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SUBJECT: BERLUSCONI GOVERNMENT AND IPR -- FIRST SIGNS OF LIFE

Classified By: DCM Elizabeth Dibble for reasons 1.4 (b,d) First Signs of IPR  
Direction under Berlusconi Government

¶1. (C) Summary: Fabrizio Mazza, head of the Intellectual Property Office at the Ministry of Foreign Affairs, hopes to see the GOI form an interministerial committee to deal with IPR, particularly Internet piracy, and would also like to see discussion of Internet Piracy featured in G-8 meetings during Italy's presidency. He warned, however, that Italian officials are still angry because they believe the language of the 2008 Special 301 report did not acknowledge Italian IPR efforts. Mazza admitted that IPR protections are still lacking, but added that future progress could be difficult, in that policy makers saw their efforts to bring IPR problems to the attention of the public and judiciary go unremarked. He also predicted that ACTA negotiations will not result in a text by the end of 2008. End Summary

¶2. (U) This is an action request. Please see paragraph 7.

¶3. (U) Econoff met Oct. 23 with Fabrizio Mazza, head of the Intellectual Property Office in the Ministry of Foreign Affairs. Mazza also served in this capacity under the Prodi government.

- - - - - SPECIAL 301 REPORT - NO CREDIT TO ITALY  
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¶4. (C) Mazza said that key GOI officials are angry about the language of the 2008 301 Report. Prior to the last 301 report, he said, Italy put a great deal of effort into getting the ""buy in"" that will allow real change. Raising discussions of the issue to higher levels of the government was an important part of this, said Mazza. As a result of these efforts, senior government officials had begun to pressure judges to impose tougher sentences for IPR-related crimes, something that is particularly difficult politically. While Mazza claimed no one expected Italy to come off the watch list, he said GOI officials did expect recognition for their efforts. He specifically cited the fact that China was lauded more forcefully for its IPR protection efforts than Italy.

¶5. (C) In Mazza's view, efforts to get higher level officials engaged in IPR were working, but those same officials were taken aback by what he called ""the harshness"" of the 301 report's language. Mazza is eager to continue pushing for action on IPR protection but indicated that reaction to the report has made it harder to motivate other officials to continue these efforts.

- - - - - HOPE FOR THE FUTURE - - - - -

¶6. (C) Despite reaction to the 301 Report, Mazza says he is primed to begin a new IPR push. He wants to see the formation of an interministerial committee to deal with piracy issues. He envisions starting a dialogue with Internet Service Providers. He also envisions creation of some kind of warning or ""cease and desist"" system targeting unlawful downloading. He asked that the USG engage at higher levels to support the formation of such a committee. He also said he would like to see a discussion of Internet Piracy introduced into the G-8 during Italy's presidency. He noted this would need approval from PM Berlusconi, and he implied that U.S. encouragement would help.

¶7. (SBU) Action Request: Mazza seems to be sounding out a U.S. opinion on injecting IPR and Internet piracy issues into the G-8 process. Post seeks guidance on how to respond in discussions regarding IPR and the G-8.

- - - - - EU COUNTRIES WILL ASK  
FOR SLOWDOWN IN ACTA NEGOTIATIONS - - - - -  
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¶8. (SBU) Mazza does not expect an Anti-Counterfeiting Trade Agreement (ACTA) text by the end of the year. Summer, or even fall, of 2009 is the earliest he imagined an agreed-upon text would be possible. In his view, European countries are likely to ask for a slowdown in negotiations because of ROME 00001337 002 OF 002 opposition to the EU commission's involvement in negotiating portions of the treaty, disagreements over the confidentiality level of the negotiations, and the absence of geographical indications from the agreement.

¶9. (SBU) Mazza said member states are opposed to the EU Commission negotiating matters related to criminal enforcement. Mazza observed that member state competency in this area would make it more appropriate that these points be negotiated by the EU member state holding the rotating presidency. He said the United Kingdom and Scandinavian countries are particularly heated in their opposition to the Commission's involvement on these points, but that Italy is also opposed.

¶10. (SBU) The level of confidentiality in these ACTA negotiations has been set at a higher level than is customary for non-security agreements. According to Mazza, it is impossible for member states to conduct necessary consultations with IPR stakeholders and legislatures under this level of confidentiality. He said that before the next round of ACTA discussions, this point will have to be renegotiated.

¶11. (SBU) According to Mazza, ACTA is a de facto ""TRIPS Plus"" in the view of many European nations, yet ACTA does not address geographic indications, which is addressed in TRIPS. He said it's ""only a matter of time"" before a European delegation points out that this upgrade to TRIPS addresses the key American issues of piracy and counterfeiting but ignores the key European issue of geographical indications. He indicated that this omission would not be a deal breaker, but would slow negotiations.

- - - - COMMENT - - - -

¶12. (C) Though Mazza complains about the USG's supposed failure to recognize Italy's progress, a look at what he is proposing -- another committee -- demonstrates that Italy is still a long way from taking the kind of enforcement actions needed to get off the Special 301 list. 13. (C) Nevertheless, we think Mazza is trying to get the GOI to improve enforcement; we should help him. The fragmentation of IPR protection responsibility in Italy means that for any real action to take place, officials on many levels from many offices must sign onto the process. Mazza is motivated to push for IPR action, but he does not have the power to make things happen on his own. He is struggling to get the attention of his superiors, primarily the IPR Delegate. Italy's current IPR Delegate, Mauro Masi, also serves as Secretary General of the Prime Minister's Office and is well placed to push for real progress on the IPR front. We dealt with Masi on this issue under the Prodi government and he is well aware of our concerns and of the several areas where progress in IPR protection is expected. The Embassy is about to take this issue up again with Masi in an effort to kindle more policy interest in the Berlusconi government so as to secure commitments in publicly enunciated policy, popular education on the issues, enforcement, and benchmarking of progress.

End Comment. SPOGLI