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**Council for Trade-Related Aspects
of Intellectual Property Rights**

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TECHNICAL COOPERATION ACTIVITIES: INFORMATION FROM DEVELOPED COUNTRY MEMBERS

United States

Supplement

The present document reproduces additional information that has been received from the delegation of the United States on their technical and financial cooperation programme in the area of intellectual property relevant to the implementation of the TRIPS Agreement.

TECHNICAL ASSISTANCE IN INTELLECTUAL PROPERTY PROVIDED BY THE UNITED STATES DEPARTMENT OF JUSTICE

The Department of Justice recognizes the need for strong domestic enforcement of intellectual property laws, and the corresponding need to assist foreign countries with the fulfilment of their own enforcement objectives. In the United States, attorneys from the Department and the United States Attorney's Offices routinely provide investigative assistance in intellectual property cases to agencies such as the Federal Bureau of Investigation (FBI) and the United States Customs Service, and ultimately prosecute the resulting cases in federal court. Criminal Division attorneys have also been influential in shaping recent legislative proposals designed to ensure the continuing viability and enforceability of intellectual property rights in electronic environments. Recently, attorneys from the Criminal Division have also assumed an expanded international role by providing prosecutors, judges, legislators, and other concerned government officials from a number of countries with legal advice, training and assistance.

Domestic Enforcement Role

The Federal Bureau of Investigation and the United States Customs Service are primarily responsible for investigating violations of our laws against criminal copyright infringement and trademark counterfeiting. These investigations are then brought to the Department of Justice and the United States Attorney's Offices to render decisions on the prosecutor merits of each criminal matter, and to prosecute the resulting cases. Attorneys from the Department's Criminal Division play an integral role in the investigation and prosecution of intellectual property offences. Attorneys from the Division's Computer Crime Unit, for example, will soon be providing the United States Attorney's Offices with updated versions of the Division's intellectual property prosecution manual to facilitate the prosecution of copyright infringement and trademark counterfeiting violations and to respond to questions that arise from changes in the law and prevailing technology.

Intellectual Property Rights in Electronic Environments

There are now a number of ways that copyrighted materials can be transferred electronically. International computer networks like the Internet can be used to duplicate and transmit many forms of copyrighted works to hundreds of individuals in seconds, even without the knowledge of the lawful owner. The premature or otherwise unauthorized release of a single digitized copy of a valued work can result in the almost immediate reproduction and distribution of hundreds of thousands of infringing copies. This unauthorized distribution can destroy markets for new products before they have ever been released, and can put to waste years of thought and research and millions of dollars in development of novel works and products.

We have thus made concerted efforts to keep federal laws ahead of the "technology curve" to facilitate the protection of copyrighted digitized works. Congress' late 1992 amendments to the criminal copyright scheme now enable the Government to bring felony charges against those involved in software piracy and infringement of other copyrighted works not covered by the prior legislative scheme. Department attorneys have been instrumental in proposing to Congress new legislation aimed at enhancing protection for copyrighted works in electronic environments, and at achieving additional deterrence through improved sentencing schemes.

International Training and Assistance

Increasingly, the Department has been asked to step outside of its more traditional domestic enforcement role to assist the Administration in important international objectives relating to the protection of intellectual property rights. Last year, for example, the United States Attorney General was asked by Mexico to offer recommendations relating to enhanced protection of intellectual property rights. The Attorney General was able to offer substantive recommendations in four discrete areas: civil enforcement, criminal enforcement, border control, and continuing cooperation.

Attorneys from the Criminal Division and the Computer Crime Unit have been regularly called upon to provide education and training in the investigation and enforcement of criminal copyright infringement, trademark counterfeiting, and other forms of crimes against intellectual property. To date they have made presentations to delegations from India, Italy, Russia, Thailand, Hong Kong, the Philippines, Australia and Taiwan, and have played an active role in assisting the Office of the United States Trade Representative with respect to its objectives in China.

Criminal Division Involvement in China

In 1994, the United States Trade Representative (USTR) requested Department of Justice assistance in consultations with Chinese prosecutors, judges and other high public officials to establish and enforce criminal protection for intellectual property rights. In February 1994, officials from the Criminal Division of the Department of Justice travelled to Beijing, to deliver presentations to Chinese officials at seminars addressed to intellectual property rights enforcement. In December 1994, they met with key members of China's State Council and Supreme Court. In July 1995, they served as instructors in the joint FBI/Customs Seminar on Intellectual Property Rights Enforcement that was held for the benefit of approximately 40 high-level officials of the Supreme People's Procuratorate. During the week, they delivered a presentation on the United States legal system and the prosecution of intellectual property offences.

The Office of Professional Development and Training (OPDAT)

The Criminal Division of the Department of Justice has also been involved in ongoing international training initiatives. Through the Office of Professional Development and Training, the Criminal Division is currently coordinating a variety of judicial and prosecutorial training programmes outside the United States.

In La Paz, Bolivia, for example, OPDAT has stationed a Criminal Division attorney and support staff and is developing a training programme for Bolivian prosecutors in conjunction with the Bolivian Attorney General. Spanish-speaking Assistant United States Attorneys and others with prosecutorial experience have been recruited by OPDAT and are presenting programmes to Bolivian prosecutors. As a result of OPDAT's operations in Bolivia, OPDAT has been requested to undertake a similar training programme in another Andean country. OPDAT is also providing training for judges and prosecutors in Haiti in conjunction with the Haitian Ministry of Justice. Over the past three years, OPDAT has planned, coordinated, and participated in four binational seminars involving federal judges from the United States and Mexico. Two of the week-long seminars have been held in Mexico and two in the United States. The comparative law programmes have sought to improve communications and understanding between the two systems.

The Criminal Division, through OPDAT, also hosts a wide range of international visitors. Many of the visitors receive presentations by OPDAT attorneys, in English or Spanish, that provide an overview of the United States criminal justice process. Visitors with interests in more specialized areas are provided presentations by other, more specialized components of the Justice Department. The overriding common issue of interest to the visitors is whether the ideas, procedures or structures found in the United States system might be utilized in their countries. Requests for meetings often relate to money laundering, organized crime, asset forfeiture, narcotic and dangerous drugs, international affairs, corruption of public officials, juvenile justice and delinquency prevention, civil rights and an overview of the United States criminal justice process.

OPDAT in Russia

OPDAT's resident legal advisors to Russia continue to provide training to Russian prosecutors and judges. Training has been conducted at the Prosecutorial Training Academies in Moscow and St. Petersburg as well as at the Ministry of Justice. OPDAT is also continuing to work closely with the ABA/CEELI programme to provide a wide array of legal assistance to Russian law enforcement officials. Since the initiation of the programme last April, over 200 Russian prosecutors and judges have participated in the training.