

WORLD TRADE ORGANIZATION

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

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TECHNICAL COOPERATION ACTIVITIES: INFORMATION FROM OTHER INTERGOVERNMENTAL ORGANIZATIONS

WORLD CUSTOMS ORGANIZATION

At its meeting of 7-8 July 1999, the Council for TRIPS agreed to invite intergovernmental organization observers to the Council to update the information on their technical and financial cooperation activities relevant to the implementation of the TRIPS Agreement.

The present document reproduces the information which has been received from the World Customs Organization by means of a communication, dated 7 September 1999.

Communications from other intergovernmental organizations will be circulated as addenda to this document.

The WCO IPR programme is very much focussed on the implementation of TRIPS and is designed to provide assistance to WCO Member administrations so that they can fulfil their obligations in the new TRIPS legal environment.

The WCO programme has been developed as a joint venture with international business. This partnership approach has been endorsed by the WCO Council, which brings together the Heads of Customs administrations from all over the world and takes effect through the Enforcement Committee and an IPR Working Group. This group of Customs and business participants has energetically developed a strong working relationship, which benefits from the combined and complementary skills of Customs and business. A high degree of synergy and innovation results from this partnership, as crucial commercial information and a business dimension is combined with Customs information and key enforcement techniques.

The basic WCO philosophy is to help Member administrations to improve their efficiency and effectiveness in all aspects of their work. Through the IPR Working Group, Member administrations are facilitated and assisted at their own pace, so that they can develop their own improvement plans. Business partners fully support this approach and fully fund the programme, which is delivered through two functional areas, Training and Promotion and Publicity.

Training priorities are determined through a training Sub-Group, again made up of Customs and business participants. Regional and national training seminars have been carried out in many countries of the world. Assistance has been delivered to Mexico and the Russian Federation through training seminars in 1998. Training projects for 1999 include regional training for 6 countries in South Africa, to be held in Pretoria during November 1999 and a four stage practical exercise in Eastern Europe, followed by a Road Show. This event, which will take place during September 1999 in various locations in Poland, uses new technology and the internet to communicate strategic risk

information from our business partners to Customs in order to make the Customs action more efficient. A further "Road Show" style practical event is planned for the Czech Republic during October 1999.

Training plans for next year includes a regional event in the Far East, assistance to Dubai, a four year phased assistance plan for China Customs, and possible training actions in Panama and the Moroccan/Spanish border.

WCO also contributes strongly to the training initiatives delivered by WIPO and we are discussing with the EC PHARE/TACIS and APEC Intellectual Property Rights programme managers how to combine forces in the future, so that valuable training effort is not wasted. To this effect we are supporting TACIS technical assistance to Ukraine in order that the necessary legal reforms can be initiated.

Additional assistance is also being offered through the WCO IPR Promotion and Publicity Sub-Group. This group has developed a whole range of products, which help Customs to understand and improve their IPR Enforcement.

Products include:

- Model Legislation based on TRIPS.
- A video produced by Customs Audio-visual services but fully funded by business sponsors has also been produced in three languages, English, French and Spanish.
- A simple folder leaflet has been mass-produced to complement the video in raising awareness amongst Customs Staff.
- An identification guide with graphic images of counterfeit products is being produced.
- WCO is also supporting the European "REACT" and "MUSYK" Internet applications and is developing its own internet site at two levels, a general level access site for the general public and a private secure site for Customs personnel.

The WCO Central Intelligence System (CIS), based in Brussels and ten Regional Intelligence Offices (RILO), form an intelligence network, which is also a valuable mechanism for raising awareness and disseminating information on smuggling and fraud trends to Member countries. On a routine level, RILOs produce trend information, which helps to identify current risks in terms of counterfeit products, trafficking routes and other new information. Members can then use this information to adjust risk profiles and deployment of resources.

The RILO offices in Asia and Pacific (based in Japan) and Eastern Europe (based in Warsaw) are increasing their level of activity in IPR and the dissemination of information. In 1998 for example, RILO Eastern Europe concluded a regional MOU with IFPI, to improve the exchange of information between Customs and the music industry in that region.

The WCO Secretariat and business partners are available to Customs administrations seeking to improve their IPR enforcement arrangements. A number of additional WCO training programmes can be helpful in this regard. The Customs Reform and Modernisation programme has helped many Members to restructure and reorganise their administration. This can be linked to more specific Risk Assessment training, which helps administrations to work based on intelligence principles. Once this

has been achieved, the WCO IPR Training programme can assist Members to enhance their understanding and response to the problem of counterfeits.

A number of training styles are being developed, including the traditional approach that includes a regional and/or national seminar, followed by the drafting of an Action Plan. In 1998 major seminars in Russia, where 100 delegates from 8 time zones across the country attended an event in Moscow, and Mexico City, took place. A similar event in South Africa is planned for this year, where a number of countries of the region will participate. These events are intended to be very practical and informal and are designed to raise awareness and commence the necessary enhancement of systems. Equally important is the opportunity to build a partnership between Customs and business on this topic within the country and to set-up a system of contact points.

A separate initiative is being made to develop a "Road-Show" style of awareness raising. This will be more simply designed than the traditional seminar and can be linked to one-off practical exercises and intelligence projects.

In practice, and bearing in mind that IPR is a relatively new field of operation for Customs, most WCO Members are starting to respond positively to IPR fraud. The rate of improvement varies considerably and the level of powers given to Customs also differs. The key elements for success are:

1. The appropriate legislation, including the power to work *ex officio* (optional under TRIPS, but if countries adopt an intelligence based approach, then the ability to work on initiative is very important).
2. Effective systems, including a non-bureaucratic, low cost, application procedure. This will encourage businesses to lodge an application and provide information.
3. Access to information and intelligence. Most important of all here is sensitive commercial information.
4. Effective enforcement, which includes a whole range of issues, but crucially the ability to manage and use information and intelligence.
5. Effective communication, within Customs, but also with other agencies, neighbouring countries and with business. MOUs and less formal arrangements can help here.

Not all countries are succeeding at this level and there is a great deal of work still to do, but many administrations are making headway. In the Russian Federation for example, as a result of a new Government and Customs initiative and the WCO seminar held in Moscow in September 1998, a new legal framework is being presented to Parliament, business contact has been increased, awareness raised and the amount of applications from business radically increased. Other countries have more developed systems and are using their experience and intelligence methodology to target the problem. For example, Customs from the Netherlands, France, United Kingdom and USA have all provided assistance to other administrations in the WCO programme.

The WCO programme will concentrate effort on the key elements described earlier. It will continue to raise awareness amongst Customs of the IPR problem, its damage to international trade and its links to organised crime. At a more advanced level it will aim to help Member countries develop organisational and technical improvements and solutions. A priority will be to bring about solid and long lasting change as a result of training activities. In this regard Action Plans and continuous support from the WCO/Business partnership will be linked to specific training events.

Development of information sources and systems based on the Internet will be of equal importance as will the use of the WCO RILO network to help disseminate key information and trends.

Improving and maintaining co-operation at the international level between agencies and business will continue to be the most critical factor in dealing with the various violations of Intellectual Property Rights.
