

**REPORT ON THE IMPLEMENTATION OF ARTICLE 66.2  
OF THE TRIPS AGREEMENT**

UNITED STATES

Addendum

The following communication, dated 6 November 2003, has been received from the Permanent Mission of the United States pursuant to paragraph 1 of the Decision on Implementation of Article 66.2 of the TRIPS Agreement.

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The United States has undertaken to provide information regarding its activities relevant to Article 66.2 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The present document updates the report provided by the United States in 2002 (IP/C/W/388/Add.7) for consideration of the TRIPS Council.

**1. Acceptance of Trainees**

Since 1985, the US Patent and Trademark Office (USPTO) Visiting Scholars Programme has provided participants from over 30 foreign countries/economies with two weeks of classroom hands-on study of the United States' intellectual property system. Past participants in the programme include directors and deputy directors of industrial property offices, patent and trademark examiners, and other experts from developing countries/economies. The Visiting Scholars Programme is the most thorough introduction to the US intellectual property system offered annually by the US government. The goals of the programme are:

- (1) to foster a better understanding of international intellectual property obligations and norms;
- (2) to educate participants on the US intellectual property system; and
- (3) to exchange information on intellectual property issues.

The Fall 2003 class includes a diverse group of government officials and intellectual property professionals from Asia, Africa, Europe, and Central America. Planned events for the Fall 2003 programme included presentations by US Government officials on international intellectual property treaties and on TRIPS compliance and enforcement issues.

## **2. Science and Technology Agreements of the US Department of State**

The US pursues science and technology (S&T) cooperation agreements with both developed and developing countries as an effort to foster partnerships between the scientific communities of both countries. Within the context of Article 66.2 of TRIPS, such cooperation activities with developing countries, and the exchange and diffusion of knowledge and technologies, strengthen economic cooperation, as well, and are important mechanisms for the development of national economies and the basis for expanded trade. The collaborative S&T relationships between the US and developed countries often yield benefits to developing countries as well. The S&T cooperation agreements contain provisions for protection of intellectual property, due to the nature of the research and technology transfer which may take place pursuant to the agreement.

The S&T agreements are not funding mechanisms, but enjoin the governments to seek collaborative relationships which build science capacity and infrastructure and apply science, technology and engineering to facilitate a developing country's integration into the global economy. Areas which may be covered include: basic research and science education, meteorology and weather forecasting, health sciences and public health, watershed management, environment and biodiversity protection, energy and alternative energy research and development, information and communications technology, and biotechnology (in all facets). Science relationships have the ancillary benefit of helping to foster democracy and civil society, enhancing a country's ability to make science-informed decisions on issues related to sustainable development, and advancing the frontiers of knowledge.

New bilateral S&T agreements were recently concluded with the following developing countries: Bangladesh (signed 1 March, 2003), Pakistan (signed 25 June, 2003), and the Philippines (20 May, 2003). The S&T Agreement with Chile is in the renewal process. Additionally, new S&T relationships are being considered with Algeria, India, Kazakhstan, Morocco, Tunisia, and Uruguay.

The S&T relationship with Italy is an example of a collaboration which is yielding direct benefit to developing countries. At its Seventh Biennial Review Meeting under the agreement, held in Washington, DC, on 17-18 June, 2003, the two governments agreed to cooperative projects on building health capacity in developing countries, helping to build science capacities to use geospatial technologies in Africa and other developing regions. The projects focus on the use of widely available satellite imagery to monitor and analyse natural resources, and work on geothermal energy sources in Africa through international public-private partnerships. The two governments also agreed that the existing cooperation in parks and conservation should be deepened to include parks and protected areas management as an outcome of the IUCN World Parks Congress scheduled for Durban, South Africa later this year.

The Embassy Science Fellows Programme is another major effort applicable to Article 66.2 of TRIPS. Through this programme USG agencies send representatives to Embassies abroad to look at establishing new institutional linkages and long-term partnerships with the S&T community in government, academia and the private-sector. In 2003, over 50 Embassy Science Fellows were placed overseas, principally to countries not already covered by traditional S&T agreements. The experience has resulted in the formation of important new networks.

Within the context of our rejoining UNESCO, the US is looking at how our work within this organization also contributes to fulfilment of our obligations under Article 66.2 of TRIPS, particularly in the application of science and technology to capacity building and sustainable development.

### **3. SACU Private Sector Roundtable on WTO Technical Barriers to Trade Issues**

A roundtable was held on 15 October, 2003 between government representatives of the South African Customs Union (SACU), which includes Botswana, Lesotho, Namibia, South Africa and Swaziland; and US private-sector representatives of standards and conformity assessment organizations, manufacturers and trade associations. The roundtable provided SACU representatives with a perspective of US views concerning standards and the opportunity to present questions on the role of the private-sector in the US standardization system and in meeting obligations under the WTO's Agreement on Technical Barriers to Trade.

### **4. Trade Capacity Programmes in Sub-Saharan Africa**

Under the African Growth and Opportunity Act (AGOA - Title I of the Trade and Development Act of 2000)<sup>1</sup>, technical assistance is targeted to sub-Saharan African countries to promote economic reforms and development.

The Administration has devoted special attention to trade capacity building (TCB) activities in sub-Saharan Africa. From FY99 to FY02, the US devoted US\$345 million to TCB programmes. FY02 funding was US\$105 million, a 65 per cent increase over the FY01 level. In FY03, as in FY02, the US will contribute US\$1 million to the voluntary WTO Global Trust Fund for technical assistance, much of which will be used for programmes assisting sub-Saharan African countries. US trade capacity building activities in sub-Saharan Africa are implemented by a broad range of agencies, including the US Agency for International Development (USAID), the Department of Commerce, the Department of Agriculture, and many others. USTR works closely with all of these agencies to ensure that US-sponsored TCB assistance is comprehensive and responsive to both African needs and US trade policy objectives. In April 2002, USTR created the Office for Trade Capacity Building to coordinate US Government TCB efforts linked to bilateral and multilateral trade negotiations and the implementation of trade agreements. Helping countries to access benefits under AGOA has been a major focus of US TCB programmes. The following is an update on some of the USG capacity building and technology transfer programmes to implement AGOA:

#### **(a) Millennium Challenge Account**

In March 2002, President Bush announced his intent to establish a special development assistance programme, the Millennium Challenge Account (MCA), designed to help spur economic growth in developing nations. The goal of the MCA is to achieve poverty reduction through economic growth by investing in areas such as agriculture development, education, enterprise and private sector development, governance, health, and trade and investment capacity building. With Congressional approval, the MCA will increase core US development assistance by 50 per cent over the next three years, reaching annual levels by FY06 US\$5 billion higher than current core assistance. While the MCA is a global initiative, it is anticipated that a substantial portion of its funding will go to sub-Saharan African countries. The MCA is a new approach to development assistance. The MCA establishes a true partnership in which the developing country, with the participation of its citizens, proposes its own priorities and plans for MCA funding.

#### **(b) USAID**

USAID is the primary agency in the US Government involved in delivering development assistance to sub-Saharan Africa and has field offices throughout the region. These offices operate 22 bilateral assistance programmes and three regional programmes. The regional programmes – in

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<sup>1</sup> The text of AGOA is available in the WTO Secretariat for consultation by interested delegations.

Eastern, Southern, and West Africa – work with African organizations responsible for activities that are multinational in nature.

In support of AGOA, USAID's technical assistance promotes African economic growth, trade, and competitiveness in the global economy. USAID's many programmes support African trade and investment policy and institutional analyses and reform, trade capacity building and technical training, and the promotion of US-Africa private sector development. These programmes help to create a supportive environment for trade and investment.

The following are highlights of other USAID technical assistance programmes related to trade:

- In southern and Eastern Africa, USAID is implementing the Southern Africa Regional Biosafety Policy Development project. This programme focuses on the technical training necessary to develop and implement science-based biosafety regulations as required in international agreements such as the WTO Sanitary and Phytosanitary Agreement and Codex Alimentarius, as well as the Cartagena Protocol on Biosafety. The programme has trained scientists and policy makers in six southern African countries. In Malawi and Mozambique, scientists trained under this programme responded to concerns about the safety of biotechnology and helped to draft biosafety regulations.
- USAID's Regional Mission in Southern Africa is providing technical assistance to Southern African Development Community (SADC) to enhance the region's capacity to manage and coordinate SADC's macroeconomic convergence programme in support of regional economic integration. A full-time, long-term Macroeconomic Convergence Advisor has been attached to the SADC Secretariat and resources are available to support macroeconomic convergence and tax policy harmonization. The tax programme involves tax coordination within the SADC region and focuses on good fiscal governance issues.
- Assistance is also being provided to encourage implementation of a regional Value Added Tax. Since 2000, the Regional Mission in West Africa (WARP) has been providing the Department of Integration Programmes at ECOWAS with technical assistance, including three technical staffers, to support the establishment of a West Africa Power Pool (WAPP). The WAPP is intended to develop the administrative and institutional mechanisms that will permit energy trading throughout the region. This will produce a reliable, affordable and sustainable supply of energy for West Africa, while contributing to the region's economic and social development.
- The Education for Development and Democracy Initiative (EDDI) is an interagency Presidential initiative involving USAID, the Departments of State, Agriculture and Education, and the Peace Corps. It supports comprehensive education interventions that promote human capacity development leading to sustained economic strengthening. EDDI's Economic Entrepreneurial Development Centre contributes to private-sector-led economic growth in Africa by strengthening the skills of people already in business and providing training to other individuals, especially students, aspiring to enter the business world. The programme is being implemented through a series of internships, institutional exchanges, workshops, and seminars.

In 2002, USAID provided US\$80.5 million in trade capacity building funds for sub-Saharan Africa. With the opening in the past year of three regional Hubs for Global Competitiveness, USAID inaugurated the Trade for African Development and Enterprise (TRADE) initiative. TRADE is a

multi-year programme designed to promote African commercial competitiveness; reduce poverty; improve trade-related public services, policy formulation and implementation; strengthen the business environment; and promote US African business development. The Hubs are located in Botswana, Kenya and Ghana. Each Hub serves as a technical assistance platform for a cadre of technical experts in support of trade and development. At the AGOA Forum in January 2003, President Bush announced that each Hub will support a technical expert from the USDA Animal and Plant Health Inspection Service (APHIS) to help sub-Saharan African countries address challenges related to meeting sanitary and phytosanitary requirements for the US market.

(c) Transportation and Communication Infrastructure Development

A number of US Government agencies have been working to assist African countries in their efforts to improve infrastructure in the transportation and communications sectors.

(i) *Transportation Infrastructure*

The Department of Transportation's (DOT's) Africa Aviation Initiative is composed of three parts – Safe Skies for Africa (SSFA), Nigeria Technical Assistance, and Open Skies. Each of these components is intended to promote sustainable improvements in aviation safety and security and to support Africa's integration into the global economy. Recent DOT accomplishments and trade-related programmes in sub-Saharan Africa include:

- Training needs assessments were made in Angola, Cameroon, Kenya, Niger, Nigeria, Mali, Namibia, Tanzania, and Uganda in preparation for the establishment of regional training centres on the continent. A Safe Skies website was developed as a medium to exchange ideas, information, and in the long-term, to provide distance learning capabilities for the SSFA countries and Nigeria.
- DOT/Federal Aviation Administration (FAA) provided safety technical assistance to African countries to prepare them to meet ICAO safety standards and for an FAA safety evaluation process known as International Aviation Safety Assessment.
- In November 2002, DOT co-sponsored a Global Navigation Satellite System (GNSS) Implementation seminar with ICAO and the Kenyan Civil Aviation Authority in Nairobi. More than 20 sub-Saharan African countries attended. The seminar resulted in the development of a pilot project outline for regional implementation of Global Positioning Satellite and GNSS technology for the East African Community.
- The Federal Highway Administration has assisted in the establishment of transportation technology transfer centres in South Africa, Tanzania, Zimbabwe, Malawi, Botswana, Namibia and Zambia that meet those countries' specific needs in building and maintaining their roads. The centres help create conditions for sustainable development, facilitate foreign investment, provide a venue to promote US highway technology, and develop linkages and foster joint venture relationships between the US and Southern African private sectors.
- The Federal Transit Administration, in cooperation with Ghana's Ministry of Roads and Transport, hosted a workshop focused on transport infrastructure and services development in Accra, Ghana in July 2002. Transportation officials from Nigeria, Burkina Faso and Tanzania attended the 3-day workshop and developed a series of recommendations that the FTA will use to guide future activities on the continent.

The US Trade and Development Agency (USTDA) has worked extensively in all major economic sectors to assist sub-Saharan Africa to prepare for the benefits of AGOA. USTDA's programme in sub-Saharan Africa is targeted to provide the infrastructure necessary to assist the countries of the region to modernize their economies and take part in the global economy. This includes projects in the rail, port, telecommunications, aviation, environmental and power generation sectors. The following is a sampling of USTDA projects in the transportation sector:

- Togo Container Terminal: USTDA funded a US\$364,687 grant to Sea Point Marine Africa to enhance the container terminals at Lome, Togo with more efficient transfer capabilities to load cargo from large ships to smaller feeder vessels. This project was supported in direct response to a growing need for both regional and international trade in West Africa. The principal facilities to be developed and constructed at the Sea Point Marine Africa facility are a container transshipment platform and an on-shore container yard, both of which will increase the ability to move goods into and out of West Africa.
- Uganda Airport Modernization: USTDA provided funding for an assessment of the development of Entebbe International Airport to assist in creating direct international air cargo links for this landlocked country.
- Port of Limbe Feasibility Study: USTDA funded second-phase development of a major container terminal hub for West and Central Africa at the Port of Limbe in Cameroon. The container terminal will ultimately provide a state of the art facility for goods transiting into and out of West and Central Africa.

(ii) *Communications Infrastructure*

The Digital Freedom Initiative (DFI) is a five-year programme organized by the Departments of Commerce and State, USAID, USA Freedom Corps, and the Peace Corps. The goal of the DFI is to promote economic growth by transferring the benefits of information and communication technology to entrepreneurs and small businesses in the developing world. The DFI will be piloted in Senegal and, if it proves successful, could be rolled out to additional countries. Key elements of the DFI are: 1) placing volunteers in small businesses to share business knowledge and technology expertise; 2) promoting pro-growth regulatory and legal structures to enhance business competitiveness; and 3) leveraging existing technology and communications infrastructure in new ways to help entrepreneurs and small businesses better compete in both the regional and global market place.

The USAID Leland Initiative and the Federal Communications Commission (FCC) are collaborating on a programme to strengthen telecommunications policy. The programme strengthens associations of African regulators; uses experts from the FCC and state level regulatory bodies to help US and African university programmes on effective regulation; and provides technical assistance to regulators in more than 20 countries. In the past year, this effort has helped associations of regulators to form in both West and East Africa, begun the development of courses and training modules in ten key subject areas, facilitated partnerships between two leading African regulators and their US counterparts in New Jersey, Oregon and the District of Columbia, and provided direct assistance to fifteen countries.

USTDA approved a US\$200,000 grant to a newly licensed Nigerian telecommunications operator partnered with an American firm to deploy a fixed wireless system in Rivers State, Nigeria. The Nigerian partner was the only Nigerian company with US backing to win one of 20 licences auctioned by the Nigerian Communications Commission. The licence provides exclusive rights for it to deploy a fixed wireless system that offers bundled voice and data services in Nigeria's oil-

producing Delta Region. The feasibility study was concluded in early 2003 and the partners are moving forward to assemble the financing necessary to deploy the system.

(d) Energy Infrastructure Development

The Department of Energy (DOE), both through its own programmes and via partnerships with USAID and other US agencies, is working in sub-Saharan Africa in support of energy projects for AGOA-eligible countries. Activities support infrastructure development and creation of private enterprises, especially small- and medium-sized enterprises. In conjunction with other agencies, the DOE encourages the export of US energy technologies and services, facilitates regulatory reforms, and pursues collaborative energy development and deployment opportunities. Under the US-African Energy Ministerial process, the DOE conducts ministerial and subministerial interactions with various African countries and the public sector to promote sustainable energy development in Africa, attract foreign direct investment, increase on-grid and off-grid energy access, and mitigate prevailing environmental concerns. Other DOE activities include:

- Through a public-private partnership, the DOE is working with the Government of Botswana to deploy environmentally benign coal technology and infrastructure in rural areas and to promote economic energy development via tourism.
- In conjunction with USAID, the DOE works with the Government of Nigeria on energy reform issues, including privatization and pricing liberalization, promoting an open market and increased investment, energy technology demonstration and deployment activities, and development of the natural gas market.
- The DOE is playing a leading role in the work of the Climate Technology Initiative, a cooperative effort of the International Energy Agency. The Initiative includes financial and technical assistance to Ghana, Mauritius, Nigeria, and South Africa for assessments of technical needs and economic priorities as a part of the technology transfer process.
- The DOE provides capacity building and advocacy support for the West African Gas Pipeline (WAGP) project, a 620-mile, US\$500 million natural gas transmission pipeline project that will connect Nigeria's gas reserves to markets in Nigeria, Ghana, Togo, and Benin. In January 2003, the Presidents of these four countries signed an historic intergovernmental agreement to establish a common legal framework for the WAGP. The pipeline, anticipated to be operational in 2005, would facilitate the commercialization of much of the region's natural gas resources and eliminate environmental degradation from existing gas flaring.
- The DOE is assisting development of the US\$4 billion Chad-Cameroon Oil Pipeline Project through policy and technical exchanges with Chadian and Cameroonian energy officials and participation in the US interagency review and monitoring process. Funded in part by the World Bank, the project involves the development of oil fields in southern Chad and the construction and operation of an approximate 665-mile, 250,000 barrels per day pipeline to a loading facility offshore of Cameroon. The development package includes a revenue management plan, which earmarks funds for regional development projects.

In Southern Africa, USAID provided technical assistance for the development of an unprecedented competitive short-term electricity market (STEM) system in which nine national utilities are key participants and beneficiaries. STEM helps reduce the cost of traded electricity and provides an enabling framework that reduces legal, institutional and political barriers to commercial

energy markets. The technical assistance to SADC member States and institutions will encourage and facilitate the establishment of competitive electricity trading. The overall goal of these interventions is to increase the availability of commercial energy sources and to promote trade and regional cooperation in energy through liberalization of energy markets, privatization and restructuring, more efficient generation, transmission, distribution and use of energy by all sectors of society.

USTDA approved a US\$635,000 grant for a South African energy firm to partially fund the cost of a US\$1.27 million feasibility study examining the development of the Ibhuesi offshore natural gas field 300 kilometres north-west of Cape Town. USTDA assistance is supporting the final study to define the pipeline and gas gathering investments necessary for the extraction, processing and delivery of gas from the ocean floor to South Africa's Atlantic coast. At the same time, USTDA is providing US\$455,300 to PetroSA, the state-owned petroleum and gas company, to finance two parallel technical assistance projects that will help chart out the most cost-effective onshore development strategies to use the new natural gas. Once fully proven, the Ibhuesi gas field is expected to be the key new source of clean energy on which the Western and Eastern Cape regions will base their fuels and industrial development.

(e) African Development Foundation

The African Development Foundation (ADF) is a US Government corporation that provides support directly to small-, medium-, and micro-enterprises in Africa and non-governmental organizations that work at the grassroots level. ADF responds to unsolicited proposals for activities that are African-driven and African-owned. The Foundation helps applicants to develop business plans for commercially viable activities and to obtain up to US\$250,000 in capital, and technical and managerial assistance. The bulk of ADF's support is directed toward rural and peri-urban areas and under-served populations, including women and minority groups. ADF seeks to advance replicable models for increasing the ability of the poor and disadvantaged to participate in new economic opportunities. In FY02, ADF had active projects in 13 African countries: Benin, Botswana, Cape Verde, Ghana, Guinea, Mali, Namibia, Niger, Nigeria, Senegal, Tanzania, Uganda, and Zimbabwe.

AGOA specifically notes the important role of ADF in developing and implementing strategies for increasing the participation of small-scale producers in trade and investment activities in Africa. ADF provides technical and managerial assistance to enable small-scale producers to: 1) adopt high-value, non-traditional crops; 2) scale up the quantity and quality of production to meet specifications of export buyers; 3) establish or increase local processing or manufacturing to add value to primary products; and 4) create new export marketing partnerships. Some examples of ADF's active trade and investment projects follow:

- ADF provided a 3-year grant to Uganda Marine Processing Ltd (UMPL) in FY01. U MPL is the smallest of the eight formal sector fish processing companies in Uganda and one of only two companies with majority ownership by indigenous Ugandans. It processes Nile Perch into fresh and frozen fillets for export to the EU and the Middle East. In just one year, the company increased its daily throughput of raw fish by 144 per cent and its gross sales revenues by 192 per cent. It also helps smaller fish processing enterprises that cannot export directly by buying and exporting their products. U MPL became the first company in East Africa to receive the International Standards Organization (ISO) 9001 quality certification.
- A worker-owned company in Zimbabwe first received ADF support in FY98 to purchase equipment and raw materials. The company is in an industrial suburb of Harare that was established by 24 retrenched, former employees of a metal box company. Toothpaste tubes are one of their main products, but it also produces collapsible aluminum tubes for



the pharmaceutical, cosmetic, and adhesive industries. Although 90 per cent of the raw materials required by the company have to be imported, the company was able to continue operating despite the collapse of the Zimbabwe Dollar because it had export earnings to buy imported inputs. In 2002, the company received an Exporter of the Year award from Zimbabwe's national trade promotion agency.

- The Mukono Vanilla, Spices, and Horticultural Society received a grant from ADF to promote production and processing of organic vanilla – a new, high-value export product for Uganda. ADF funding financed the planting of vanilla vines and the nitrogen-fixing trees to support them and the cost of training farmers and establishing a processing facility. The cured vanilla beans command a premium price due to their high quality. ADF subsequently expanded the initiative through grants to three other farmer associations. The Mukono Society is providing technical services to the three replication projects and will process their vanilla on a fee basis during their initial years before they have sufficient raw material to justify the cost of establishing their own processing plants.
  - Since 1998, ADF support has helped to train small-scale farmers in Zimbabwe to grow high-quality paprika and to finance production costs.
  - In late FY02, ADF signed a five-year agreement that will leverage up to US\$600,000 per year from the Government of Namibia to match ADF's support for trade and investment activities on a one-to-one basis. This Namibia Programme will initially focus on production and processing of seafood, ostrich, beef, and other livestock products; garments and textile manufacturing; and diamonds and other precious or semi-precious stones.
  - In early FY 2003, the Government of Ghana signed a five-year agreement that will provide up to US\$1 million per year to match ADF's trade and investment programme expenditures there. The first phase of the Ghana programme will focus on floriculture, aquaculture, agro-processing, textiles, and information technology.
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