

ROUTINE

INCOMING

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DEPARTMENT OF COMMERCE

EXCISE

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PRESSURE.)

INFO: 534-01 1000-01 REVIEW COPY-01 106-01 1002-01 106A-01 3134-01
 4110-01 3133-01 4211-01 4212-01 4121-01 4322-01 500-01
 5110-01 520-01 4320-01 6100-01 6132-01 6710-01 6800-01
 OTEC-01 PTO-01

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RR RUEHDC
 DE RUEHRC #3300/01 2042058
 ZNY CCCCC ZZH
 R 232058Z JUL 99
 FM AMEMBASSY SANTO DOMINGO
 TO RUEHC/SECSTATE WASHDC 5427
 INFO RUCPDO/USDOC WASHDC
 RUEHPU/AMEMBASSY PORT AU PRINCE 1619
 RUEHGV/USMISSION GENEVA 0101
 BT

SANTO DOMINGO 003300

DEPT FOR WHA/EPSC SULLIVAN AND EB/IPC CRONIN
 DEPARTMENT PASS TO USTR BURCKY
 USDOC FOR THE US PATENT AND TRADEMARK OFFICE
 US MISSION GENEVA FOR USTR

E.O. 12958: DECL: 7/23/2004
 TAGS: KIPR ETRD DR
 SUBJECT: OUR IPR OFFENSIVE

REFTEL: SANTO DOMINGO 2934 (NOTAL)

CLASSIFIED BY ECO/POL COUNSELOR PAUL LARSEN; REASON
 1.5(D).

1. SUMMARY: THE CHARGE REVIEWED IPR ISSUES WITH
 LIGHT OF THE PETITION RECENTLY FILED WITH USTR WHICH
 TARGETS DOMINICAN FAILURES IN COPYRIGHT ENFORCEMENT.
 THE GODR HAS BACKED OFF FROM ITS SUPPORT OF THE CUBAN
 PROPOSAL TO THE WTO TO EXTEND THE TRIPS TRANSITION
 PERIOD. THE GODR NATIONAL COPYRIGHT OFFICE HAS BEEN
 MOVED FROM EDUCATION TO INDUSTRY AND COMMERCE -- A MOVE
 WHICH SHOULD GARNER ADDITIONAL RESOURCES FOR THIS
 EFFECTIVE OFFICE. MADE A PLUG FOR USG
 TECHNICAL ASSISTANCE FOR TRAINING. END SUMMARY.
 2. (U) ON JULY 21 THE CHARGE CALLED ON
 TO DISCUSS INTELLECTUAL
 PROPERTY MATTERS IN LIGHT OF THE RECENTLY FILED
 INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE (IIPA)
 PETITION SEEKING TO TARGET THE DOMINICAN REPUBLIC'S
 TRADE BENEFITS UNDER GSP AND CBERA.

OOPS -- BAD COMMUNICATIONS

3. OPENED THE CONVERSATION BY DESCRIBING
 HIS AMAZEMENT WHEN HE OPENED HIS MORNING PAPER RECENTLY
 TO SEE A REPORT THAT THE DOMINICAN REPUBLIC HAD JOINED
 WITH CUBA, EGYPT AND HONDURAS IN A PROPOSAL TO THE WTO
 TO EXTEND THE TRIPS TRANSITION PERIOD BEYOND JANUARY 1,
 2000 (REFTEL). HE RECOUNTED THAT HE HAD IMMEDIATELY
 CALLED WHO ALSO, HE SAID, HAD
 KNOWN NOTHING ABOUT THIS ACTION TAKEN AS A "RESULT OF
 POOR COMMUNICATION." THE FOREIGN SECRETARIAT
 IMMEDIATELY ISSUED A STATEMENT TO THE PRESS REPUDIATING
 THE WTO ACTION. (COMMENT: WE SEE
 FINE HAND BEHIND THE WTO PROPOSAL
 FROM WHICH THE GODR HAS NOW TAKEN STEPS TO DISTANCE
 ITSELF. THE FOREIGN SECRETARIAT PRESS RELEASE
 UNDERLINES THE DR'S INTENT TO COMPLY WITH TRIPS BY
 JANUARY 1, 2000. THE MEDIA AND OTHER SOURCES, HOWEVER,
 DRAW A CLEAR LINK BETWEEN THIS ABOUT FACE AND USG

WHAT DO YOU WANT?

4. AFTER DISCUSSING THE LIKELY USG PROCEDURES FOR
 HANDLING THE IIPA PETITION, THE CHARGE TOLD THAT IN RECENT MEETINGS WITH SENIOR GODR OFFICIALS, SHE
 HAD BEEN ASKED WHAT SHE SAW AS SPECIFIC PROBLEMS WITH
 DOMINICAN IPR PROTECTION. THE CHARGE PROVIDED WITH A NON-PAPER LISTING A NUMBER OF CONCERNS RANGING
 FROM THE GENERAL (I.E. PASSAGE OF A TRIPS-CONSISTENT
 LAW AND ENHANCED ENFORCEMENT EFFORTS) TO THE SPECIFIC
 (I.E. STOP THE ISSUANCE OF PATENT-INFRINGING HEALTH
 REGISTRATIONS FOR PHARMACEUTICAL PRODUCTS ETC.).
 (NOTE: THIS PAPER WILL ALSO BE PROVIDED TO PRESIDENT
 FERNANDEZ IN RESPONSE TO HIS QUESTION CONCERNING IPR IN
 A RECENT MEETING.)

NATIONAL COPYRIGHT OFFICE MOVED TO COMMERCE

5. REMARKED THAT A DECREE ISSUED THE WEEK
 OF JULY 12 WHICH FORMALIZED A DECISION TO MOVE THE
 NATIONAL COPYRIGHT OFFICE FROM UNDER THE AUSPICES OF
 EDUCATION TO HIS SECRETARIAT WAS A STEP IN THE RIGHT
 DIRECTION. THE CHARGE AGREED. WHILE NOTING THAT THE
 FERNANDEZ GOVERNMENT HAS DONE MUCH MORE THAN PREVIOUS
 GOVERNMENTS HAVE DONE IN ENFORCEMENT MADE A
 PLEA FOR ENHANCED U.S. TECHNICAL ASSISTANCE. SPECIALLY
 REQUESTING ASSISTANCE FOR ENHANCED TRAINING F
 ENFORCEMENT AND OTHER PERSONNEL. TURNING TO THE ISSUE
 OF PHARMACEUTICAL PATENTS, HE ASKED FOR EMBASSY
 ASSISTANCE IN IDENTIFYING EXPERTS WHO MIGHT VISIT THE
 DOMINICAN REPUBLIC TO FACILITATE A DIALOGUE BETWEEN THE
 NATIONAL INDUSTRY AND THE MULTINATIONALS.

PATENT ISSUES

6. AND MEMBERS OF HIS STAFF EXPRESSED SOME
 RELIEF THAT THE IIPA PETITION COVERS COPYRIGHT ISSUES
 ONLY. PATENT ISSUES -- AND PARTICULARLY PHARMACEUTICAL
 PATENTS -- WILL CONTINUE TO BE A PARTICULARLY DIFFICULT
 PROBLEM. THE SECRETARIAT OF HEALTH (SESPAS) HAD BEEN
 HOLDING UP THE ISSUANCE OF THE SO-CALLED "REGISTRO
 SANITARIOS" WHICH ALLOW THE COMMERCIALIZATION OF
 PHARMACEUTICAL PRODUCTS IN THE DOMINICAN MARKET. IT
 HAS RECENTLY BEGUN ISSUING THEM AGAIN AND OUR SOURCES
 REPORT THAT THEY ARE ISSUING PATENT-INFRINGING
 "REGISTROS."

7. THE ATTORNEY REPRESENTING MERCK
 IN ITS ON-GOING LEGAL ACTIONS AGAINST LOCAL PIRATE
 FIRMS, REPORTS THAT THE OWNER OF ETHICAL, THE LOCAL
 MARKET LEADER AND NOW THE TARGET OF ONE OF THE MERCK
 SUITS, APPROACHED THE LOCAL MERCK REPRESENTATIVE LAST
 WEEK TO SUGGEST THAT THEY DIVIDE UP THE LOCAL MARKET
 FOR THE PRODUCT "SIMVASTATIN" TO FORCE OTHERS OUT. THE
 OFFER WAS REJECTED AND MERCK'S SUIT CONTINUES.

STATUS OF THE LAW

8. (U) LOCAL SOURCES BELIEVE THE DOMINICAN CONGRESS
 WILL ACT ON THE INDUSTRIAL PROPERTY PROPOSAL NOW
 INCLUDED IN A BROAD RANGING COMMERCIAL CODE, IN THE
 CONGRESSIONAL SESSION BEGINNING AUGUST 16. IT IS
 LIKELY THAT THAT THE INDUSTRIAL PROPERTY PROVISIONS
 WILL BE REMOVED FROM THE COMMERCIAL CODE, HOWEVER, TO
 SPEED THEIR MOVEMENT THROUGH THE CONGRESS.

WATT
 BT

#3300

Dept of State, RPS/IPR, Margaret P. Griefeld, Dir
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 Date 5/13/04 Exemption B/

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