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UNCLASSIFIED PTO1595

PAGE 01 SANTO 05089 101911Z
ACTION WHA-01

INFO	LOG-00	AID-00	CEA-01	CIAE-00	COME-00	CTME-00	DODE-00
	SRPP-00	EB-00	EXIM-01	E-00	UTED-00	FRB-00	H-01
	TEDE-00	INR-00	ITC-01	LOC-01	L-00	ADS-00	AC-01
	NSAE-00	NSCE-00	OMB-01	OPIC-01	ACE-00	SP-00	SSO-00
	SS-00	STR-00	TRSE-00	USIE-00	G-00	SAS-00	/009W
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PASS TO USTR FOR C. VOLTMER

E.O. 12958: DECL: N/A
TAGS: KIPR, ETRD, EINV, ECON, DR
SUBJECT: DOMINICAN PARTY SPOKESMEN GET THE MESSAGE ON NEED FOR
TRIPS-COMPLIANT IPR LEGISLATION

REF: SANTO DOMINGO 4801

1. FOLLOWING UP ON SIMILAR SESSIONS WITH DOMINICAN LEGISLATORS REPORTED REPTTEL, CHARGE HOSTED THE OFFICIAL SPOKESMEN OF THE PARTIES REPRESENTED IN THE DOMINICAN CHAMBER OF DEPUTIES FOR A TWO-HOUR MEETING TO DISCUSS THE NEED TO PASS AND IMPLEMENT TRIPS-COMPLIANT IPR LEGISLATION PRIOR TO JANUARY 1, 2000. PROFESSOR DORIS LONG FROM THE JOHN MARSHALL SCHOOL OF LAW IN CHICAGO WAS THERE TO PRESENT THE CONCLUSIONS OF HER REPORT ON THE CURRENT
UNCLASSIFIED

PAGE 02 SANTO 05089 101911Z
DRAFT LEGISLATION ON INDUSTRIAL PROPERTY AS PASSED BY THE SENATE BUT AWAITING ACTION BY THE CHAMBER OF DEPUTIES.

2. PROFESSOR LONG, WHO ALSO PARTICIPATED IN A TWO-DAY IPR SEMINAR FOR DEPUTIES SPONSORED BY THE PONTIFICAL CATHOLIC UNIVERSITY, FOCUSED ON TWO OF THE BILL'S MOST SERIOUS SHORTCOMINGS. FIRST, SHE POINTED OUT THAT THE DRAFT LEGISLATION MAKES IT TOO EASY TO OBTAIN A COMPULSORY LICENSE OF A PATENTED PRODUCT. ANY APPLICANT WHO SEEKS A LICENSE BUT DOES NOT SUCCEED IN OBTAINING IT ON COMMERCIALY REASONABLE TERMS WITHIN 180 DAYS CAN OBTAIN A COMPULSORY LICENSE. SHE ALSO DREW ATTENTION TO THE REQUIREMENT OF

Current Class: UNCLASSIFIED

Page: 1

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SAM A. MOSKOWITZ
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DOMINICAN LAW THAT FOREIGN, BUT NOT DOMESTIC, LITIGANTS MUST POST A BOND IN ORDER TO PURSUE A PATENT PROTECTION CLAIM AS A CLEAR VIOLATION OF TRIPS' NATIONAL TREATMENT PROVISION.

3. VIRTUALLY ALL OF THE SPOKESMEN ASKED QUESTIONS OR MADE COMMENTS THAT INDICATED THEY UNDERSTOOD THE ISSUES AT HAND, AND THE RISKS TO THE DOMINICAN ECONOMY IF THEY DO NOT PASS TRIPS-COMPLIANT LEGISLATION. WHETHER THIS WILL TRANSLATE INTO BETTER LEGISLATION REMAINS TO BE SEEN. THE REPRESENTATIVE OF THE DOMINICAN REVOLUTIONARY PARTY (PRD), THE LARGEST BLOCK, AGREED THAT THE COMPULSORY LICENSE LANGUAGE WAS NOT CONSISTENT WITH THE SPIRIT OF TRIPS AND SHOULD BE CHANGED. PELEGRIN CASTILLO, REPRESENTING THE SMALL NATIONAL PROGRESSIVE FRONT AND ONE OF THE BETTER-INFORMED DEPUTIES ON IPR ISSUES, SEEMED TO TAKE A MORE FLEXIBLE APPROACH THAN WE HAD SEEN IN PREVIOUS ENCOUNTERS. SEVERAL OF THE SPOKESMEN FROM THE SMALLER PARTIES, THOUGH, SUGGESTED THAT ALTHOUGH THEY WERE SYMPATHETIC TO THE VIEWS EXPRESSED BY PROFESSOR LONG, THEY WOULD LIKELY BOW TO THE WISHES OF THE DOMESTIC PHARMACEUTICAL INDUSTRY (I.E., THE PATENT PIRATES) AND VOTE FOR THE LEGISLATION AS IS.

UNCLASSIFIED

PAGE 03 SANTO 05089 101911Z

4. AT THIS POINT IT IS NOT CLEAR WHETHER THE CHAMBER OF DEPUTIES WILL TAKE A VOTE ON THE SENATE VERSION, INTRODUCE THEIR OWN VERSION, OR PURSUE ANOTHER COURSE. THEY ARE ALL AWARE, HOWEVER, THAT TIME IS RUNNING OUT.

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