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FOR IIP/G/WHA-RPO CAMILLE BARONE; INFO KIPR, ECON; INFO WHA/PD
(JENNIFER CLARK)

E.O. 12958: N/A
TAGS:DR, PA, SPEAKER OIIP
SUBJECT: GPRA FORMAT EVALUATION OF FY-99 IPR SPECIALIST DORIS
LONG - SANTO DOMINGO REPORT

1. SUMMARY:

A. U.S. SPEAKER DORIS LONG ASSISTED IN THE ESTABLISHMENT OF AS IPR UNIT IN THE DISTRICT ATTORNEY'S OFFICE JANUARY 22-30, 1999 AND RETURNED TO THE DOMINICAN REPUBLIC UNDER USIS/AID AUSPICES IN SEPTEMBER 2000 TO DISCUSS THE COMPATIBILITY WITH TRIPS OF PROPOSED DOMINICAN LEGISLATION. IN JANUARY, USIS WORKED WITH HOST MAYRA GUZMAN, HEAD OF THE IPR DEPARTMENT AT THE DA'S OFFICE. LONG OFFERED A SERIES OF WORKSHOPS/LECTURES TO PUBLIC MINISTRY LAWYERS AND PROSECUTORS AND A SIGNIFICANT LECTURE WHICH WAS ATTENDED BY APPROXIMATELY 80 DOMINICANS FROM THE LEGAL SECTOR (PRIVATE AND PUBLIC MINISTRY) AND ADVANCED LAW STUDENTS.

B. IN SEPTEMBER WE INVITED PROFESSOR LONG BACK TO AID US IN OUR EFFORTS TO ASSIST THE D.R. IN ENSURING THAT THEIR IPR LEGISLATION IS WTO-COMPLIANT. MANY INFLUENTIAL PERSONS WERE STATING PUBLICLY THAT THE LEGISLATION WAS COMPLIANT WITHOUT MUCH BASIS IN FACT. SUSPECTING THAT THIS MAY NOT BE THE CASE WE ASKED PROFESSOR LONG TO DO AN EFFECTIVE ANALYSIS OF THE PROPOSED D.R. LEGISLATION AS COMPARED TO THE WTO TRIPS AGREEMENT AND PRESENT HER FINDINGS TO KEY DOMINICANS.
END SUMMARY.

2. ACTIVITY DESCRIPTION:

A. USIS AND THE IPR DEPARTMENT OF THE DA'S OFFICE COORDINATED A

PROGRAM JANUARY 22-30 IN ORDER TO ESTABLISH A GUIDE FOR THE NE DEPARTMENT. POST BROUGHT SPECIALIST DORIS LONG, AN ASSOCIATE PROFESSOR AT THE JOHN MARSHALL LAW SCHOOL, CHICAGO, ILLINOIS. LONG FIRST SPOKE AT A SEMINAR SCHEDULED ON SATURDAY. THE THEM WAS "THE ROLE OF THE U.S. PUBLIC MINISTRY IN THE PERSECUTION O IPR VIOLATIONS." THE SEMINAR WAS ATTENDED BY DOMINICAN IPR/LEGAL EXPERTS AND ATTRACTED LAWYERS, LEGAL SCHOLARS, BUSINESS LEADERS AND ADVANCED STUDENTS. A PRINCIPAL GOAL OF THE SEMINAR WAS TO ENABLE PARTICIPANTS TO HAVE AN OVERVIEW OF THE U.S. LEGAL STRUCTURES AND IPR REGULATIONS AS WELL. B. IN SEPTEMBER, LONG'S VISIT WAS COORDINATED BY USIS WHILE AI FINANCED HER TRIP. USAID ALSO PAID FOR PROFESSOR LONG TO PREPARE AN ANALYSIS OF THE EXISTING IPR DOMINICAN LAW AND ITS COMPATIBILITY WITH THE WTO TRIPS AGREEMENT. DURING THIS SECON VISIT, LONG MET WITH LEGISLATORS, CIVIC INSTITUTIONS, THE ATTORNEY GENERAL, PRIVATE IPR ATTORNEYS, BUSINESS GROUPS, MEMBERS OF THE JUDICIARY AND THE TWO MAIN PRESIDENTIAL CANDIDATES FOR THE MAY-2000 ELECTIONS. IN HER MEETINGS PROFESSOR LONG DISCUSSED AT LENGTH HER POINTS OF VIEW AS TO HO THE EXISTING DOMINICAN LAWS FOR PATENTS, COPYRIGHT, TRADEMARKS AND COMMERCIAL MARKS ARE NOT IN TOTAL COMPLIANCE WITH THE TRIP LEGISLATION REQUISITES AND EXPLAINED HER WRITTEN ANALYSIS OF THE ISSUES THAT NEED IMMEDIATE REFORM.

3. DATE, FISCAL YEAR, QUARTER: THE FIRST VISIT TOOK PLACE JANUARY 22-30, 1999; FISCAL YEAR 1999; FIRST QUARTER. THE SECOND VISIT TOOK PLACE SEPTEMBER 4-6, 1999; FISCAL YEAR 1999; LAST QUARTER.

4. JUSTIFICATION: IN JULY OF 1998, DISTRICT ATTORNEY FRANCISCO DOMINGUEZ BRITO CREATED AN INTELLECTUAL PROPERTY DEPARTMENT WITHIN THE PUBLIC MINISTRY AS PART OF A LARGER PLAN TO COMBAT PIRACY AND ASKED USIS TO HELP. ATTORNEY MAYRA GUZMAN, THE DIRECTOR OF THE NEW IPR UNIT, HAD BEEN EMPOWERED TO ACT AND WA COMMITTED TO THE IMPROVEMENT OF IPR ENFORCEMENT IN THE D.R. T SEPTEMBER PROGRAM WAS TO ASSIST THE D.R. IN SECURING THE TRIPS COMPLIANT LEGISLATION. THEY WOULD NEED TO MAKE EFFECTIVE IPR ENFORCEMENT.

5. BACKGROUND:

USTR UPGRADED THE DOMINICAN REPUBLIC TO THE SECTION 301 PRIORI WATCH LIST ON MAY 1, 1999. THIS ACTION WAS TAKEN, IN PART, BECAUSE OF THE FAILURE OF THE GODR TO ENFORCE BASIC IPR PRINCIPLES. IN 1995 THE DOMINICAN REPUBLIC RATIFIED THE AGREEMENTS OF THE URUGUAY R OUND. THAT SAME YEAR THE DR ALSO SIGNED THE "TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS)." ACCORDING TO TRIPS REGULATIONS, MEMBER STATES MUST MAKE THEIR IPR LEGISLATION ADEQUATE BEFORE JANUARY OF THE YEAR 2000 OR FACE POSSIBLE ECONOMIC SANCTIONS. ON APRIL 30, 1998, THE DR WAS ELEVATED FROM THE 1997 WATCH LIST, TO THE PRIORITY WATCH LIST BECAUSE THE DR CONTINUES TO HAVE INADEQUAT ENFORCEMENT OF ITS EXISTING LAWS AND ITS LEGISLATION DOES NOT MEET INTERNATIONAL STANDARDS. AS A RESULT, THE DR RISKS BEING

EXCLUDED FROM THE ECONOMIC BENEFITS THAT BILATERAL TRADE OFFER IF IT DOES NOT IMPROVE IPR LEGISLATION AND ENFORCEMENT.

6. CP UMBRELLA THEME AND AUDIENCE REACHED:

ECONOMIC PROSPERITY: PROMOTING ECONOMIC REFORMS/OPENING MARKETS. IN JANUARY, THE AUDIENCE REACHED CONSISTED OF APPROXIMATELY 150 LAWYERS AND GOVERNMENT ATTORNEYS. IN SEPTEMBER, THE AUDIENCE WERE TOP GOVERNMENT OFFICIALS, LEGISLATORS AND POLICY MAKERS.

7. RESULT/IMPACT: OUTSTANDING!

A. LONG WAS A SUPERB CHOICE FOR THIS ASSIGNMENT. HER ACADEMIC AND PROFESSIONAL ACHIEVEMENTS IN THE U.S. GAVE HER INSTANT CREDIBILITY, WHICH WAS ENHANCED BY HER SPANISH COMPETENCE. SHE ADAPTED QUICKLY TO THE DOMINICAN CULTURE, THE NEW DEPARTMENT SETTING AND GAVE ENTHUSIASTIC PRESENTATIONS IN SPANISH, HAVING AN EXCELLENT COMMAND OF THE LEGAL TERMINOLOGY. DA DOMINGUEZ BRITO, MAYRA GUZMAN AND ASSISTANTS WERE QUICK TO PRAISE HER PERFORMANCE AND EAGER TO HAVE HER BACK IN THE FUTURE. LONG PROVIDED A 10-ITEM SUGGESTED "TO DO" LIST FOR THE IPR DEPARTMENT AND ALSO HAD THE OPPORTUNITY TO MEET WITH MORE THAN 20 ATTORNEYS AT THE DA'S OFFICE. USING THESE IDEAS, GUZMAN HAS INCREASED AWARENESS IN THE ECONOMIC AND BUSINESS COMMUNITIES, AND DIVERS SECTORS HAVE BEGUN FILING PIRACY COMPLAINTS CONCERNING SATELLITE SIGNALS, AUDIO AND VIDEO CASSETTES, CD TECHNOLOGY, COMPUTER SOFTWARE, PHARMACEUTICAL PATENTS, AND APPAREL AND ATHLETIC SHOE TRADEMARKS. IN ADDITION, MANY EMPRESARIOS HAVE BEGUN "STRAIGHTENING OUT" THEIR BUSINESSES IN ORDER TO AVOID PROBLEMS WITH AUTHORITIES. OVER THE PAST TEN MONTHS, COPYRIGHT ENFORCEMENT HAS EFFECTIVELY CLOSED ALMOST ALL VIDEO "PIRATE" STORES AND HAS SUBSTANTIALLY LOWERED THE USE OF PIRATED SOFTWARE.

B. IN SEPTEMBER, THE IMPACT OF DORIS LONG'S IMPARTIALITY AND PROFESSIONALISM (SHE DOESN'T REPRESENT ANY U.S. INTEREST GROUP) RESULTED IN A COMPLETE TURNAROUND IN THE PUBLIC DISCUSSION. ALMOST ALL KEY PLAYERS ACCEPTED THAT THE PROPOSED IPR LEGISLATION HAD WTO COMPLIANT PROBLEMS. AS THE MISSION WORKS TO ENSURE THAT THE FINAL "COMPLIANT" DETAILS ARE INCLUDED IN THE LAW, CITING DORIS LONG HAS NOW BECOME AN ARGUMENT STOPPER. THIS PAST WEEK, PROFESSOR LONG WAS INVITED BACK DECEMBER 2-3, BY THE CHAMBER OF DEPUTIES TO BUILD THEM ON IPR PRINCIPLES BEFORE THEY VOTE ON PROPOSED LEGISLATION. PROFESSOR LONG'S POSITIONS WERE ALSO AMPLY SUPPORTED IN A FULL ARTICLE BY ONE OF THE MOST IMPORTANT IPR EXPERTS IN THE COUNTRY, LAWYER ORLANDO JORGE MERA (A CLOSE CONSULTANT TO THE FRONT-RUNNING PRESIDENTIAL CANDIDATE). MERA'S ARTICLE WAS PUBLISHED IN THE OCTOBER ISSUE OF THE MOST IMPORTANT JUDICIAL MAGAZINE IN THE COUNTRY, "GACETA JUDICIAL."

8. NON-USG SOURCES OF IN-COUNTRY FUNDING/IN-KIND SUPPORT AND AMOUNT: IN CONJUNCTION WITH FORMER USIS CULTURAL OFFICE, THE DISTRICT ATTORNEY'S OFFICE PROVIDED THE SITES AND SUPPORT MATERIALS FOR THE JANUARY VISIT. IN SEPTEMBER, AID PAID FOR LONG'S INTERNATIONAL AIRFARE, HOTEL AND HONORARIA. AID ALSO

FINANCED THE TRANSLATON INTO SPANISH OF LONG'S ANALYSIS.

9. QUALITY OF U.S. SUPPORT AND U.S. DEPARTMENT OF STATE OFFICE
GOOD. WE THANK GRETCHEN CHRISTISON FOR HER EFFORTS.
FOR THE SEPTEMBER USAID-SPONSORED VISIT, USIS ORGANIZED THE
ENTIRE PROGRAM.

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