Thailand, 14 May 2007)*

Representatives of the three pharmaceutical companies whose drugs face compulsory licenses in Thailand will meet with officials from the Food and Drug Administration (FDA) today in Bangkok and, officials say, the results will be "good news" for patients.

"We expect to receive offers of cheaper prices from the companies, ones that are cheaper than the prices offered at a previous meeting with us," FDA secretary general Dr Siriwat Thiptharadol said yesterday.

FDA officials have met with representatives of the three companies twice since Thailand began issuing compulsory licenses late last year to provide greater access to life-saving medicines.

The three drug companies are Merck's MSD (Thailand), Abbot Laboratories and Sanofi-Aventis, which produce Efavirenz, Kaletra and Plaviz respectively. The first two are Aids drugs and the third is for heart disease.

The first two rounds of talks failed.

"The FDA invited the companies to negotiate the royalty fee for their drug's patent," said Dr Jiraporn Limpananond, a lecturer in the Faculty of Pharmacy at Chulalongkorn University and one of Thailand's leading experts on access to medicine.

"But the companies declined to negotiate the royalty fee, and asked instead to negotiate prices," Jiraporn said. The FDA had offered a 0.5 per cent royalty on imported generic drugs to the patent holder.

If today's talks fail again, the issue of royalties will be forwarded to the Department of Intellectual Property Rights to settle the amount of royalty to be paid, Jiraporn said

#### 24. Abbott backs off

*(from Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 15 May 2007)*

Abbott Laboratories, one of the three pharmaceutical giants whose drugs face compulsory licensing in Thailand, has backed off from its threats, saying it wants to continue selling its HIV/Aids drugs here.

Previously, the firm planned to withhold sale of a heat-stable form of Aluvia, its HIV/Aids drug, as punishment for Thailand's compulsory licensing policy.

Representatives of Abbott made the company's stance known yesterday while meeting with Food and Drug Administration (FDA) secretary-general Siriwat Tiptaradol. The FDA also met with representatives from Sanofi- Aventis yesterday.

Abbott's new offer was made on condition that Thailand would not impose compulsory licensing on Aluvia and that the price of the drug, at 3,488.20 baht per person per month, or about 34,000 baht (US\$1,000) per person per year, would not come down any further.

Dr Siriwat said the FDA would forward Abbott's offer to Public Health Minister Mongkol Na Songkhla. Abbott's Aluvia price will be compared with the prices quoted by India's generic drug maker, Matrix Laboratories, which produces a generic version of Aluvia at 24,324 baht (US\$695) per person per year (or 2,027 baht per person per month).

Matrix made the offer to Thailand and 66 other countries which have agreed to purchase the generic drug, together with the US-based Clinton Foundation.

On the two-hour negotiations with Sanofi-Aventis which holds the patent for the heart disease drug Plavix, Dr Siriwat said the drug giant proposed a one-year project to give patients greater access to the medicine. During the one-year period, the firm would make available 3.4 million tablets of Plavix to 34,000 patients.

The scheme would automatically reduce Plavix's price from 90 baht to about 27 baht per tablet. The FDA will forward Sanofi-Aventis' offer to the health minister, said Dr Siriwat. He added that his committee will invite the pharmaceutical firms to discuss prices again on June 1.

Meanwhile, Vichai Chokewiwat, chairman of the Public Health Ministry's panel on compulsory licensing, said that if the Public Health Ministry chose to buy drugs at prices higher than offered by other sources, it must be able to give the public a good reason to justify its decision.

"If we buy the drug [the generic version of Aluvia] from India at US\$695 per person per year, next time, we might get the drug at a lower price, probably as low as US\$500. If we buy it from the US firm at US\$1,000 now, we might have to continue buying it at US\$1,000 forever."

25. Amended law 'may hit access to drugs'

*(from The Nation Newspaper, Business Section, Page 4B, Thailand, 15 May 2007)*

The Public Health Ministry has opposed the government's plan to amend the patent law – aimed at speeding up the registration process to approve drug patents – as it would make it more difficult for patients to get access to medicines.

Bangyong Limprayoonwong, deputy director-general of the Intellectual Property Department, said that the Health Ministry has sent a letter to the department early this month saying that it had some concerns over the amended patent law, especially in respect of patent registration and the duration of drug protection.

According to the draft of the amended act, patent registration will be faster as some complicating procedures should be cut out.

The current law stipulates that after the application to register a patent is filed, officials would normally wait for a few years to see if anyone has any objection to the registration. The process can be longer for complicated cases.

Under the new guidelines for patent registration, officials will accept the registration after a primary examination only, without looking into the details. Applicants are then required to advertise twice. The new guidelines are a change from the old system when the registrar could exercise his or her judgment to withdraw the application.

Banyong dismissed the notion that the amendment was a result of the US process, saying that the process to amend the patent law started in 2005. However, the amended law received a mixed reception from various agencies, so the department had to look at the draft of the amended act again.

Puangrat Asavapisit, director-general of the Intellectual Property Department, said that a legal working group had also studied whether Thailand should be a signatory to the Patent Cooperation Treaty.

"The Foreign Ministry didn't recommend whether Bangkok should be a signatory to the Patent Cooperation Treaty. Thus, the department had to set up a working group to study the pros and cons thoroughly before forwarding the recommendation to the Cabinet for approval," she said.

26. Thailand's 2006 piracy losses rise to \$420M from \$259M

*(from Dow Jones International News, 16 May 2007)*

Thailand's losses stemming from software piracy jumped to \$420 million last year from \$259 million a year earlier, citing a study by industry association Business Software Alliance.

Software piracy has limited the potential growth of the local information and communication technology industry, Ronald Chua, chairman of the BSA's Thailand committee, was quoted as saying.

"We remain optimistic that the sustained efforts of the government to promote the use of original and licensed software will bring down the piracy level," said Chua.

27. Cancer next priority pharma war

*(from Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 16 May 2007)*

Buoyed by global support for its bid to improve access to cheap medicines, the Public Health Ministry is now eyeing cancer drugs as its next target. Public Health Minister Mongkol Na Songkhla unveiled a plan to enforce compulsory licensing for cancer drugs next.

"It's essential, as cancer ranks among the top five causes of death for Thais, with accidents, HIV/Aids, heart diseases and elderly people's diseases," he said in a telephone interview from Geneva. Previous reports about a move to issue compulsory licences for cancer drugs could not be confirmed until Dr Mongkol spoke.

The National Health Security Office (NHSO) is currently studying the pros and cons of issuing licences for a group of cancer drugs which are still under patent in Thailand.

In the 2006 fiscal year, the government spent more than 1.2 billion baht on about 50,000 cancer patients receiving treatment through the universal healthcare scheme run by the NHSO.

Dr Mongkol is in Geneva to attend a World Health Organisation assembly before going to Washington to explain the government's decision to bypass patents on Aids drugs produced by an American company.

28. Law enforcement training helps to suppress counterfeiting

*(from Bangkok Post Newspaper, Business Section, Page B6, Thailand, 18 May 2007)*

The Royal Thai Customs Department has a pro-active policy to stop illegal goods from entering the Thai market and damaging the public's confidence in consuming imported goods. Brand owners such as Nokia, Levi Strauss, Daimler Chrysler, HP, Casio and Ferrari have dedicated tremendous resources and jointly proposed giving customs officers' product identification training to assist them in profiling and inspecting suspect shipments.

The training demonstrated how to identify and differentiate between genuine and counterfeit products coming in and out of Thailand, as well as helping to suppress the distribution of imported counterfeit goods in Thailand.

In 2006, training sessions on product identification were held in many significant ports around Bangkok, including Klong Toey, Laem Chabang, Lat Krabang, Don Muang, and Bang Saotong. Sessions were also organised in well recognised areas such as transshipment hubs in the north like Chiang Mai, Chiang Rai (the border between Thailand and Burma), Nong Khai (the border between Thailand and Laos), and Aranyaprathet (the border between Thailand and Cambodia).

The customs officers in attendance responded with interest and enthusiasm, and most of them said it was an excellent opportunity for them to learn about product identification.

Aside from imported counterfeit products, another problem that intellectual property rights owners face is local manufacturing in Thailand for sale in the Thai market or for export.

The Department of Intellectual Property (DIP) enforcement team, including other concerned enforcement officials such as law enforcement officials from the Department of Special Investigation (DSI) and Ministry of Justice, were also invited to join the product identification training that held in Bangkok at the end of 2006.

In the beginning of 2007, a high-ranking police officer responsible for the suppression of IPR violations for trademarks in Bangkok requested a training session for his police team. The police at the Economic Technological Crime Suppression Division (Ecotec), the Public Prosecutor's Office, and the Department of Intellectual Property were also asked to provide knowledge on intellectual property law at this event.

These training sessions encourage law enforcement officers to closely monitor the market for counterfeit products imported or sold in the Thai market. They also help officers realise that the brand owners involved are very serious about protecting their IPR.

After the training sessions were conducted at the customs ports, the number of seizure cases at the end of 2006 increased greatly - about four times higher than the number of cases at the beginning of the year.

These seizures reflect the Customs Department's aggressive measures to hold importers liable for importing illegal goods.

Professional Thai law enforcement officials have shown remarkable leadership in their commitment to protecting intellectual property rights. The excellent cooperation and assertiveness stemmed from their concern for consumer safety and their desire to prevent consumers from being deceived as to the origin and quality of illegal products. Rights owners have been impressed. Brand owners remain confident that the government's ongoing suppression actions against sellers and importers or exporters of counterfeit products will be sustained, and that support for such enforcement efforts will continue to be provided.

29. Thailand and Brazil to cooperate on producing drugs  
(from *Thai News Service*, 21 May 2007)

Public Health Minister Mongkol na Songkhla said he and Brazilian counterpart Joze Gomez Temperao would ink an agreement on public health cooperation in mid-August in Brazil. "In addition to cooperation on health development and generic-drug manufacturing, we also plan to jointly manufacture influenza vaccine," Mongkol said.

Both Thailand and Brazil have enforced compulsory licensing on Efavirenz, which is used to treat Aids patients. Mongkol said Brazil had received the know how to produce the influenza vaccine from Sanofi Aventis, while Thailand would learn the know how from China.

30. Intellectual property to be backed  
(from *The Nation Newspaper, Business Section, Page 4B, Thailand*, 23 May 2007)

The Intellectual Property Department plans to amend the Trade Secret Act to increase rights protection for commercial purposes. The department also plans to draft a Thai wisdom protection law to safeguard local knowledge from recent widespread violations.

After five years of implementation, the Trade Secret Act has never been used to protect any enterprise, due mainly to a lack of public understanding. People have ignored the law, as it is too complicated.

The government also aims to unleash more measures after local wisdom faced a greater risk of violation in recent years. For instance, last year Thailand protested against a Japanese company for registering a trademark for Rusie Dutton – a Thai-style massage.

The department expects to complete the amending process in September, while the first Thai local wisdom act would need a few years.

Thosapone Dansuputra, director of the Free Trade Agreements and World Trade Organisation Division, said that the department's amendment fell under the government's policy to create stronger protection measures for intellectual property rights.

“The department will amend the act based on clarity for public understanding. The act should be useful for people, particularly for commercial use,” he said.

The amendment has no connection with the recent controversy over compulsory licensing imposed by the Public Health Ministry, he added.

The Act, which comes under three ministries – Commerce, Public Health and Agriculture – intends to protect any private enterprises which has trade secret on generic drugs, chemical substance usage in the agricultural sector or other confidential information.

The amendment will focus on details of committees, punishment and access to trade secret, while providing more flexibility for enforcement. For instance, it will revise the qualifications for the oversight committees, since it has never been set up.

31. Phatthalung rice strain may grow into brand  
(from *The Nation Newspaper, Thailand, 23 May 2007*)

A unique, nutritional rice strain developed by Phatthalung farmers a century ago has been approved for geographical-indication registration, which protects national intellectual property.

The sungyod strain grows only in the southern province and the Phatthalung Rice Research Centre ensures it remains pure.

The Agricultural Economics Office said registration would add value and allow the rice to be developed for new commercial purposes. The office is also encouraging farmers to maintain the strain's quality to achieve higher prices.

32. US tells Thailand to revoke compulsory licensing  
(from *Thai News Service, 23 May 2007*)

Efforts by Public Health Minister Mongkol na Songkhla and Thai officials to clarify Thailand's need to invoke compulsory licensing of key drugs - including one for poor people with HIV or Aids - have failed to impress the United States.

On May 22 the US Commerce Secretary Carlos Gutierrez demanded that Thailand abandon moves for compulsory licensing of several key drugs.

Speaking from Washington DC via a teleconference, Mongkol said the talks with Gutierrez and his team, ended on a negative note, as Gutierrez took an aggressive stance and acted as a representative of US drug firms to demand compulsory licensing moves be cancelled.

"We achieved nothing. From now on, the Commerce, Foreign Affairs and Public Health ministries will go ahead with the CL process," he said.

Carlos Gutierrez was one of three US key officials Mongkol and his team discussed the issue with. The other two were Ambassador John Veroneau, deputy chief of US Trade Representative (USTR), and Henry Waxman, a representative of the Democrat Party in California and chairman of the Committee on Examination of the Government's Performance.

Mongkol said only the talk with Waxman produced a positive result, as the latter promised to support Thailand's access to expensive medications, while Veroneau had just asked about the rationales in invoking compulsory licensing.

Vichai Chokewiwat, chairman of Government Pharmaceutical Organisation's board, who went with Mongkol, said that while Veroneau of the USTR had no doubts about legal aspects of Thailand's use of compulsory licensing, he wanted Thailand to think carefully again.

Vichai said he saw a little progress from the trip, but at least Thai representatives had the chance to explain its moves to both the legislative and executive branches of the US.

Moreover, he said, a good sign was that at least one drug firm supported Thailand.

Vichai said representatives of the California-based Gilead Sciences told Mongkol that the company had explained to the USTR that the use of compulsory licensing in Thailand did not affect the research and development or investments by the company.

The health authorities' trip to talk to US representatives from various sectors was scheduled after Thailand was strongly criticised by the American media and some Congress members for its use of compulsory licensing.

Mongkol invoked the move to allow cheap generic versions of two HIV/Aids treatments Lopinavir/Ritronavir and Efavirenz, plus a heart disease drug Clopidogrel to be imported for the Thai market. Shortly after, the USTR placed Thailand on its Priority Watch List, and claimed Thailand did not provide adequate protection or enforcement of intellectual property rights.

But the move won support from former US president Bill Clinton, plus other developing countries such as Brazil and the Philippines, which are now considering following Thailand's lead.

### 33. DTP join hand with Customs and DSI to rectify pirates goods in Thailand (from *Thai News Service*, 24 May 2007)

The Department of Intellectual Property has joined hand with the Customs Department and the Department of Special Investigation to revise copyright piracy after the United States has listed Thailand into its Priority Watch List (PWL).

The Director-General of the Department of Intellectual Property, Mrs. Puangrat Asawapisin, says her agency will have a discussion with the Royal Thai Police about the violation of intellectual property. The Department of Intellectual Property expresses concern after the Office of the United

States Trade Representative (USTR) has placed Thailand on the PWL. Meanwhile, listed of stores and businesses of pirated goods such as Baan Mo and Panthip Plaza were sent to the US.

In addition, the Department of Intellectual Property has cooperated with Department of Customs, and Department of special Investigation (DSI) to take strong actions and prevent intellectual property rights' infringement.

34. AIDS NGOs support compulsory licensing

*(from Organisation of Asia-Pacific News Agencies, 24 May 2007)*

Thailand's NGO Coalition on Aids (TNCA) on Wednesday issued a declaration in support of the Public Health Ministry's issuance of compulsory licensing (CL) for anti-Aids drugs and urging a boycott against the patent holders of HIV/AIDS medications.

"The Thai government should continue (with its plans) to exercise compulsory licensing and increase their cooperation with the Clinton Foundation and other 18 developing countries to increase their bargaining power against the pharmaceutical conglomerates," Supatra Nakhaphiew, president of TNCA said.

Supporting Health Minister Mongkhon Na Songkhla's movement, the declaration reaffirmed the Thai government position that CL would save lives of countless people with AIDS. It is necessary for humanitarian reasons as well as for the benefit of all Thai people, according to the NGO activist statement.

The statement also urged a boycott against Abbott, a major pharmaceuticals company holding patents on anti- AIDS medicines.

Striking back at Thailand over the CL issue, Abbott laboratories recently withdrew the use of their new anti-AIDS drug in the kingdom. "The foreign affairs and commerce ministries should cooperate their works in order to ensure the benefits of Thai people nationwide," Ms. Supatra said.

To promote better understanding among grass-roots people, the TNCA will produce leaflets to be distributed with the help of their 155 member organisations and networks nationwide.

The group will also open an English and Thai website. TNCA also plans a special forum on CL at the 11th National Seminar on HIV/AIDS to be held July 6 at Impact Muangthong Thani.

35. Govt considers revoking compulsory licence for Efavirenz

*(from Bangkok Post Newspaper, Prime News Section, Page 1, Thailand, 24 May 2007)*

The government is considering revoking the compulsory licence issued for a generic version of the HIV/Aids medicine Efavirenz after a promising start to informal talks with patent holder Merck & Co Inc in the United States.

Public Health Minister Mongkol na Songkhla said Merck representatives proposed several interesting options for the anti-retroviral medication which could lead to a win-win solution for both sides.

"Who wants to buy generic drugs for treating patients if the original drug is more affordable?" he said during a teleconference from the United States.

His unexpected comment came just one day after he said the trip to the US had failed to make any inroads into ending the disagreements between Thailand and US pharmaceutical firms.

Dr Mongkol did not give details of the options proposed by the New Jersey-based pharmaceutical firm but said it could be a good example for other drug makers whose patents for Aids and blood thinning drugs had been overridden.

Billy Tauzin, president and chief executive of the Pharmaceutical Research and Manufacturers of America, representing the leading US pharmaceutical research and biotechnology companies, also made it clear to the health minister that leading American drug firms remained deeply troubled by Thailand's use of compulsory licensing.

"Pursuing such drastic measures, as the Thai government has done, not only hurts the innovative engine that helps economies around the world prosper. Worse, it could also limit access to new breakthrough medicines for patients suffering from life-threatening diseases such as HIV/Aids and cancer," he said. "Clearly, Thai patients deserve better."

But Dr Mongkol argued that Washington had received misleading information about Thai policy.

#### 36. Thai downgrade not retaliation, says US

*(from The Nation Newspaper, Local News Section, Page 3A, Thailand, 24 May 2007)*

The US Embassy in Bangkok reaffirmed that the downgrade of Thailand's trade status was not a result of the Public Health Ministry's move to enforce compulsory licensing on certain drugs. Therefore, the downgrade will not affect Thailand's dealings with the Washington government.

Ambassador Ralph Boyce met with Commerce Minister Krirk-krai Jirapaet in an attempt to create understanding on several issues, including the downgrade of Thailand's trade status to Priority Watch List, compulsory licensing and the Foreign Business Act amendment.

Krirk-krai quoted Boyce as saying the US government would not impose "any retaliation measures" against Thailand's compulsory licensing and nor would the downgrading affect the upcoming revision of the Generalised Systems of Preferences (GSP) on Thai exports.

However, Boyce expressed concern on the rising number of piracy cases here, which was a major factor for the US when considering to downgrade Thailand.

Krirk-krai said the government had launched stringent measures to crack down on counterfeit goods in a bid to restore its trade status.

"What the government has launched to suppress piracy is a concrete and effective plan to stamp down on the violations," he said.

In addition, Krirk-krai warned Thai exporters not to rely too heavily on the GSP because it is a temporary trade benefit.

Trade under tariff privilege accounts for 20 per cent of total trade with the US. Exporters must develop their competitiveness rather than focus on impermanent benefits, he said.

#### 37. NSTDA says patents a key to innovation

*(from Bangkok Post Newspaper, Business Section, Page B3, Thailand, 25 May 2007)*

The National Science and Technology Development Agency (NSTDA) expects to register 70 patents this year, up from 50 last year, to spur science and technology development for business and industry.

The agency also aims to increase the number of patents by 50% to 110 in 2008, according to NSTDA president Sakarindr Bhumiratana.

Mr Sakarindr said that Thailand needed advanced technology development to remain competitive and to gain access to international patents.

The NSTDA and its partners produce a variety of medical and energy technologies. They include a new testing technology for the avian flu virus; a high-efficiency, low-cost solar energy generator; a material that can be used to build fuel cells for pollution-free motors; and a special nanotechnology substance for facial treatments.

Thailand holds very few patents and Mr Sakarindr said the country was falling behind other countries in its Research and Development indices.

The NSTDA launched a three-year programme called Fast-Forward to emphasise its urgent mission to accelerate the pace of innovation in Thailand. The agency has called for the government to issue the Science and Technology Act to help increase the national budget for R&D activities to 3% of the national budget each year.

If the government passes the Act, R&D budgets would increase by 2.5- to threefold from the current proportion, said Mr Sakarindr.

### 38. WHO backs use of compulsory licences

*(from The Nation Newspaper, Prime News Section, Page 1A&4A, Thailand, 25 May 2007)*

The annual meeting of all 193 member states of the World Health Organisation (WHO) ended in Geneva with a resolution to endorse the use of compulsory licensing to increase access to medicines.

The resolution came after a 10-hour heated debate between developed and developing countries. The resolution was welcomed by Thailand and Brazil as it was the first official WHO stance on the controversial issue since Thailand utilised the World Trade Organisation's (WTO) agreement on overriding intellectual property rights last November, followed by Brazil recently.

In its statement released yesterday, the WHO said its assembly resulted in commitments from its director-general to provide technical and policy support to countries to use compulsory licences to make existing medicines more accessible and to draw up a global strategy and plan of action on the issue.

The WHO's resolution came just three days after Thailand failed to clarify the use of compulsory licensing to the US government. The US commerce secretary took an aggressive stance and acted like a representative of US drug firms in demanding the cancellation of compulsory licences when Thai Health Minister Mongkol na Songkhla met him in Washington.

Kannikar Kijtiwatchakul, a campaigner from Medecins Sans Frontieres (MSF) Belgium in Thailand, said the resolution was a great success for developing countries in their battle to get access to medicines.

Kannikar claimed that the assembly also adopted a resolution to explore R&D incentive mechanisms and to address the link between R&D costs and the price of medicines, vaccines and diagnostic kits.

Besides agreements on public health, innovation and intellectual property rights, the WHO's member states also reached resolutions on pandemic influenza preparedness and access to vaccines and other benefits that would be shared among the members.

Chan, head of the WHO, said the sharing would flow from improved international cooperation and preparation. The resolution requires the WHO to establish an international stockpile of vaccines for H5N1 bird-flu and other influenza viruses of pandemic potential and to formulate mechanisms and guidelines aimed at ensuring fair and equitable distribution of vaccines at affordable prices.

#### 39. GPO to seek B1bn damages from US firm

*(from Bangkok Post Newspaper, Home News Section, Page 3, Thailand, 26 May 2007)*

The Government Pharmaceutical Organisation (GPO) is planning to demand one billion baht in compensation from the American lobbyist USA for Innovation for defaming its reputation and its Aids drug through newspaper advertisements.

The GPO's board unanimously agreed to also pursue the case in the civil court after filing a criminal charge against USA for Innovation last week, said board chairman Vichai Chokewiwat.

"We believe the newspaper adverts sponsored by USA for Innovation have affected the organisation's reputation and the sale of its GPO-VIR product," he said.

USA for Innovation early this month paid for a full-page advert in three Thai newspapers, stating that the organisation's GPO-VIR Aids drug has a high resistance rate of 39-58%, which is one of the worst cases of HIV drug resistance in the world.

The advert appeared shortly after the Public Health Ministry issued compulsory licences for the US-made Aids drugs Efavirenz and Kaletra.

#### 40. Ministry considers breaking two more patents

*(from Bangkok Post Newspaper, Home News Section, Page 2, Thailand, 29 May 2007)*

The Public Health Ministry is considering issuing compulsory licences for two more generic versions of expensive medicines, Public Health Minister Mongkol Na Songkhla said.

The move, however, would only be made after July 1, when the status of Thai exports on the US Generalised System of Preferences (GSP) list is announced.

The GSP, a tariff privilege to US trade partners in the developing world, is putting the brakes on the ministry's compulsory licensing of expensive US drugs.

It is feared any further action on US drug patents will put Thailand at a trade disadvantage to other exporters if important exports are taken off the list.

The USTR's decision to downgrade Thailand to its Priority Watch List of countries to be closely monitored for protection of intellectual property rights has been seen as punishment for the compulsory licensing moves.

However, the Thai Chamber of Commerce earlier denied there was connection between the two issues. It said the US would base its decision on economic factors. Thai export products such as jewellery, rubber, handcrafted flowers and shrimps could be taken off the GSP list.

"Thailand will announce compulsory licensing on no more than five drugs. We took three and there are two left," Dr Mongkol said. He did not name the drugs. Next in the queue would be cancer drugs. Compulsory licensing would be able to reduce the price of these medicines from around 3,800 baht a tablet to only 200 baht, he said.

41. Health minister: we won't be pressured anymore

*(from The Nation Newspaper, Local News Section, Page 2A, Thailand, 31 May 2007)*

Public Health Minister Mongkol Na Songkhla said a new version was due of a white paper explaining the government's compulsory licensing and that prices would now be considered in drug registration. Meanwhile, the Food and Drug Administration (FDA) said three foreign drug companies had postponed CL negotiations with Thai authorities until June 6.

Mongkol said the licensing was a measure to give Thais better access to drugs and that negotiations, based on previous experience, would in future be conducted from more firmer standpoint as the humble and polite way was not working.

"From now on, if anyone threatens or pressures us regarding the CL, we will not apply Thai humbleness to let them one-sidedly attack us," he said.

The new version of the report would include details of the ministry's explanation in New York, Washington and at the WHO meeting in Geneva.

Mongkol said a meeting on CL with the British Ambassador David William Fall was constructive and went well. He said the UK wanted to know if Thailand would continue implementing the CL because the UK also had many big drug companies. Mongkol confirmed Thailand would only issue CLs for necessary drugs. He said the UK had expressed satisfaction and support for Thailand's position.

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## MALAYSIA

1. Pirated software use declining in Asia

*(from Agence France Presse, 7 May 2007)*

The use of pirated software in computers in most Asian countries is declining but more enforcement is needed to make a significant impact on the problem, industry officials said.

The Business Software Alliance (BSA), which represents computer software and hardware firms worldwide, said figures showing the use of illegal software had registered a decline in countries such as China.

"The piracy rates have been decreasing but at a very slow rate. We just need to step up to try and make sure that it's a more significant drop," BSA's director of marketing for Asia, Roland Chan, told AFP.

Chan said the improvement was due to government agencies conducting more raids on companies using illicit software, and greater consumer awareness.

During the same period, illegal software use in Malaysia decreased marginally to 60 percent from 63 percent, which still represented a loss of 149 million dollars to the Malaysian economy in 2005, he said.

Malaysian enforcement officers Monday said they had doubled efforts to conduct raids on companies using counterfeit software, with 12 raids carried out in the first four months of this year, compared to 23 for all of 2006.

2. Watchdog calls for greater enforcement of software piracy law  
(from *Dow Jones International News*, 31 May 2007)

A global anti-piracy watchdog Thursday called for increased enforcement to combat computer piracy in Malaysia after giving MYR20,000 (US\$5,882) as reward to a local informer.

The Business Software Alliance said the tip-off by a Malaysian, identified only as Hisham, led authorities to seize 11 computers and 79 copies of suspected infringing software worth an estimated MYR350,000 during a raid in April on an architectural firm.

Sixty percent of software used in private businesses in Malaysia was illegal in 2006, the same as in 2005, said BSA anti-piracy director Tarun Sawney. This is slightly above the average 55% rate recorded in Asia-Pacific, he said.

"The piracy rate hasn't come down but revenue losses to software companies have increased to US\$289 million last year, from US\$149 million in 2005," Sawney said.

The increase in losses is due to stronger growth in computer sales and the use of higher-end software in the country, he said.

Current raids are mostly focused in Malaysia's biggest city, Kuala Lumpur, officials said.

Mohamad Roslan Mahayuddin, enforcement chief at the Domestic Trade and Consumer Affairs' Ministry, said authorities have conducted 15 raids on 26 companies this year and seized a total of 97 computers and 493 copies of unlicensed software worth MYR1.4 million.

Malaysia's copyright laws provide for maximum prison sentences of five years and a fine of up to MYR20,000 per infringement.

Sawney said the BSA offers a reward of MYR3,000 ringgit-MYR20,000 to informants, depending on the accuracy of the information, the size of the company raided and the value of unlicensed software seized. He couldn't provide details on how much the group paid out to informants in Malaysia and in the region last year.

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## SINGAPORE

1. US, Singapore see further cooperation in IP protection  
(from *Dow Jones International News*, 4 May 2007)

The United States and Singapore see greater potential for cooperation in the areas of intellectual property protection and recognition of professional degrees, said Singapore Prime Minister Lee Hsien Loong after meeting with U.S. Commerce Secretary Carlos Gutierrez in Washington.

Lee also urged the U.S. to build up its trading links with countries in Southeast Asia.

2. Singapore software piracy rate drops to 39%  
(from *The Straits Times Newspaper, Singapore, 16 May 2007*)

Singapore's software piracy rate fell for the fourth consecutive year last year, inching down to 39 per cent from 2005's 40 per cent. But the problem is still serious as the estimated value of illegal software in use here now stands at \$189 million, revealed an annual study released by software industry watchdog Business Software Alliance (BSA).

And while the rate drop should be cheered, the 39 per cent figure is higher than the world average of 35 per cent, said BSA Asia vice-president Jeffrey Hardee.

The study, in its fourth year, was commissioned by the BSA and conducted by global technology research firm IDC. It did not give a breakdown on where computers running pirated operating systems are, but IDC Asia Pacific vice-president for consulting Walter Lee believes most offenders are home users or small companies.

Mr Hardee believes that, with continued education and enforcement by both industry bodies like the BSA and the Government, the piracy rate 'could and should keep going down'. Just this February, a company in the video games industry here was busted for using pirated software. The case is under investigation.

3. Singapore collaborates with China to promote closer IP exchange  
(from *Channel NewsAsia, 28 May 2007*)

Some 240 government officials, business community representatives and intellectual property (IP) service providers from China are in Singapore to learn about the latest IP developments.

They are attending the 2nd China-Singapore Intellectual Property Conference, which organised by the Intellectual Property Offices of the two countries, it hopes to promote cooperation in the field of IP between China, Singapore and the ASEAN region.

During the one and a half day conference, participants will learn how they can use IP strategies to tackle challenges and explore arbitration as a means to resolving IP disputes.

Speakers will also share their experiences of expanding overseas and how they make use of IP to increase their market competitiveness.

In addition, they will touch on the various aspects of the Singapore IP regime as well as developments in the creative and digital media industry.

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## PHILIPPINES

1. US trade report puts Philippines on 'lower level watch list'  
(from *Davao Today, 2 May 2007*)

The Office of the United States Trade Representative (USTR) released the Special 301 Report, placing the Philippines and 29 other trading partners on the "lower level watch list". After staying on the priority watch list of the report for five successive years since 2001, the Philippines was relegated to the ordinary watch list in 2006.

“The report’s recommendations affirm the Philippine government’s consistent campaign against piracy and counterfeiting. This is a result of the collaborative effort among member agencies of the National Committee for Intellectual Property Rights (NCIPR), which has seized close to P4 billion worth of counterfeit goods to-date from its creation in 2005,” Atty. Adrian S. Cristobal Jr., Director General of the Intellectual Property Office of the Philippines (IP Philippines), said.

President Gloria Macapagal-Arroyo in her latest meeting with the NCIPR said, “Fighting piracy is fighting poverty because it enables Filipino excellence and enterprise to rise in the global arena, expanding opportunities and jobs along the way. Upholding IPR promotes diffusion of knowledge, develops local talent and creativity, and encourages more foreign investors to endow their strong qualities in the Philippine market.”

IP Philippines leads the coordination of NCIPR member organizations namely, the OMB, the Philippine National Police (PNP), the National Bureau of Investigation (NBI), the Bureau of Customs (BoC), the National Telecommunications Commission (NTC), the Department of Justice (DoJ), and the National Book Development Board (NBDB). It also organized private sector partners such as the Public-Private Partnership Council for Intellectual Property Rights (P3CIPR) to promote respect for IPR and curb violations against these rights.

“Removal of the Philippines from the watch list is still our end goal. This, however, will be a secondary effect of our long-term plan to improve the investment climate of the country through a more stringent IPR enforcement,” Cristobal said.

2. IP Philippines confab tackles piracy  
(from *Business World*, 3 May 2007)

The Intellectual Property Office of the Philippines (IP Philippines) and the World Intellectual Property Organization (WIPO), together with other partner organizations, recently held a conference with the theme "WIPO Sub-Regional Roundtable on Copyright-Based Business: Authorship, Publishing and Access to Knowledge."

Some 50 local authorities, publishers and organizations in the publishing industry, as well as delegates from six IP offices in Southeast Asia, participated in the event.

The participants discussed programs to address book piracy in the country.

"Book piracy deprives authors the fruits of their labor and stunts the growth of the publishing industry and the economy. Beyond economics, a robust publishing is imperative to preserve and promote our rich cultural heritage," said Adrian S. Cristobal, Jr., IP Philippines director-general.

To date, NCIPR has seized various items valued at more than P3.3 billion since the committee's creation in 2005. IP Philippines is the lead coordinating agency of NCIPR.

The National Book Development Board is a member agency of the committee.

Aside from enforcement, IP Philippines has been addressing the issue of book piracy at the policy level. "We are institutionalizing our copyright support services unit, which includes facilitating the establishment of collection societies for writers and other artists similar to what the Filipino Society of Composers, Authors and Publishers, has done for musicians," Mr. Cristobal said.

3. Philippines files petition to cancel Pfizer’s patent on hypertension drug Norvasc  
(from *The Associated Press*, 8 May 2007)

A petition was filed Tuesday to cancel Pfizer's Philippine patent on the anti-hypertension drug Norvasc after a U.S. court invalidated the company's rights over its second best-selling medicine.

The Philippine International Trading Corp., the government agency in charge of importing pharmaceutical products, argued before the Intellectual Property Office that the patent on amlodipine besylate — or Norvasc — should not have been granted to Pfizer Limited, the UK-based branch of Pfizer Inc., in 1990 because it was not a new product.

PITC acting head Teddy Rivera said voiding Pfizer's patent on the drug — with annual sales of 1.5 billion pesos (US\$31 million; €23 million) — would mean savings of up to 100 million pesos (US\$2 million; €1.5 million) a month for Filipino consumers, who could buy the cheaper, generic version of the medicine.

Cancellation of the patent before its scheduled expiry in June would also lead to the early dismissal of a lawsuit filed by Pfizer against PITC and the Bureau of Food and Drugs for patent infringement, Rivera told a news conference.

The suit was filed last year after the drugs bureau approved PITC's import registration for the generic version of Norvasc from Pakistan that is nearly four times cheaper than Pfizer's selling price of 45 pesos (US\$0.95; €70) for Norvasc.

4. RP piracy rate still the same since 2004  
(from *Business World*, 16 May 2007)

The piracy rate in the Philippines has basically remained unchanged for the last three years, a global study by the Business Software Alliance showed.

The study, conducted for the association by research firm International Data Corp. (IDC), put the local piracy rate at 71%, the same since 2004. Losses, however, increased to \$119 million from last year's \$76 million.

In a statement, BSA Philippines committee chairman Ronald Chua warned the unchanged software piracy rate was a "serious concern which should be promptly addressed".

"The lowering of software piracy rate continues to be a challenge. However, we hope that the sustained efforts from government agencies such as the Pilipinas Anti-Piracy Team will ultimately result in lower piracy rates," he added.

Local enforcement officials were not immediately available for comment.

5. RP supports move to cut drug prices  
(from *Business World*, 17 May 2007)

The Philippines has joined six other countries in accepting amendments to a World Trade Organization (WTO) agreement that would ease intellectual property rights rules to facilitate the importation of cheaper drugs.

The Philippines submitted its acceptance papers to the WTO last March 30, 2007, following six other countries: the United States (Dec. 17, 2005), Switzerland (Sept. 13, 2006), El Salvador (Sept. 19, 2006), South Korea (Jan. 24, 2007), Norway (Feb. 5, 2007), and India (March 26, 2007).

The amendment to the WTO pact - the Trade-Related Aspects of Intellectual Property Rights (TRIPs) – basically allows any member country to import and also export generic drugs made under a "compulsory license".

Compulsory licenses are given by governments to allow a third party to produce patented products or apply patented processes without the consent of the patent owner in times of national emergency or urgent public health concerns. Goods that are produced under a compulsory license, however, require just compensation to the patent holder and are generally limited for domestic use only.

The amendment - described as the "final piece of the jigsaw" to ease patent rules in favor of poorer countries - allows states with no capability to produce essential generics to import such in times of need.

The amendment, firmed up in December 2005, takes the place of an initial agreement last August 2003 among WTO countries and will take effect once two-thirds or 100 of 150 member countries accept it. The WTO's deadline for members to accept the accord is December 1, 2007.

In a precedent-setting move, Thailand invoked this agreement and import generic versions of the heart disease drug Plavix that effectively lowered costs to only six to 12 baht per pill from the branded \$3.50 price.

In the Philippines, Mr. Ochave said compulsory licenses were last granted decades ago and if one were to be sought today, would face stiff appeals from pharmaceutical firms.

Trade lawyer Raphael B. Madarang, research director at the Trade Advisory Services, said the grant of compulsory licenses are "politically sensitive" moves that might deter future investors - especially those who spend money to develop and patent specific products and technologies.

While the TRIPs agreement allows countries to interpret the degree of urgency that would merit the grant of compulsory licenses, the abuse of such could lead to a dispute at the WTO.

6. Levi's loses suit against garment producer  
(from *Manila Standard*, 21 May 2007)

The Court of Appeals has dismissed a petition filed by the producer of Levi's jeans seeking to hold a local garment manufacturer liable for unfair competition.

The Levi's maker accused the local firm of distributing and selling denim pants that closely resembled its products and trademark.

The CA's 13th Division, through Associate Justice Josefina Guevarra Salonga, sustained the June 1998 resolution of the Department of Justice, which found no probable cause to indict respondent Federico Lim, owner of F.R Pazzo Garments and Marketing Co., which manufactures "Lewis Strong" jeans, for violation of Article 188 of the Revised Penal Code.

According to the justice department, there is no possibility that the buying public would confuse the mark Levi Strauss from Lewis Strong. It noted that the trademark of Lewis Strong jeans is not confusingly similar to Levi's trademark.

In its 10-page decision, the court said there was no intention on the part of Lim to pass off its product as Levi's jeans, since his trade name was prominently and visibly printed on several parts of the leather patch.

In its complaint, Levi Strauss charged that Lim has infringed its registered trade name and its trademarks such as Levi's Two Horse Brand, Two Horse Patch, Two Horse Label; Levi's and Device, Arcuate Design, Tab Design, 501, Salmon Ticket and Levi's Button Design, in violation of Article 188 of the RPC.

But Lim asserted that the Bureau of Patents Trademarks and Technology Transfer approved the registration of his trademark after determining that it is not confusingly similar with the trademark of petitioner. He also denied copying Levi Strauss' marks and designs.

7. NBI seizes P10-M worth of apparels in Tondo and Pasay raids  
(from *Philippines News Agency*, 28 May 2007)

Some 10 million of worth of fake apparels such as caps and t-shirts were seized by agents of the National Bureau of Investigation (NBI) during a series of raids in Manila and Pasay cities.

Raided were three stalls purportedly owned by a Luis and Naty Chua and/or Regina Masibag Chua. The raided establishments were the Natys Cap and General Merchandise at 942 Kings Plaza Building 951 Juan Luna St., Tondo, Manila; 2W6, 2nd Floor Kings Plaza Building 952 Juan Luna St., Tondo, Manila City; 2W5 2nd Floor Kings Plaza Building 952 Juan Luna St., Tondo, Manila City.

Also raided were Helical Merchandising at A-33, 35 Baclaran LRT Shopping Mall, Taft Avenue Extension, Pasay City, Metro Manila. The establishment is allegedly owned by Amparo Sia Galviz and/or Moises E. Aragonés.

Lawyer Jose Justo Yap, chief of the NBI's Intellectual Property Rights Division (IPRD), said the raids were conducted following the complaints of the local distributors of BMW, Roxy and Quicksilver regarding the proliferation of fake products bearing their trademarks.

According to the operation report of Special Investigator Christopher M. Hernandez, seized during the operation were 815 pieces of counterfeit BMW caps, 413 pieces of counterfeit BMW t-shirts, 5813 pieces counterfeit Quicksilver caps and 152 pieces of counterfeit Roxy Caps.

The estimated value of the seized items was placed at more or less P10 million.

The owners of the establishments are facing charges of violations of Section 168 of Republic Act 8293 (Intellectual Property Rights Code of the Philippines).

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## INDONESIA

1. 2 Singapore firms in Batam raided for using illegal software  
(from *Channel NewsAsia*, 18 May 2007)

Two Singapore companies operating on the Indonesian island of Batam have been raided by Indonesian police for suspected use of illegal software.

The Business Software Alliance, which welcomes the move, said the raids took place as the companies have violated Indonesia's copyright law.

The two companies are suspected to have installed unlicensed software worth US\$500,000. The raids followed investigations prompted by tip-offs received through the BSA Hotline. During the

raid, Indonesian police seized one server and a total of 145 computers from the two companies and detained three managers for questioning.

Under Indonesia's copyright law, software copyright infringement for commercial purposes carries a S\$84,000 fine. A five-year jail term could also be imposed.

2. Indonesia 'still poor' at protecting intellectual property rights  
(from *The Jakarta Post Newspaper, Indonesia, 24 May 2007*)

The protection of intellectual property rights in Indonesia remains weak as signaled by a still-high piracy rate of over 80 percent, a business practitioner said Wednesday.

Anti Suryaman, license compliance manager for Microsoft Indonesia, said the country's piracy rate reached 85 percent in 2006, resulting in state losses totaling US\$350 million. Anti said that although the piracy rate had actually dropped 2 percent from 2005's figure, it had not improved Indonesia's image as a haven for product piracy and stolen ideas.

Based on a 2006 survey by the Business Software Alliance (BSA), Indonesia ranked as the eighth worst country in the world in terms of intellectual property rights protection, due mainly to its high piracy levels.

In the previous year's survey, Indonesia was ranked the world's third worst with a piracy level of 87 percent. Anti Suryaman said the proliferation of piracy in the country had caused many foreign investors to relocate their businesses elsewhere.

Data from the Investment Coordinating Board (BKPM) indicates that foreign investments dropped to 54.2 percent from the period of January to November 2006.

Surveys by the World Bank and the International Finance Corporation (IFC) in 2006 showed the country's competitiveness in drawing foreign investment ranked 135th out of 175 countries, a further drop from 131st in 2005.

Anti said, however, he is optimistic that the foreign investment climate will improve, insisting it could happen if the government was more serious about enforcing intellectual property rights protection.

"Upholding intellectual property rights would create new job opportunities and guarantee legal certainties, thus attracting foreign investors to the country. The government would also receive more tax because products sold on the market are legal and taxable," Anti said during a live radio discussion on SmartFM in Medan, North Sumatra.

Director of intellectual rights at the ministry's Directorate General of Intellectual Property Rights, Ansori Sinungan, said the process to register a patent now took 36 months and cost Rp 3 million. He said only 7 percent of the patents recorded at the directorate general had been registered by Indonesians. The remaining 93 percent belong to foreigners.

Ansori said the enforcement of intellectual property rights faces an uphill battle.

"We know it's easy to find pirated products in this country because original products are very expensive and people can't afford them. In the end, there's pirated products everywhere," he said.

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## VIETNAM

### 1. Local firms show interest in generic drug production

*(from The Saigon Times Daily, 3 May 2007)*

Local pharmaceutical producers are showing keen interest in production of generic drugs whose patents have expired as their production costs are lower, according to industry insiders.

Tran Thai Hoang, director of Imexpharm Pharmaceutical Joint Stock Co., said local drug manufacturers could save hundreds of millions of U.S. dollars given the right to freely produce and distribute generic drugs with expired patent.

Tran Trung Viet, director of the Pharmaceutical Management Office under the HCMC Department of Health, said local medicine makers failed to satisfy the demand of patients, with about half of the demand met by the local industry and the rest by imports.

“Thus, generic medicines with expired patent will be a key factor for dealing with surging medicine prices caused by the local market’s much import dependence?”, he said.

Nguyen Van Mo, director of HCMC- based Drug and Cosmetic Examination Institute, told the Daily on the phone that the ministry would issue regulations to force generic drug producers to submit quality control documents to the ministry.

The ministry has also asked the Central Drug Examination Institute and HCMC- based Drug and Cosmetic Examination Institute to release a quality control system for generic drugs this year.

An industry insider said that the system would help local companies enhance the quality of products as well as increase its competitive edge over foreign producers.

“However, the regulations will make local companies worried because some drugs will be rejected?”, he added.

To solve this problem, some local manufacturers have begun to modernize its facilities to meet Good Manufacturing Practice, or GMP, standards to produce high-quality drugs.

### 2. APEC SMEs discuss ways to improve IP activities

*(from Thai News Service, 10 May 2007)*

Vietnam has sent a delegation including representatives from the Ministry of Planning and Investment, the Vietnam Intellectual Property Office, the Consultancy Centre and Alpha Book Director Nguyen Canh Binh to a workshop in Bangkok.

The three-day workshop of APEC small- and medium- enterprises (SMEs) operating in intellectual property (IP) sector is scheduled to close on May 10.

Participants at the workshop will discuss measures to improve the effectiveness of IP in the operation of SMEs during their integration process and the need of ensuring IP in APEC member countries.

### 3. Comprehensive solutions needed to fulfil software patent commitments

*(from Thai News Service, 18 May 2007)*

In order to crack down on software patent violations, Vietnam should have comprehensive solutions for building strategic partnerships with foreign producers to develop the domestic software industry, according to information technology experts.

IT experts debated the occurrence of software patent violations in Vietnam during its international integration at a workshop in Hanoi on May 16. They shared the view that software patent violations will badly affect foreign investment in the country and the development of software products for local use and export.

There is no denying that software products are applied to almost all aspects of life, and have caused a revolution in labour efficiency for the entire society. However, the awareness and application of such products are not up to par.

According to software experts, the rate of software patent violations in Vietnam remains high although the number of violations has annually reduced by 2 percent over the past three years. Such violations have badly affected the development of software products for local use and export as well as inflows of foreign investment.

Some other experts say that despite a high rate of violations, the value of software patent violations in Vietnam is rather low compared to other countries in the region and the world. According to the Business Software Alliance (BSA), Vietnam's violations of software patents last year were estimated at US\$96 million to rank second after New Zealand in terms of low value in the Asia-Pacific region.

The ownership of copyright has become an important issue after Vietnam joined the World Trade Organisation to fulfil its commitments to protecting copyright and intellectual property. One of the primary solutions is to finalise the legal environment, increase management capacity of State agencies, and support the development of the software industry so as to increase the competitive capacity of software businesses. In addition, it is imperative to accelerate the implementation of open source software development and application projects in Vietnam.

4. Course on intellectual property rights opens in Hanoi  
(from *Thai News Service*, 21 May 2007)

Protecting intellectual property rights (IPR) is tantamount to safeguarding Vietnam's economy, said the Director of the Assistance for the Development of Exchanges in Economic and Financial Technologies (ADETEF) Vietnam, Emmanuel Lybatallan, at a training course in Hanoi, on May 17.

At the two-day course centred on IPR enforcement, law and intellectual property experts from France and the European Union (EU) present the requirements on trade related to IPR enforcement and protection in the EU while Vietnamese experts introduced temporary measures to seize counterfeit products.

5. US' Microsoft signs software deal with Vietnam ministry  
(from *AFX Asia*, 21 May 2007)

US software firm Microsoft Corp and a Vietnam government ministry have signed an agreement to use only licensed software from the US firm in a bid to reduce software piracy in the country, the two sides said in a statement.

Microsoft chief executive Steve Ballmer met Prime Minister Nguyen Tan Dung on a one-day visit during which both witnessed the signing of the agreement to use genuine Microsoft Office software in the post and Telematics Ministry.

The deal will make the ministry compliant with intellectual property (IP) protection rules, the statement said.

A recent survey by research firm the International Data Corporation found that Vietnam remains among the world's most software piracy-prone nations.

Business Software Alliance Asia vice president Jeffrey Hardee said the new initiative showed Vietnam was getting serious about reducing piracy.

"We anticipate that the Vietnam government licensing agreement of desktops could reduce the overall piracy rate in Vietnam significantly next year, resulting in perhaps one of the biggest single-year drops we'll see in the region as the Vietnam government broadens its intellectual property awareness and enforcement efforts," he said in a statement.

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## INDIA

### 1. Novartis asked to withdraw case (from *The Statesman*, 1 May 2007)

The Norwegian minister of international development, Mr Erik Solheim, has urged multinational pharmaceutical company, Novartis, to withdraw its case against India, according to an official communiqué here. India contributes in very significant ways to the overall production capacity for life saving generic drugs, with major exports to developing countries, the Norwegian minister, who is deeply engaged in efforts to fight poverty and in achieving the UN Millennium Development Goals, has said in a letter to Mr Daniel Vasella, managing director, chairman and CEO of Novartis International AG in Switzerland.

Novartis has filed a case in the Chennai High Court challenging the clause of the Indian Patent (Amendment) Act, which does not grant patents to medicines, which are new forms of an existing drug or ever-greened rather than innovations. The Patent Office in Chennai in February 2006 refused to give patent to the Novartis leukaemia drug called Gleevec.

### 2. New IPR rules soon for beefing up enforcement at borders (from *Business Line*, 3 May 2007)

The new IPR (Imported Goods) Enforcement Rules 2007, now awaiting final clearance of the Union Finance Minister, are expected to be notified within the next few days.

The IPR Rules are based on the model legislation drafted by the Geneva-based World Customs Organisation, followed by most member countries for border enforcement by customs.

Mr A.K. Raha, Member, Central Board of Excise & Customs (CBEC), Department of Revenue, said the new rules, under Section 156 of the Customs Act 1962, in addition to the Copyrights Act and Trademarks Act, would further strengthen border enforcement to prevent entry of pirated and counterfeit merchandise into the country.

He said the scope of enforcement was being expanded to include designs, geographical indications and patents, over and above copyright and trademark violations, which are covered under the existing rules.

Detention of suspect merchandise (on IPR violation) would be made by Customs at border points, and the matter would be proceeded against only if the right-holder (of the merchandise) joins issue. If the party declines to show interest, the consignment would be released by customs, said Mr Raha.

Pointing out that the new provisions would add strength to existing Customs provisions for better IPR protection, Mr Raha said detention of the merchandise would, however, not be beyond a total period of 20 days (in two phases of 10 days each).

On adjudication post-detention, Mr Raha said there was still no agreement on this among all member countries of WIPO, as some feel it was the role of the judiciary and not the customs authorities. Customs laws were different from IPR Law as the former applied strictly to offences against the State.

### 3. Villagers protest Biodiversity Law (from *Inter Press Service*, 7 May 2007)

A conservation-oriented law passed five years ago to preserve the diversity of India's flora and fauna has gotten bogged down by widespread protests from local communities.

The Biodiversity Act of 2002 says that natural resources should be protected, and that the benefits derived from them should be shared with local communities. It requires businesses to obtain permission from the government in order to acquire biodiversity-related patents.

The law also requires India's 28 states to set up Biodiversity Boards and Management Committees at a local village level and to create "people's biodiversity registers." The biodiversity registers then become directories of natural resources that record traditional and medicinal knowledge of plants and their compounds that has been used for centuries in the villages.

But the local communities that are the main repositories of the knowledge of this biodiversity say the new Biodiversity Rules -- formulated in 2004 -- do not allow them adequate control over the knowledge they share for documentation. Their knowledge is now in great demand for medicinal and industrial trade.

In April 2007, more than 2000 village governance institutions or Gram Panchayats in Tamilnadu, Andhra Pradesh, Uttar Pradesh, Orissa and Meghalaya States have submitted resolutions saying they will not cooperate with the Biodiversity Board unless given full control.

"Our knowledge is our heritage and not for sale. We shall not be compelled into any process that reduces it to a tradable commodity that can be privatized," said their memorandum.

"The Act actually endorses the current intellectual property patent regime, both by allowing permissions for it, and by exempting those seeking them under the Plant Varieties Protect Act," said Kanchi Kohli of the nationally-known NGO Kalpavriksh. But K. Venkatraman, secretary of the National Biodiversity Authority of India, based in the southern Indian city of Chennai said there are 27 existing laws linked to biodiversity to take care of legal issues.

### 4. Scramble to patent traditional knowledge in India (from *Bangkok Post Newspaper, Business Section, Page B3, Thailand, 14 May 2007*)

India is nearing completion of a voluminous reference work known as the Traditional Knowledge Digital Library (TKDL) that will allow western patent examiners to verify claims by people seeking to copyright, trademark or patent products and processes ranging from yoga to ayurveda.

The National Institute for Science Communication and Information Resources (NISCAIR) is putting the library together based on ancient transcripts in Sanskrit, Tamil, Urdu and Persian. It is to be made available in French, German, Japanese and several other languages so that patent examiners can cross-check whether an application for patent is an original innovation or a copy of what already exists in other parts of the world, in this case India, according to Indian government officials.

Traditional medicines and life sciences are becoming hugely popular in the West as part of the health and wellness craze, generating a new niche market clientele for the travel and tourism industry, as people seek out holistic, alternative therapies that stress prevention over cure.

The aim is to stop foreign practitioners and individuals, including Indian expatriates, from claiming copyrights. "Most of the misuse has been done by people of Indian origin living outside India and multinational companies. By the documentation, we hope we would be able to control it largely," according to V.K. Gupta, head of a task force set up to oversee the compilation work.

5. Aids drug prices to fall if Gilead fails to defend patent application  
(from *The Economic Times*, 15 May 2007)

Price of a crucial AIDS drug may fall further if Cipla and AIDS patients succeed in their challenge to a patent application filed here by US-based Gilead Sciences Inc.

Gilead Sciences Inc, which is set to defend its patent application for a block-buster AIDS drug before the government, has said that its Indian partners (10 Indian drug-makers) will not be required to pay the 5% royalty if it loses the case.

This is despite the fact that Gilead's agreement with the Indian drug companies was inked well before the patent office started examining its application.

The hearing at the patent office, initially scheduled for Tuesday, has been postponed for a few days on technical grounds. "We are confident that we would get patent for Viread which has patent protection in 30 other countries including the US," he said. "If we are granted a patent, there would be no change in the agreement with Indian companies.

They can continue to sell the drug in India and in 95 other countries for a 5% royalty. They are also free to make different dosage forms and combinations of the drug," he said.

The agreement is valid till the life of the patent (20 years from grant of patent), after which the partners need not give any royalty.

6. Move to stop Bollywood-Hollywood piracy  
(from *Indo-Asian News Service*, 18 May 2007)

The US-India Business Council (USIBC) has asked the Indian arm of Ernst & Young to study how entertainment and media piracy hurts India as part of its "Bollywood-Hollywood" anti-piracy initiative.

Announcing the move, USIBC President Ron Somers said since the business advocacy organisation rolled out this initiative with the Federation of Indian Chambers of Commerce and Industry (FICCI), it has been deluged with interest in how the US and India can work together to stop piracy in the entertainment and media industry.

"The contract with Ernst & Young in India is the logical next step. Ernst & Young will produce a professional study showing just how harmful entertainment and media piracy is to India, focusing on the harm to Indian employment and tax revenue, as well as the Indian citizens who work in this worldwide industry," he said.

"USIBC pledges to work in the near-term to halt piracy of Indian films right here in our backyard. How can we credibly hope to shine the torchlight on piracy in India if we ignore piracy of Indian films here at home?" he asked.

USIBC will provide responsible leadership of this initiative against all piracy of Indian entertainment, whether in India or North America," he said.

Greg Kalbaugh, director of intellectual property for the USIBC, will oversee the study.

The USIBC comprises 250 of the largest US companies investing in India and two dozen of India's largest global companies seeking to strengthen US-India commercial ties.

7. Software piracy in India drops by one percent  
(from *Indo-Asian News Service*, 19 May 2007)

India recorded a one percent drop in software piracy last year but this was lower than the rates achieved by China at four percent and Russia at three percent.

These are among the findings of the fourth annual Global PC Software Piracy Study released by the Business Software Alliance (BSA), an international association representing the software industry. India BSA chair Sanjay Gupta said, "A drop of one percent in the piracy level in India this year is definitely encouraging. However, the drop rate is low compared to the reductions achieved by China (four percent) and Russia (three percent)."

The study was conducted independently by IDC, the IT industry's leading global market research and forecasting firm, according to a release.

The study has revealed that 35 percent of the software installed in 2006 on PCs worldwide was obtained illegally, amounting to nearly \$40 billion in global losses due to piracy.

8. HC restrains local traders from using Sony trademark  
(from *The Press Trust of India Limited*, 20 May 2007)

The Delhi High Court has restrained three local traders from using the 'Sony' trademark on a petition from the Japanese electronic giant alleging that they were dealing in counterfeit products.

The interim order came on a suit filed by Sony Kabuishi Kaisha (Sony Corporation) through its advocate Praveen Anand for stopping infringement of its trademark and seeking damages to check piracy of Sony memory sticks in the national capital.

"On perusal of the pleadings and the documents filed by the plaintiff (Sony), I am of the view that the plaintiff has made out a prima facie case and irreparable prejudice would be caused to the plaintiff if an interim order is not granted at this stage," Justice Sanjay Kishan Kaul said.

The court had earlier appointed Local Commissioners to visit the premises of traders suspected of dealing in counterfeit Sony products. The commissioners raided the premises and recovered counterfeit Sony products.

After getting information that three traders were selling counterfeit products of Sony, the commissioners engaged decoy customers to purchase the product. It was found the products were being sold at a much lower rate. The counterfeiting was verified from a missing hologram which cannot be duplicated.

9. Japan to help India protect intellectual property  
(from *Jiji Press English News Service*, 24 May 2007)

Japan and India on Thursday signed an agreement on their cooperation in intellectual property protection.

Under the accord, Japan will support India's human resource development and other actions to enhance the protection. Among specific assistance measures is a program to train some 30 Indian officials each year.

The two countries also agreed to have their patent offices compile annual action plans for the cooperation. Helping India step up protection of intellectual properties would further facilitate Japanese firms' business operations in the fast-growing market, Japanese government officials said.

For more detail visit: <http://www.zeenews.com/znnew/articles.asp?aid=373244&ssid=50&sid=BUS>

10. India to protest grant of yoga patents by US  
(from *The Times of India*, 30 May 2007)

The Indian government has decided to lodge its protest against yoga-related patents issued by the US Patents & Trademarks Office. While the health ministry has decided to take up the issue directly with USPTO, the commerce department is writing to the US Trade Representative against what it sees as a violation of rights over traditional knowledge.

If the move fails to impress USPTO, government is prepared for a legal battle to get the patents and trademarks vacated.

Officials said government was of the opinion that USPTO has been careless in granting patents and trademarks in matters related to traditional knowledge.

While details of a counter-offensive by government are still being worked out, sources indicated that a protest was the first line of attack. There is a digital traditional-knowledge library, which has enough reference material, and a proper search should be done before USPTO grants a patent, India is telling the US authorities.

US-based Bikram Choudhury has applied for a patent of yoga practised in a steam-room. USPTO is learnt to have issued 150 yoga-related copyrights, 124 trademarks on yoga accessories and 2,315 yoga trademarks so far.

11. Panel report on data exclusivity for drugs today  
(from *Business Line*, 31 May 2007)

The committee looking into issues of `data exclusivity' for pharmaceuticals is likely to submit its report on Thursday.

According to sources in the Industry and Ministry of Chemicals and Fertilisers, the Chairperson, Ms Satwant Reddy, who retires as Secretary, Dept of Chemicals and Petrochemicals on Thursday, will submit the report to the Commerce Secretary, G K Pillai.

The committee was to consider allowing for protection of undisclosed data against unfair commercial use under Article 39.3 of the TRIPS (Trade Related aspects of Intellectual Property Rights) agreement.

Introducing `data exclusivity' clauses into the Indian Drugs Cosmetics Act, 1940, will allow successful applicants five years protection, like it is done in the US. Both multinationals such as Pfizer, and Indian companies such as Nicholas Piramal believe that it is time India adopted stronger IPR laws.

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## PAKISTAN

1. Pakistan 5<sup>th</sup> among 20 states with highest piracy rates  
(from *Business Recorder*, 7 May 2007)

Pakistan ranks at number five among the top 20 countries with the highest piracy rates while Vietnam with 90- percent piracy rate is ahead of all countries in the world. Piracy rate in Pakistan is on declining trend over the last 12 years, which moved down from 96 percent in 1994 to 86 percent in 2005.

If Pakistan is to achieve the maximum economic benefits of software development, the piracy level must be brought down drastically, said Aly Harakeh, a spokesman of Business Software Alliance (BSA) while talking to Business Recorder.

"Once the piracy is reduced, a greater amount of foreign investment will come to Pakistan from the BSA member companies," he added. Prior to year 2005, Pakistan had become one of the world's leading producers and exporters of pirated optical discs. The country had been identified as a major source of infringing products and harming markets in USA, Europe, Middle East and Africa, he added.

The international software companies are reluctant to share their "source code" with a company, if they suspect that their intellectual property will be pirated. Therefore, when software houses belonging to a country like Pakistan with a high piracy rate of 86 percent bid for foreign projects they are at a disadvantage, he opined.

Pakistan was also placed on the Priority Watch List of the United States Trade Representative (USTR). The USTR has created a "Priority Watch List" and "Watch List". Placement of a trading partner on the Priority Watch List indicates that particular problems exist in that country with respect to IPR protection or enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of increased bilateral attention concerning the problem areas, he maintained.

## 2. IP rights in Pakistan

*(from Business Recorder, 16 May 2007)*

Multi-national Companies (MNCs) have an objective of increasing investment in Pakistan, in improving its economy and act as ambassadors to attract FDI, but stressed that a continued weak IPR environment was not a positive message to investors.

Major IPR issues included the availability of counterfeits, Patents infringements, slow progress on mail-box applications and the absence of Data Exclusivity Law as per TRIPs Article 39.3.

He stated that counterfeit medicines posed health and safety risk to consumers and severe penalties should be included in the laws against violators as present penalties were meagre. He showed report of a survey that was published in British Medical Journal, a medical journal of esteem repute, in February 2004 that stated that nearly 40-50 percent of medicines available in the market in Nigeria and Pakistan were counterfeits.

Setting up a special IPR Investigation Force for quick investigation and establishment of special IPR Tribunals for speedy trials were recommended. Patent Ordinance 2000 should be restored as the present Amendments 2002 is not TRIPs compliant and should therefore be repealed.

Citing examples of copies that have been registered in violation of patent rights, he emphasised Patent linkage needs to be incorporated in the Drugs Act 1976 to ensure that registration of copies of patent products do not result in patent infringements, and rights of the patent owner are upheld. He reinforced that the rights of the patent holder should be honoured by Ministry of Health at the time of registration of copies, as patent rights were granted by the Government of Pakistan.

The process of granting of patents related to Mail Box application also needs to be expedited as till now only 20 patents have been granted and of these only one is a product patent.

There should be a Law on Data Exclusivity (DE) as per TRIPs Article 39.3. In the absence of a DE Law, local manufacturers were using the scientific data of Originals while submitting registration applications of their copies with Ministry of Health (MOH) and MOH was relying on this data in granting registration to copies.

It takes nearly 15 years to bring a molecule to the market as a drug, at a cost of over 1.4 billion US dollars, and nearly 41 percent of this amount was due to expenses incurred in conducting extensive safety and efficacy studies. WHO did not require extensive studies on generics provided validated Bioequivalence data was submitted in comparison to Original.

This supports the fact that a strong IP regime encourages development of local R&D, and if demonstrated in USA, there was little reason to believe why this would not follow suit in Pakistan.

IP rights were rights of any investor who has dedicated time and resources in bringing out a discovery/invention and it should not be perceived as an issue of Local versus Multinationals. We should look forward to the time when the local industry, through development of their R&D, would be submitting patent application for their discoveries.

Regarding patent protection resulting in monopoly by MNCs and thereby result in high price of drugs, it needs to be remember that the pharmaceutical market was highly regulated by the Government and prices of all drugs are fixed by Ministry of Health and no Company could arbitrarily fix the price of its own medicines.

3. Most should plan to boost international patent  
(from *Business Recorder*, 20 May 2007)

Ministry of Science and Technology (MoST) should formulate and implement a plan to improve the number of international patents filed by Pakistanis and Pakistani organisations. It should recommend ways to increase investment in R & D as a percentage of GDP, said Arthur Bayhan, Chief Executive Officer of the Competitiveness Support Fund.

The CSF delegation made a special presentation to the Ministry of Science and Technology attended by Abdul Basit, Joint Secretary of the Prime Minister's Special Programme Wing, Ministry of Finance and Noor Aftab from the Board of Investment, says a press release.

The meeting was chaired by Pervez Butt, Secretary Ministry of Science and Technology. He informed the CSF delegation that the ministry is playing a crucial role to improve the competitiveness of the country. He also appreciated the contributions of USAID Pakistan for its role in promoting science and technology and its role in economic growth. He also told the CSF delegation that Pakistan needs indigenous industrialisation rather than the imported industrialisation.

The ministry of science and technology would like to seek assistance from the CSF on its recent studies on the motorcycle industry and the food safety and standards. He told the CSF delegation studies would help the Pakistan Standards and Quality Control Authority (PSQCA) in as case studies for capacity building purposes.

4. Action against piracy to start from June 1  
(from *Business Recorder*, 24 May 2007)

Business Software Alliance (BSA) has reminded all companies that the 35-day grace period it offered them for getting licensed software, without paying penalties for the past infringement of copyright law, would end on May 30.

A spokesman of BSA said that the grace period had provided both national and multinational companies an opportunity to install licensed software, without being raided by the police.

BSA is a group formed by world's leading software producers to combat piracy. He said it would resume its anti-piracy activities from June 1, 2007 against all companies not complying with the copyright law. This anti-piracy organisation is working in cooperation with the government, FIA, police, Intellectual Property Organisation of Pakistan and customs to check software piracy in the country, he added.

He said that legal software was beneficial to businesses in many ways, as it provided immunity from viruses that could completely destroy the valuable data saved on the hard disks. The pirated software's inadequate number of programme files could also result in system crashes besides creating other problems for them, he added. BSA, he said, had also established a special help line in Karachi to help people get the legal software.

He said piracy amounts to theft of intellectual property of an individual or a company, which produced it and could cost in fines up to Rs 100,000, confiscation of equipment used for unauthorised copying and imprisonment up to three years. BSA had halted its copyright law enforcement activity in Pakistan since April 26, to give the users of pirated software a grace period to become legally compliant.

5. BSA extends deadline for companies till June 15  
(from *The Nation Newspaper, Thailand, 30 May 2007*)

Business Software Alliance (BSA) announced Wednesday that it would not take legal action against the companies using pirated software for another 16 days in Pakistan.

“BSA is more than happy to extend the truce till June 15, encouraged by the positive response it has received from the business community during the last 35 days,” said a BSA spokesman here in a press statement. Earlier, the BSA in its fight against pirated software users had announced a 35-day grace period for all the companies to install licensed software on their computers, without the risk of police raids, legal action and penalties, which ended on May 30.

“The grace period extension would ensure that all the companies have a fair chance to comply with the law and that they get the legal software penalty free,” the spokesman said.

6. Better compliance demanded from Pakistan  
(from *Business Recorder, 31 May 2007*)

The United States and the European Union (EU) want Pakistan to have better compliance of Intellectual Property Rights (IPR) laws. Issues relating to IPR, which have lately assumed serious proportions were discussed at the second national seminar on intellectual property rights organised by PCSIR.

Engr. M.A.Jabbar, former Vice-President, FPCCI and Incharge WTO Resource Centre highlighted that as a consequence of pressures from major trading partners, Intellectual Property Organisation was established in 2005 under the control of cabinet to deal with the subject in an effective manner.

Pakistan, he said is seeking Free Trade Agreement with the US and the EU as well as wants to sign bilateral investment treaty and seek GSP plus concessions for which it has to crossover the barrier of the blame it owns in respect of its bad track record in the watch lists.

Moderate enforcement of IPR is need of the hour in Pakistan, he said adding that awareness about the laws relating to copyright, patent and trade mark was required. The critiques say that IPR is intellectual monopoly and the laws are so stringent that they hurt the public interest more than they help.

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## TURKEY

Turkey delinquent on intellectual property rights  
(from *Turkish Daily News, 3 May 2007*)

Turkey was listed among the top 12 delinquent U.S. trading partner countries for lacking protection or enforcement of intellectual property rights (IPR) in the “Special 301” report released by the Office of the U.S. Trade Representative.

Countries on the Priority Watch List do not provide an adequate level of IPR protection or enforcement, or market access for persons relying on intellectual property protection. In addition to Turkey, 11 countries are on the PWL in this year's report: Argentina, Chile, China, Egypt, India, Israel, Lebanon, Russia, Thailand, Turkey, Ukraine, and Venezuela. China and Russia were highlighted as the top offenders.

As the scale of production and trade in pirated and counterfeit goods continues to expand globally, Special 301 constitutes a critical policy tool for pinpointing problems, and provides a basis for constructive engagement with U.S. trading partners in order to address these challenges.

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## ISRAEL

### Better IP protection required to enter OECD

*(from Israel Business Arena, 1 May 2007)*

The Bush administration has hinted that Israel's admittance to the Organization for Economic Cooperation and Development (OECD), a key target of the Ministry of Foreign Affairs and the Ministry of Industry, Trade and Labor, is contingent on Israel's willingness to tighten its supervision of intellectual property rights.

In its "2007 Special 301 Report" published yesterday, the Office of the US Trade Representative said that "the US looks to Israel to provide a higher level of protection that reflects its status as a partner in the US - Israel FTA and its objective of becoming a member of the OECD."

Israeli sources told "Globes" yesterday that this statement would appear to imply that the Office of the US Trade Representative has decided to respond to pressure from the Pharmaceutical Research and Manufacturers of America (PhRMA), which has been consistently pressuring the administration to take punitive action, or at least increase the pressure on Israel for what it describes as a lack of adequate protection for the intellectual property rights of US ethical drug manufacturers operating in Israel.

However, the Office of the Trade Representative also commended Israel for informing it of the steps it has taken to prevent the use of ethical drug companies' data which were submitted to the Ministry of Health, as a basis for obtaining licenses to export generic versions of ethical drugs. "This is a positive step towards addressing the US's concerns on this issue. However, the US remains concerned by the weak protections offered by Israel to pharmaceutical innovators," it added.

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## UNITED ARAB EMIRATES

### Dubai Customs workshop emphasizes customs' role against business fraud and counterfeit

*(from Middle East Company News, 10 May 2007)*

Following their fully fledged campaign to raise the awareness on the danger counterfeited and fake goods and complementing the launch of their comprehensive media campaign on intellectual property rights, Dubai Customs organized with the Ministry of Economy a workshop on 'The Role of Customs in fighting business fraud and counterfeiting'.

The event was attended by representatives from different Customs administrations and governmental bodies.

Mr. Mohammed Bin Fahd Al Muhairi, the Director General of the Federal Customs Authority inaugurated the workshop with a speech focusing on the challenges that face the countries from business fraud and counterfeiting, stating that they affect the economic prosperity and calling upon the nations to cooperate in order to curb this phenomenon.

From his part, Mr. Abdullah Al Hussein, the Director of the Monitoring Department at the ministry of Economy said in his speech that the UAE is keen on curbing the business fraud and counterfeiting by harnessing all its efforts to preserve the economy and the consumers from the dangers of these goods.

The intervention department at Dubai Customs presented during the workshop the methods used to control the goods according to the rules and regulations. The sessions of the workshop focused also on methods used to fight business fraud, protecting intellectual property rights and controlling the flow of faked products on the port of entries.

It is worth noting that Dubai Customs confiscated in the first quarter of this year 23,643 pieces of fake products and issued 81 confiscation reports. The amount of the confiscated goods exceeded 7 million Dirhams.

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## KUWAIT

Software piracy rate in Kuwait improves slightly  
(from Associated Press Newswires, 26 May 2007)

The rate of software piracy in this small oil-rich Gulf state declined 2 percent last year, but almost two out of every three computers still use illegal software, a piracy watchdog said.

Much more needs to be done to reduce the 2006 piracy rate of 64 percent, including public awareness initiatives and the creation of "strong and workable" local anti-piracy laws, the U.S.-based Business Software Alliance said in a statement.

The group quoted a recently published study by independent market researcher IDC as saying software piracy in Kuwait "experienced a two percent decrease between 2005 and 2006, protecting more than US\$5 million in software revenue."

Kuwait was one of 15 Middle East countries to experience a decrease in piracy rates in 2006, the BSA said. Losses from software piracy in the Middle East totaled almost US\$2 billion (euro1.5 billion) in 2006, an increase of US \$382 million (euro284 million) from 2005, it added.

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## LEBANON

US report raps Beirut for failing to halt piracy  
(from Daily Star, 4 May 2007)

Lebanon was among the 12 countries targeted by the Bush administration for failing to crack down on piracy and copyright violations in the US Trade Representative's annual report on protection of Intellectual Property Rights (IPR) released this week. Though the Special 301 Report noted some "positive movement in 2006" by the government's newly formed IPR task force, Lebanon's inclusion on the 2007 "Priority Watch List" for the third year in a row does not bode well for its stalled-WTO accession, and could drive the US to impose sanctions on Lebanese exports in the future.

In the fall the cyber-crime unit - created by the Economy and Trade Ministry but under the mandate of the Internal Security Forces - resumed limited raids on stores and the confiscation of pirated

movies, music and software, but by all accounts both the unit's capacity and the government's willingness to crack down on IPR violations has waned in Lebanon's increasingly tense political climate.

"The main reason Lebanon has been on and off the Priority Watch List for years is enforcement," said Aly Harakeh, a spokesperson for the Business Software Alliance, a private sector coalition that lobbies the government for IPR protection.

"Since the conflict the momentum of the cyber-crime unit has slowed. They have been active in Beirut in neighborhoods that are easy to handle, but have stayed out of regions requiring a great deal of negotiation, and the pirates are taking advantage of this," he added.

While Lebanon has IPR legislation - the copyright law was passed in 1999 and patent legislation followed in 2000, though the trademark law dates back to 1924 - the US Trade Commissioner says enforcement is weak. The report cites the widespread availability of pirated optical discs and rampant cable piracy, problems with the registration of copycat pharmaceuticals, and persistent counterfeiting of trademarked goods as the reasons behind Lebanon's inclusion on the latest priority watch list.

Indeed, the arbitration of IPR violations is largely responsible for endemic piracy in Lebanon, argued lawyer Walid Nasser - whose law firm has tried at least 20 copyright infringement cases since 2000 - ranking it "if not number one in the Middle East, then number two" in terms of violations.

Nasser estimated each IPR case involves a minimum of four to five years of litigation, and the average penalty imposed by the court system is a fine ranging between LL2 million and LL3 million. The government only takes action against IPR violations on the basis of complaints filed by the private sector.

Though the cost of litigation varies from case to case, said Nasser, in general it is much higher than piracy fines imposed by the courts.

"Judges do not realize that piracy is not just a matter of recording a video, but causes major damage to the economy overall," he said.

The IPR industry only contributed 1 percent of Lebanon's GDP in 2006, but the absence of copyright protection deters foreign investment and is one off the main delays to the country's WTO entry.

"The government needs to say this is illegal, we give pirates a grace period of a month or two and we will crack down," offered Nasser.

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