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R 091352Z MAY 97  
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TO USDOC WASHDC 0193  
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C ~~CONFIDENTIAL~~ L SECTION 01 OF 03 SANTO DOMINGO 002579

E.O. 12958: DECL: 01/01/10  
TAGS: KIPR, PREL, DR  
SUBJECT: COMMERCIAL LAW DEVELOPMENT SEMINAR  
HIGHLIGHTING IPR AND ALTERNATIVE DISPUTE RESOLUTION

USDOC FOR 3134/USFCS/OIO/WH/RD/RLENAHAN  
USDOC FOR 4322/ITA/IEP/WH/OMCB/MSIEGELMAN  
USDOC FOR OGC/LINDA WELLS

CLASSIFIED BY: DONNA J. HRINAK, AMBASSADOR, REASON FOR  
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UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: SAM A. MOSKOWITZ  
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1. (U) SUMMARY: INTELLECTUAL PROPERTY RIGHTS TOOK CENTER STAGE IN AN FCS-ORGANIZED/USAID-FUNDED FORUM ON "ARBITRATION, INTELLECTUAL PROPERTY AND JUDICIAL ETHICS," ONE OF A SERIES OF FORA ORGANIZED BY THE DOMINICAN COMMISSION FOR JUDICIAL REFORM AND MODERNIZATION (CRMJ). WITH A STANDING-ROOM-ONLY AUDIENCE OF OVER A THOUSAND, THE SEMINAR WAS AN EFFECTIVE VEHICLE TO PROMOTE BROADER UNDERSTANDING OF THE LEGAL AND ECONOMIC IMPORTANCE OF IPR AND ALTERNATIVE DISPUTE RESOLUTION IN IMPROVING THE DR'S BUSINESS ENVIRONMENT. IN SUCCESSIVE MEETINGS WITH THE U.S. SPEAKERS IN THE TWO DAYS BEFORE THE EVENT, THE LOCAL MEDICAL PATENT INFRINGERS TOOK EVERY OPPORTUNITY TO LOUDLY PROCLAIM THEIR ADHERENCE TO DOMINICAN LAW. AMONGST OTHER POINTS, THE U.S. SPEAKERS UNDERLINED GODR TRIPS OBLIGATIONS AND THANKED TELECOMMUNICATIONS DIRECTOR RUBEN MONTAS FOR HIS EFFORTS TO COMBAT CABLE PIRACY. END SUMMARY.

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BACKGROUND  
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2. (U) MODERNIZATION OF THE JUDICIAL SYSTEM IS THE GODR'S HIGHEST PRIORITY. IN SEPTEMBER 1996, PRESIDENT FERNANDEZ CREATED THE COMMISSION FOR JUDICIAL REFORM AND MODERNIZATION (CRMJ) TO FOSTER JUSTICE SYSTEM REFORM. WORKING WITH THE CRMJ, USAID AND FCS/SANTO DOMINGO DEVELOPED A COMMERCIAL LAW SEMINAR FOCUSED ON INTELLECTUAL PROPERTY RIGHTS (IPR) AND ALTERNATIVE DISPUTE RESOLUTION (ADR).

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3. (U) IN PREPARATION FOR THE SEMINAR, FCS AND USAID RECRUITED SPEAKERS REPRESENTING THE U.S. PATENT AND TRADEMARK OFFICE AND TWO U.S. INDUSTRIES WHICH DEPEND ON EFFECTIVE IPR LAWS AND ENFORCEMENT. THE IPR-RELATED

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SPEAKERS WERE: RICHARD C. WILDER, ATTORNEY ADVISER WITH THE U.S. PATENT AND TRADEMARK OFFICE; LESLIE ACKERMAN, ASSISTANT VICE PRESIDENT OF THE INTERNATIONAL DIVISION OF THE PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA (PHARMA); AND JAY MONAHAN, DIRECTOR, DOMESTIC AND INTERNATIONAL ANTI-PIRACY FOR DISNEY ENTERPRISES, INC, WHO ALSO REPRESENTED THE MOTION PICTURE ASSOCIATION (MPA). JOHN H. ROONEY, JR., OF THE COMMERCIAL DISPUTE RESOLUTION CENTER OF THE AMERICAS, ADDRESSED THE ALTERNATIVE DISPUTE RESOLUTION PORTION OF THE SEMINAR.

4. (U) PRECEDING THE APRIL 13 SEMINAR, EMBASSY ORGANIZED TWO FULL DAYS OF APPOINTMENTS FOR THE SPEAKERS WITH GODR GOVERNMENT OFFICIALS AND LOCAL BUSINESS/INDUSTRY ASSOCIATIONS. USIS AND THE CRMJ ALSO ARRANGED PRINT AND T.V. INTERVIEWS.

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PRIVATE SECTOR MEETINGS  
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5. (U) THE SPEAKERS MET WITH MAJOR DOMINICAN BUSINESS/TRADE ASSOCIATIONS (THE CHAMBER OF COMMERCE AND INDUSTRY OF SANTO DOMINGO AND THE NATIONAL COUNCIL OF PRIVATE COMPANIES), IPR ADVOCACY GROUPS, AS WELL AS [REDACTED] AL

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THE IPR COMMITTEE OF THE AMERICAN CHAMBER OF COMMERCE. THE MEETINGS WITH THE DOMINICAN PRIVATE SECTOR WERE OCCASIONALLY THE SITE OF HEATED EXCHANGES AS REPRESENTATIVES OF INFADOMI, THE TRADE ASSOCIATION REPRESENTING THE LOCAL PHARMACEUTICAL PIRATES, USED SUCCESSIVE MEETINGS TO ATTACK MR. ACKERMAN AND SHOWCASE THEIR POSITIONS. INFADOMI MEMBERS VOCIFEROUSLY DISPUTED PHARMA'S ALLEGATION THAT U.S. PATENTS ARE FREQUENTLY VIOLATED AND REQUESTED SPECIFIC EXAMPLES OF SUCH VIOLATIONS. THEY CONTENTED THAT EXISTING DOMINICAN LAW PROVIDES ADEQUATE IPR PROTECTION AND SOUGHT TO ENGAGE THE U.S. SPEAKERS IN A DEBATE OVER

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WHETHER THE U.S. AND OTHER DEVELOPED-COUNTRY  
PHARMACEUTICAL COMPANIES HAD COMPLIED WITH DOMINICAN  
LAW IN REGISTERING THEIR PATENTS. THE INFADOMI MEMBERS  
ALSO ARGUED THAT INCREASED IPR PROTECTION WILL BENEFIT  
DEVELOPED COUNTRY PHARMACEUTICAL COMPANIES AT THE  
EXPENSE OF THE LOCAL INDUSTRY AND THAT DOMINICAN  
CONSUMERS WILL PAY HIGHER PRICES FOR ACCESS TO DRUGS.

6. (U) ACKERMAN EFFECTIVELY ARTICULATED THE MESSAGE  
THAT COUNTRIES WORLDWIDE HAVE RECOGNIZED THAT PROGRESS  
IN IPR SPURS INVESTMENT, INNOVATION AND ECONOMIC GROWTH

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	SP-00	SSO-00	SS-00	TRSE-00	USIE-00	DSCC-00	DRL-09
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TAGS: KIPR, PREL, DR  
SUBJECT: COMMERCIAL LAW DEVELOPMENT SEMINAR  
HIGHLIGHTING IPR AND ALTERNATIVE DISPUTE RESOLUTION

-- NOT ONLY BENEFITING THE PHARMACEUTICAL INDUSTRY BUT  
ENHANCING CONDITIONS FOR BROADER INVESTMENT. ARMED  
WITH EXTENSIVE DATA, HE ALSO DISPUTED THE ALLEGATIONS  
THAT THE LOCAL PHARMACEUTICAL INDUSTRY AND CONSUMERS  
WILL NECESSARILY LOSE WHEN THE GODR ACTS TO STRENGTHEN  
PATENT PROTECTION. HE USED TO GREAT EFFECT DATA  
PURPORTEDLY SHOWING COUNTRIES WITH SOLID IPR LAWS HAD  
LOWER PHARMACEUTICAL PRICES.

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MEETINGS WITH GODR OFFICIALS: INDUSTRY AND COMMERCE  
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7. (U) DURING A CORDIAL MEETING WITH COMMERCE AND  
INDUSTRY SECRETARY LUIS MANUEL BONETTI AND HIS IPR  
STAFF, THE U.S. PANELISTS SUMMARIZED THEIR RESPECTIVE  
IPR POSITIONS AND OFFERED TO ASSIST THE SECRETARY'S  
STAFF THROUGH INFORMATION EXCHANGE. SECRETARY BONETTI  
STATED THAT THE GODR IS SEEKING TO MODERNIZE ITS IPR  
LAW, BUT SUCH CHANGES WILL NOT COME QUICKLY. HE ASKED  
FOR PATIENCE AND ASSISTANCE FROM THE U.S. ON THIS  
ISSUE. MR. WILDER SUBSEQUENTLY RETURNED TO THE  
MINISTRY TO PROVIDE THE FIRST OF THE CD-ROM'S  
CONTAINING THE U.S. PTO DATABASE REQUESTED BY INDUSTRY  
AND COMMERCE EARLIER THIS YEAR. HE ALSO DISCUSSED THE  
POSSIBILITY OF PROVIDING ADDITIONAL TECHNICAL  
ASSISTANCE TO THE GODR, SUCH AS THE ATTENDANCE OF AN

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INDUSTRY AND COMMERCE REPRESENTATIVE AT THE  
INTERNATIONAL IPR SEMINAR THE PTO OFFICE WILL HOLD  
LATER IN 1997.

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TELECOMMUNICATIONS  
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8. (C) [REDACTED] ACCOMPANIED BY  
ECONOFF, MET WITH [REDACTED]

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[REDACTED] FOR HIS EFFORTS IN SUPPORT OF MPA OBJECTIVES  
AND PROMISED MPA ASSISTANCE. [REDACTED] STATED CABLE

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OPERATORS HAVE UNTIL MAY 15 TO OBTAIN OPERATING  
LICENSES AND CONTRACTS FOR THEIR PROGRAMS. HE  
REITERATED HIS DESIRE TO WORK CLOSELY WITH THE MPA. HE  
ALSO REVIEWED HIS AGENCY'S TELEVISION MONITORING  
PROGRAM. WHEN ASKED IF HE WOULD OPPOSE LEGAL ACTIONS  
BY THE MPA AGAINST CABLE PIRATES, HE STATED HIS AGENCY  
WOULD FULLY SUPPORT SUCH SUITS.

9. (C) [REDACTED] ALSO NOTED HIS AGENCY CURRENTLY HAS  
JURISDICTION OVER VIDEO STORES, BUT WILL LOSE IT UNDER  
NEW GODR TELECOM LEGISLATION. HE SAID HE HAD RECENTLY  
BEEN APPROACHED BY VIDEO STORE OWNERS ABOUT A VENDOR  
WHO CLAIMED TO REPRESENT THE MPA. [REDACTED] TOLD THE  
OWNERS THEY SHOULD NOT BUY PRODUCTS FROM THE VENDOR  
UNTIL HE HAD VERIFIED ITS LICENSING AGREEMENT WITH THE  
MPA. (NOTE: THE VENDOR WAS A LEGITIMATE MPA  
LICENSEE.) FINALLY, [REDACTED] ACKNOWLEDGED HOTELS WERE  
USING SATELLITE DISHES TO STEAL SIGNALS. HE SAID HE  
DID NOT HAVE ENOUGH RESOURCES TO DEAL WITH THE CABLE  
INDUSTRY AND THE SATELLITE DISH PROBLEM AT THE SAME  
TIME. HOWEVER, [REDACTED] SAID THE CABLE INDUSTRY WOULD  
BEGIN TO PUT PRESSURE ON THE HOTELS AFTER THE INDUSTRY  
WAS FORCED TO CLEAN UP ITS LICENSING AND PROGRAMMING  
PROBLEMS.

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THE SEMINAR  
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10. (U) THE CRMJ PRODUCED A WELL-MANAGED SEMINAR. THE AMBASSADOR ADDRESSED THE OPENING CEREMONY ON APRIL 12  
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STRESSING THAT THE PROTECTION OF INTELLECTUAL PROPERTY IS A FUNDAMENTAL STEP ON THE WAY TO PARTICIPATION IN THE INTERNATIONAL TRADING SYSTEM. SHE ALSO ACKNOWLEDGED THE HIGH PRIORITY THE GODR ASSIGNS TO JUDICIAL REFORM AND UNDERLINED ITS IMPORTANCE TO A FUNCTIONING DEMOCRATIC SOCIETY. OTHER SPEAKERS UNIFORMLY GAVE PRESENTATIONS SUPPORTING IPR PROTECTION.

11. (U) CRMJ COORDINATOR DR. FRANKLIN ALMEYDA MODERATED THE SEMINAR AND KEEP STRICT CONTROL, FORCING SPEAKERS TO ADHERE TO THEIR ALLOTTED TIME. U.S. PTO WILDER WAS GIVEN 30 MINUTES FOR HIS PRESENTATION AND EACH SUBSEQUENT SPEAKER 10 MINUTES EACH (SPEAKERS INCLUDED LOCAL PLAYERS ON IPR ISSUES). DR. ALMEYDA PROVED ESPECIALLY EFFECTIVE IN LIMITING ADVOCACY PLEAS IN THE GUISE OF LONG-WINDED QUESTIONS WHICH AUDIENCE MEMBERS SOUGHT TO MAKE IN THE Q&A SESSIONS. MOST QUESTIONS FOCUSED ON PHARMACEUTICAL PATENT ISSUES.

12. (U) IN HIS PRESENTATION, WILDER PRESENTED AN OVERVIEW OF IPR AS AN IMPORTANT ELEMENT IN THE ECONOMIC INFRASTRUCTURE OF MARKET ECONOMIES. HE ALSO EXPLAINED TRIPS OBLIGATIONS AND OFFERED EXAMPLES OF RECENTLY

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	LOC-01	ADS-00	NSAE-00	NSCE-00	OMB-01	OPIC-01	CIO-00
	SP-00	SSO-00	SS-00	TRSE-00	USIE-00	DSCC-00	DRL-09
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HIGHLIGHTING IPR AND ALTERNATIVE DISPUTE RESOLUTION

CONCLUDED TREATIES IN THE FIELD OF TRADEMARKS AND  
COPYRIGHTS.

13. (U) ACKERMAN CONTINUED TO EMPHASIZE THE POINTS HE  
HAD MADE SO ABLY WITH THE PRESS AND IN PREVIOUS  
MEETINGS WITH THE PRIVATE AND PUBLIC SECTORS. MONAHAN  
STRESSED THAT MPA MEMBERS RELY MOST OFTEN ON COPYRIGHT  
LAW TO PROTECT THEIR MOTION PICTURES. HE CITED RAMPANT  
INFRINGEMENT OF VIDEO CASSETTES AND UNAUTHORIZED

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TRANSMISSION OF SATELLITE SIGNALS IN THE DR, WHICH  
SEVERELY IMPAIR ALL FACETS OF MOTION PICTURE  
DISTRIBUTION. HE UNDERScoreD THAT SUCH PIRACY NOT ONLY  
AFFECTS THE U.S. COPYRIGHT HOLDER, BUT IS COSTLY TO THE  
GODR SINCE PIRATES DO NOT PAY TAXES OR OTHER GOVERNMENT  
FEES. HE PUBLICLY ACKNOWLEDGED THE EFFORTS OF  
TELECOMMUNICATIONS DIRECTOR MONTAS.

14. (U) IN HIS SEGMENT JOHN ROONEY EXPLAINED THAT  
ALTERNATIVE DISPUTE RESOLUTION IS INCREASINGLY USED BY  
JUDGES AND OTHER PARTIES AS A WAY OF RESOLVING CIVIL  
AND COMMERCIAL DISPUTES IN AN EXPEDIENT AND COST-  
EFFICIENT MANNER (NOTE: IN THE DR, ADR HAS BEEN  
LIMITED BECAUSE EXISTING LEGISLATION FAILS TO ESTABLISH  
CLEARLY A LEGAL BASIS FOR BINDING ARBITRATION).

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ADVANCING MUTUAL INTERESTS  
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15. (U) IN ADDITION TO OUR SUPPORTING THE GODR'S  
JUDICIAL REFORM INITIATIVE, THE RECENTLY CONCLUDED  
SEMINAR ALSO SUCCEEDED IN ADVANCING TWO U.S. TRADE AND  
INVESTMENT POLICY OBJECTIVES IN THE DR: (1) PROMOTE  
RECOGNITION OF ALTERNATIVE DISPUTE RESOLUTION AND, (2)  
ENCOURAGE RESPECT FOR IPR AND IMPROVE ITS ENFORCEMENT.  
THE SEMINAR'S IPR THEME FORTUITOUSLY COINCIDED WITH  
LOCAL REPORTAGE SPECULATING ON THE DR'S POSSIBLE  
IMMINENT INCLUSION ON THE SPECIAL 301 WATCH LIST.  
LOCAL MAJOR DAILIES RAN NUMEROUS IPR-RELATED ARTICLES  
BETWEEN APRIL 8 AND 17 WHICH FURTHER HEIGHTENED GENERAL

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AWARENESS OF THE ISSUE'S ECONOMIC IMPORTANCE TO THE  
COUNTRY. FOR THE GODR, THE SEMINAR CONTRIBUTED, AS  
PREVIOUS CRMJ-ORGANIZED CONFERENCES HAVE, TO CREATING A  
BROADER CONSTITUENCY AND INCREASING MOMENTUM FOR LAW  
REFORM.

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COMMENTS  
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16. (U) CLEARLY THE LOCAL PHARMACEUTICAL INDUSTRY WAS  
MOBILIZED TO COUNTER PHARMA'S POSITION SPECIFICALLY,  
AND THE IPR SEMINAR GENERALLY. NOT SO COINCIDENTALLY,  
PABLO CHALLU, THE DIRECTOR OF ARGENTINA'S WELL-FUNDED  
PHARMACEUTICAL INDUSTRY CENTER (PHARMA'S PRINCIPAL  
INDUSTRY OPPOSITION IN THE WESTERN HEMISPHERE), VISITED  
THE DOMINICAN REPUBLIC THREE DAYS BEFORE THE CRMJ  
SEMINAR AND CONDUCTED A PRESS CONFERENCE IN WHICH HE  
MADE THE PRINCIPAL POINTS CITED BY LOCAL PHARMACEUTICAL  
INDUSTRY REPRESENTATIVES. HRINAK

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