

# WORLD TRADE ORGANIZATION

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

### WTO SECRETARIAT TECHNICAL COOPERATION IN THE TRIPS AREA

#### Note by the Secretariat

1. The Council for TRIPS, at its meeting of 24 May 1995, agreed that it would have, at its meeting scheduled for 21-22 September 1995, an in-depth consideration of various aspects of the issue of technical cooperation in the TRIPS area and that certain documents would be prepared to provide a basis for the discussion (IP/C/M/2, paragraph 53). The aspects identified for consideration include the compilation of as complete a picture as possible of the technical cooperation possibilities available to developing countries to assist them implement their TRIPS obligations, the issue of cooperation between the WTO and WIPO and the question of the type of technical cooperation activities that the Council would wish to see the WTO Secretariat undertake. One of the documents that the Council requested is that the WTO Secretariat provide information on its technical cooperation activities in regard to TRIPS matters and also make suggestions about what might be future policy in this area. The purpose of this note is to respond to this request.

2. Delegations might also wish to consult a more general note on Secretariat technical cooperation, especially with respect to the question of relations with other international organizations, which has recently been distributed to the Committee on Trade and Development as document WT/COMTD/W/7, since Secretariat technical cooperation in the area of TRIPS would have to be seen in the light of the overall policy for technical cooperation established in the WTO.

#### Main orientations

3. The main focus of the Secretariat's technical cooperation activities to date in relation to TRIPS has been on assisting Members to understand the rights and obligations which flow from the TRIPS Agreement, both in terms of the provisions of the Agreement and in terms of the institutional framework within which it operates. This is aimed at helping Members to assess the amendments that may be needed to their national legislation, the adaptations in institutions that may be called for and other requirements for which they would need to plan, such as training. The purpose is also to assist Members to participate fully in the operation of the TRIPS Council and the other mechanisms of the WTO related to TRIPS matters. The technical cooperation made available is essentially demand-driven.

4. It is suggested that the future orientation of Secretariat technical cooperation in the TRIPS area remain along these lines. At a minimum, the Secretariat should be in a position to respond to requests for guidance on the TRIPS Agreement itself and the institutional setting within which it operates.

Modalities

5. The modalities for the technical cooperation that the Secretariat has been able to make available are as follows:

- Information and advice given to Members in Geneva. A large part of the work of Secretariat officials dealing with intellectual property matters is concerned with providing information in response to questions put to them by representatives of Member governments. Until now, these queries have come roughly equally from developing countries and from other countries. The issues raised have concerned, for the most part, the meaning of particular provisions of the TRIPS Agreement, the fulfilment of procedural obligations under the Agreement and matters under discussion in the TRIPS Council. Matters are raised with the Secretariat not only by local delegations but also, to a considerable extent, by visiting intellectual property officials (often in Geneva on WIPO business) and, occasionally, as a result of direct contacts from officials in capitals by phone or in written form. Often the issues raised relate to draft legislation under consideration. Sometimes the Secretariat has been asked to review such draft texts.
- Seminars/workshops for developing countries. These seminars/workshops are of two main types:
  - First, general seminars/workshops aimed at providing an overall appreciation of the WTO provisions and mechanisms. Such seminars/workshops would generally include a brief presentation on the TRIPS Agreement by a Secretariat official from the Secretariat's Technical Cooperation and Training Division or from some other Division. A substantial number of such seminars/workshops were held in 1994 and in the first part of this year.
  - More specialized seminars/workshops, devoted in whole or in large part to the TRIPS Agreement or to a specific aspect of the TRIPS Agreement and aimed to be of benefit to officials directly concerned with implementation of the TRIPS Agreement. These seminars/workshops have to be serviced by Secretariat officials working on intellectual property matters. For reasons of financial and personnel constraints, the Secretariat has been able to do relatively little by way of this type of seminar/workshop so far. One regional seminar on the TRIPS Agreement, organized by the Secretariat and the countries concerned, was held in Asia in 1995. In addition, over the last eighteen months, the Secretariat has been able to participate in four other seminars on the TRIPS Agreement for which the expenses were covered by the hosts - one in an African country, one in a Latin American country, one for the APEC region, and the fourth for CIS countries.
- NGO conferences. One feature of seminars/symposia/workshops/conferences on intellectual property is that they usually involve a mix of government people and private practitioners. Thus, the seminars referred to above, which were held essentially for the benefit of government officials, also involved substantial participation of the private sector. The same goes in reverse: the Secretariat has made presentations at a number of conferences of NGOs in developing countries in which there has been substantial participation also by government officials. The Secretariat participation in these events has usually been made possible by the host organization financing it. Conferences of this nature have been held, over the last eighteen months, in Argentina, Brazil, India

and Israel. On such occasions, it has usually been possible for the visiting Secretariat official to use the opportunity to have direct consultations with the officials of the government concerned.

- Training courses. The Secretariat organizes a number of trade policy training courses each year to which officials come for periods ranging from six weeks to three months in order to study the WTO system and international trade policy issues more broadly. Regular training courses for developing countries are held in English, French and Spanish and special courses have been held for officials of Central and Eastern European and Central Asian countries, the Russian Federation, Ukraine and Belarus. In each of these courses, a presentation on the TRIPS Agreement, of half a day or one day, is made by a Secretariat official working on intellectual property. In addition, the participants usually spend half a day at WIPO, learning about that Organization, its conventions and activities.

6. It is suggested that the modalities for future Secretariat technical cooperation in the area of intellectual property should essentially be a continuation of those referred to above. It is hoped that the additional personnel resources that will be available to the Secretariat in the area of intellectual property will enable the Secretariat to respond favourably to a larger proportion of requests to organize and/or participate in seminars in developing countries, but this will of course also depend on the financial resources available to the Secretariat and overall priorities in the use of those resources.

7. Two possible additional forms of technical cooperation activity might be considered:

- The periodic organization (say, initially, once a year) of a one-week or two-week workshop in Geneva, in the WTO building, essentially for the benefit of intellectual property officials from developing countries. Such a workshop would be aimed at providing a thorough understanding of the TRIPS Agreement and its application as well as the relevant WTO institutions and mechanisms. The workshop could be serviced by the WTO Secretariat with the assistance of outside speakers, including from WIPO and other recognized experts in the relevant fields.
- The organization of seminars and workshops in developing countries, in particular in the area of enforcement, at which not only the Secretariat would participate but also government officials from other countries and persons from the private sector who have relevant knowledge and experience.

Since the scope for funding such activities from the regular WTO budget would be limited, their realization would in large part depend on financing from other sources.

#### Cooperation with WIPO and other intergovernmental organizations

8. It has been the policy of the Secretariat so far, in the provision of technical cooperation in the area of intellectual property, to cooperate wherever possible with WIPO. This is not only because of the expertise available in WIPO about intellectual property matters generally but also because the TRIPS Agreement incorporates certain provisions of WIPO conventions. In the one technical cooperation seminar devoted to TRIPS which the Secretariat has organized with a group of countries, a representative of WIPO also participated. There is also frequent informal contact at the working level between the two Organizations in regard to technical cooperation matters, for example if a matter is raised with the WTO Secretariat relating to a provision of the Paris Convention or the Berne Convention which is incorporated by reference into the TRIPS Agreement. In addition, three sessions have been held to brief systematically members of the WIPO staff, including many of those dealing with development

cooperation matters, on the drafting history of the provisions of the TRIPS Agreement. Moreover, as is mentioned above, WIPO cooperates with the WTO in making presentations to officials participating in WTO training courses.

9. It is suggested that, in the future, it should be the aim of the WTO, in its technical cooperation activities, to build on and enhance cooperation with WIPO so as to maximize their utility and ensure their complementary nature. This is one reason why, in paragraphs 3-4 above, the Secretariat is suggesting that its technical cooperation work in the field of intellectual property should be essentially geared to explanation of the TRIPS Agreement itself and of the institutional framework within which it operates. It is not being suggested that the WTO Secretariat should get involved in matters in which WIPO is already very active, including the preparation of draft laws, the establishment or reinforcement of intellectual property offices, their computerization, the training of examiners, etc. There may well be scope in the future for more joint missions between the two Organizations, with the WTO Secretariat participation focusing on explanation of the requirements of the TRIPS Agreement itself with WIPO providing assistance about the practical steps required in order to meet these requirements.

10. It is suggested that it should also be policy to promote cooperation with other intergovernmental organizations in relevant areas, for example the World Customs Organization, in order to avoid duplication and increase effectiveness. In addition, a number of NGOs, such as AIPPI (International Association for the Protection of Industrial Property) and FICPI (Fédération Internationale des Conseils en Propriété Industrielle), have indicated a willingness to cooperate with the WTO in technical cooperation activities.