BRIEFING PAPER

DECEMBER 2003

Intellectual Property and Developing Countries

An Overview

SUBMITTED TO
USAID/Washington

SUBMITTED BY
Nathan Associates Inc.
TCB Project

UNDER CONTRACT NO.
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Task Order 13

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Nathan Associates Inc.
Support for Trade
Capacity-Building Activities
Arlington, Virginia

PREPARED BY
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Sponsored by USAID's Bureau of Economic Growth, Agriculture and Trade (EGAT) and implemented by Nathan Associates Inc., the Trade Capacity Building (TCB) Project, 2001–2004, helps developing countries assess their trade constraints and prioritize their trade-related technical assistance needs. The project provides trade experts for short-term technical assistance in developing countries and assists USAID Missions in designing, implementing, monitoring, and evaluating technical assistance that will stimulate economic growth and reduce poverty. Electronic copies of reports and materials related to trade needs assessments, resource guides, and trade training workshops are available at www.tcb-project.com. USAID Missions and Bureaus may seek assistance and funding for activities under this project by contacting John Ellis, USAID/EGAT, TCB Project Task Manager at jellis@usaid.gov.

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Contents

Intellectual Property and Developing Countries

Few policy issues evoke the emotional response that has accompanied the international debate over intellectual property. While the United States is a leading advocate of intellectual property protection, a bloc of developing countries—led by India and including many host countries of USAID Missions—denounces the intellectual property system as a new form of colonial exploitation designed to protect corporate interests in the developed world at the expense of the developing world. Discussions are also influenced by humanitarian concerns over the catastrophic AIDS crisis in sub-Saharan Africa and stories of "biopiracy" of indigenous knowledge and biological resources.

For USAID Missions, two questions are central:

- How can a stronger intellectual property system improve the lives of ordinary people in developing countries?
- What types of technical assistance will support both U.S. policies and the interests of host countries?

In this paper we review the ways intellectual property protection can contribute to economic development, some of the most common intellectual property issues confronting developing countries and USAID Missions, types of technical assistance developing countries are likely to welcome, and resources available to USAID missions and developing countries for technical assistance on intellectual property.[1]

What Is Intellectual Property?

Intellectual property is a field of law that deals with property rights in intangible things, such as new creations or business goodwill. There are many forms of protection: patents for

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[1] This paper draws extensively on materials from Goans *et al.*, *Intellectual Property: Principles and Practice* (Cairo, 2003). This book is available online at http://www.nathaninc.com/News/index.asp?s=0&bid=489261.

inventions, copyright for writings and other "works of authorship," marks to identify the source of goods or services, and other examples mentioned in Appendix A. Each form of protection applies in certain limited circumstances and provides a set of legally enforceable rights (Exhibit 1).

Exhibit 1
Which Rights Apply?

The various forms of intellectual property protect different interests in intangible property. While there are no hard and fast rules governing the types of tangible items that embody these intangible rights the following general guide may be helpful:

If the item is	*Think*
• A new mechanical or electrical device, chemical composition, or process, or living matter	• Patent
• A variety of plant that has not been commercially exploited	• Plant Variety
• A design that gives a new or original appearance to a useful item	• Industrial Design
• An original book, pamphlet or other written material, drawing or painting, sculpture, song, movie, photograph, or software	• Copyright
• Packaging for a product	• Trade dress
• A word or logo used on packaging for product, or in connection with services, to identify producer or seller of goods or services	• Mark, trademark, or service mark
• A geographical term associated with particular product characteristics, quality, or reputation	• Geographical Indication

Determining which forms of intellectual property apply and how to secure legal protection for them can be complex, but all intellectual property can be understood in terms of two policy objectives:

- Encouraging the disclosure of new developments, and
- Ensuring honesty in commercial transactions.

These objectives provide important public benefits. Disclosure gives the public access to new things—inventions, product designs, or works of authorship—that the creator might otherwise keep secret. It also promotes progress by making knowledge available so others can build on it.

Laws on patents, industrial designs, copyright, and similar forms of protection encourage disclosure by creating a system of limited exclusive rights for a limited period of time. A

period of exclusivity gives the inventor, designer, or author an opportunity to recover his or her investment of time and resources and derive a profit.[2] Considerable effort and expense are often required to turn an idea into a marketable product—to develop an invention into a saleable item. Systems of exclusive rights create a legal framework that encourages the investment that may be needed to make a new creation available to the public.

Ensuring honesty in commercial transactions benefits both commercial interests and consumers. Laws on trademarks and the repression of unfair competition serve the public interest by discouraging dishonest business practices, such as false or deceptive labeling. This protects parties to commercial transactions against unscrupulous dealing and allows both merchants and the public to rely on representations made by commercial entities. Preventing dishonest and deceptive practices, and offering an effective remedy when they occur, are essential to promoting economic growth.

Intellectual Property and Economic Development

Intellectual property is a key factor in promoting economic development. At the microeconomic level, patent, copyright, and similar forms of intellectual property protection provide a means by which innovators and investors can recover the investment of time and money needed to bring a new product to the market. At the macroeconomic level, intellectual property promotes economic development by encouraging domestic innovation and foreign direct investment. The intellectual property system also creates a framework in which developing countries can participate in the economic activities of the developed world.

ACCESS TO TECHNOLOGY

Long-term economic growth is due largely to technological change.[3] The patent system offers a huge, publicly available data base of technological information, much of which is not found elsewhere in the technical literature.[4]

A strong intellectual property system also promotes foreign direct investment, which is an important means of access to private sector technology. In a study for the World Bank, the

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[2] Sometimes intellectual property laws also protect other interests. For example, copyright protects the moral right of an author to "claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation." Berne Convention Article 6 *bis* (1).

[3] Edwin Mansfield. 1998. Intellectual Property Rights, Technological Change, and Economic Growth. In *Intellectual Property Rights and Capital Formation in the Next Decade*, 5-6. Edited by Charls E. Walker and Mark A. Bloomfield. American Council for Capital Formation Center for Policy Research. Lanham, Maryland: University Press.

[4] Studies of U.S. patents have found that approximately 80 percent contain technical information not published elsewhere. Patent Depository Library Program, http://www.uspto.gov/web/offices/ac/ido/ptdl/patreaso.htm.

eminent economist Dr. Edwin Mansfield surveyed 100 U.S. firms in six manufacturing industries to determine the importance of intellectual property protection in influencing their investment decisions. The percentage of firms indicating that intellectual property protection has a major effect on their foreign direct investment decisions depended on the industry and type of investment under consideration, but for all sectors and all types of investment a significant number of firms reported that intellectual property protection was a factor in their decisions about where to invest.[5] Moreover, the importance of intellectual property protection was greater for high-technology industries and for investments with the greatest potential to transfer technology.

Copyright Builds Businesses, Technology in Third World

Applications software is a burgeoning industry in the Third World. Companies such as Sakhr, a Kuwaiti software firm with a research facility in Egypt, and Mughamrat, in Morocco, specialize in providing Arabic-language solutions. Products range from communications and business applications to religion, education, and entertainment applications. Much of the West African market is served by Ghana's Soft Company, LTD, founded in 1991. The company offers a range of products designed to work in the local environment. Cofounder Hermann Chinnery-Hesse observes, "Technology is the only way for Africa to get rich. … We don't have a proper infrastructure and we can't compete in manufacturing... But if you put me behind a PC and tell me to write software for a Chinese customer, then I can compete brain for brain with anyone trying to do the same thing in the US."[6]

PROMOTION OF PRIVATE SECTOR GROWTH

Another element essential for economic development is a legal means to prevent dishonest and deceptive practices and to provide an effective remedy when such practices occur. The lack of such protection slows sales because consumers are more cautious about purchases when they lack confidence in merchants and have no assurance of a remedy if goods are not as promised. The lack of such protection also makes it more difficult to establish new businesses because distrustful consumers are reluctant to take a chance on an unknown vendor. When the market permits acts of unfair competition, such as trademark infringement, palming off goods as those of another, or falsely disparaging a competitor, it is difficult for merchants to establish a reputation for honesty and quality that would permit them to expand their businesses.

CONSEQUENCES OF WEAK INTELLECTUAL PROPERTY PROTECTION

Governments of developing countries often find it difficult to justify devoting resources to strengthening the intellectual property system, which they may see as benefiting primarily foreign interests. Copyright piracy and trademark counterfeiting are allowed to proliferate on

[5] Edwin Mansfield. 1991. Intellectual Property Protection, Foreign Direct Investment, and Technology Transfer. IFC Discussion Paper No. 19. World Bank. http://www.ifc.org/economics/pubs/dp19/dp19.doc.

[6] Hermann Hesse: Africa's Bill Gates? *BBC News World Edition*, news.bbc.co.uk/2/hi/business/2935210.stm.

the theory that they are minor offenses against wealthy multinational concerns that can easily afford the loss. These acts may even be defended as necessary in view of the limited resources of consumers in developing countries. Such an approach overlooks important consequences for consumers and the economy.

One of the clearest illustrations of the harm done by dishonest practices occurs with trademark counterfeiting, where both the mark and product packaging are copied. Not surprisingly, counterfeit goods are usually of inferior quality and in some cases may be harmful to consumers. The manufacturer of the legitimate product may learn of the existence of counterfeit products only from complaints by disappointed consumers who purchased a counterfeit item in the belief that it was genuine. In such cases, the legitimate producer not only suffers from loss of sales to the counterfeiter but also from loss of business reputation. Consumers are deceived and may suffer economic losses or even deadly injury as a result of using the counterfeit product.

Clearly, it is not only foreign interests that are harmed by counterfeiting and piracy. In 1979, a well-known and reputable brand of pesticide was counterfeited and sold widely in Kenya. The counterfeit contained an herbicide that destroyed a significant portion of Kenya's coffee crop for the year. In addition, the International Chamber of Commerce has reported that:

- Dozens of people died in Cambodia through taking ineffective, fake malaria medicines.
- Law enforcement in Zambia seized fake shampoo containing acid.
- Diseased pig meat was used in counterfeit cans of pork luncheon meat in China.
- In India, counterfeits of drugs were used to fight antibodies in Rh-D negative mothers.[8]

Besides causing human suffering, these deceptive acts impede economic development. Cash-starved governments are deprived of tax revenues. Local industry acquires a reputation for providing substandard goods, making it difficult for reputable businesses to enter export

Geographical Indication and Mark Promote Better Standard of Living for Coffee Farmers

In 1959, the National Federation of Coffee Growers of Colombia, a not-for-profit organization owned by Colombia's coffee farmers, launched an advertising campaign to establish a reputation for the quality of Colombian coffee. The campaign highlighted the care involved in producing the coffee and Colombia's ideal climatic conditions. A mark was designed for use only on products containing 100 percent Colombian coffee. The campaign established the reputation of Colombian coffee and its ability to command a premium price. Income from coffee permitted members of the Federation to enjoy a better standard of living. The Federation has recently begun advertising Colombian coffee as a geographical indication (i.e., a designation that identifies a good as originating in a particular region where a given quality, reputation, or characteristic of the good is essentially attributable to its geographical origin.)[7]

[7] See www.juanvaldez.com/menu/advertising/juan.html; www.colombiancoffeefederation.com/menu/advertising/index.html; www.colombiancoffeefederation.com/menu/about/index.html; www.odi.org.uk/agren/papers/agrenpaper_100.pdf.

[8] Quoted from International Trademark Association Statement on Trademark Counterfeiting, Senate Committee on Foreign Relations, February 12, 2002, at http://www.inta.org/policy/test_counterfeit.shtml.

markets. And widespread infringement, which is a criminal act in most countries, tends to create links with more violent forms of organized crime, such as terrorism and the narcotics trade.

BENEFITS OF STRONGER INTELLECTUAL PROPERTY PROTECTION

While the costs of not providing adequate and effective intellectual property protection are high, substantial benefits can be derived from instituting such protection. When businesses are confident that risks are manageable, they are more willing to invest abroad. An important function of the intellectual property system is to create a legal framework in which developing countries can participate in the economic activities of the developed world and share in its prosperity. The franchise system[10] offers one means to accomplish this, providing a small business owner both a proven business method and the benefits of an established and internationally recognized mark. Strengthening the intellectual property system can also improve the ability of developing countries to promote exports of the products they produce. (See Exhibit 2 and examples presented under "Technical Assistance That Works.")

Trademarks, Industrial Designs, Boost Price for Sri Lankan Firm

In 2001, Dankotuwa Porcelain Ltd., a leading exporter of ceramics in Sri Lanka, felt the pinch of competition from other Asian countries with cheaper labor. Determined to pull the company out of a slump, its CEO developed a line of contemporary tableware to be marketed under its own brand in Western markets. The company undertook to meet international standards, engaged a designer to create original designs, and developed a mark for the new line of products.[9] *By developing a strong mark to identify its goods and by protecting its original designs, Dankotuwa was able to create a demand for its goods commensurate with their quality – double the price of many producers in the region – and move from loss to profit in less than a year.*

Institutional Framework for Intellectual Property Protection

Intellectual property rights are protected under the domestic laws of each country. Industrial property offices, courts, and well-trained practitioners all contribute to the successful operation of the intellectual property system.

Although each country determines its own laws and practices, these must conform to the requirements of international agreements to which the countries belong. Governments have formed agreements on intellectual property since at least 1883, when the Paris Convention for

[9] See www.sundayobserver.lk/2002/09/01/fea10.html.

[10] A franchise is a complex license agreement that authorizes the franchisee to use a mark and other intellectual property specified in the agreement in accordance with the conditions of that agreement. In addition to exercising control over use of the mark, the franchisor sets conditions that provide the franchisee with a total system of doing business. The franchise agreement usually includes the right to use the franchised company's trade dress, know-how, copyrighted materials, and perhaps trade secrets or patents.

Exhibit 2
Licensed Technology Builds Innovative Industries

Patents, copyright, industrial designs, and other forms of intellectual property provide a legal mechanism by which an inventor or author can share new developments with others. Licensing offers a means to acquire that technology safely, sometimes even from competitors.

When Hyundai Motor Company founder Chung Ju-Yung wanted to develop an automobile, he began with technology licensed from Ford.[11] Born into a peasant farming family, Chung Ju-Yung's first business, selling rice, failed during the Japanese occupation of Korea, but his genius for building businesses led to the establishment of successful companies and contributed to Korea's dramatic economic development.[12] As its products became established, Hyundai pursued research and development for its own designs, taking guidance from Mitsubishi Engines and Italdesign as needed. In 2001, the company sold more than 1.6 million Hyundai vehicles and had 5 R&D facilities in Korea as well as one each in Detroit, Frankfurt, and Japan. Today, the company owns more than 700 U.S. patents.

A similar pattern was followed by other Korean carmakers—Kia, now absorbed by Hyundai, which began producing automobiles under licenses from Ford and Peugeot; Daewoo, which began as a joint venture with General Motors; and Ssangyong, now absorbed by Daewoo, which began independently but took a leap forward with technology licensed from Mercedes.

The ability to benefit from technology owned by others is not limited to Korean carmakers. When a fledgling Microsoft needed an operating system, it purchased rights to an existing system from programmer Tim Patterson and adapted it for use in personal computers,[13] building a business that in 2002 had more than 50,000 employees and revenues exceeding $28 billion.[14]

the Protection of Industrial Property was adopted.[15] Most intellectual property agreements are administered by the World Intellectual Property Organization (WIPO). Intellectual property provisions are also included in trade agreements, the most important of which is the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), an annex to the Agreement Establishing the World Trade Organization (WTO). Recent developments involving the TRIPS Agreement are summarized in Appendix B.

The United States is a leading advocate of adequate and effective intellectual property protection. Its objectives include accelerated implementation of the TRIPS Agreement, effective implementation by foreign countries of laws that supplement and strengthen the

[11] autozine.kyul.net/Manufacturer/Korea.htm.
[12] www.hyundaiusa.com/about/ahhma.html.
[13] Bergin, Thomas J. Personal Computing. www.computinghistorymuseum.org/teaching/lectures/pptlectures/PersonalComputing.ppt#44).
[14] www.microsoft.com/presspass/inside_ms.asp#headcount.
[15] "The need for international protection of intellectual property became evident when foreign exhibitors refused to attend the International Exhibition of Inventions in Vienna in 1873 because they were afraid their ideas would be stolen and exploited commercially in other countries." World Intellectual Property Organization, http://www.wipo.int/about-wipo/en/.

standards of the TRIPS Agreement, and securing fair, equitable, and nondiscriminatory market access opportunities for U.S. persons that rely on intellectual property protection.[16]

Developing Country Concerns and the Intellectual Property Debate

Despite the importance of intellectual property to promoting economic growth and development, many developing countries are concerned about how stronger protection will affect their interests. They fear that stronger protection will drive up prices and permit foreign interests to capture the economic benefit of indigenous knowledge or biological resources.

INTELLECTUAL PROPERTY AND PRICES

The greatest obstacle to enacting stronger intellectual property laws is the fear that adopting intellectual property protection will increase prices, particularly for medicines. Compared with older technology, new products may indeed be more expensive, whether or not they are patented. It does not follow, however, that introducing patent protection will cause an increase in prices. A study commissioned by an association of research-based pharmaceutical companies found that adopting patent protection for pharmaceutical products did not result in an increase in pharmaceutical prices in the countries studied.[17] This is not surprising because patents apply only prospectively. Products that are already on the market are unaffected by the introduction of a patent law. In most countries, off-patent pharmaceuticals account for more than 90 percent of the legitimate drugs on the market. When a new product is introduced, it does not replace existing products but is added to the choices available. If it offers benefits over other products, consumers may be willing to purchase it, even at a higher price—or they may continue to use existing, unpatented items.

The argument that intellectual property will increase prices is often advanced to support permitting the sale of generic drugs. Because a manufacturer of generic products does not have to recover an initial investment in research and development, it may offer products at a lower price. Generic products are sold within the framework of a patent system, and a thriving generic drug industry often exists side by side with research-based pharmaceutical companies in countries with strong patent protection. Care should be exercised to distinguish between this situation and the failure to provide patent protection—in a sense making all products "generic"—or sales of infringing products.

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16 Uruguay Round Agreements Act, 19 U.S.C. Sec. 3581.

17 Cited in Thomas Bombelles, Challenges in Intellectual Property Protection: International and Arab World Perspectives, *Proceedings of AIPPI International Symposium 197* (Cairo, October 21–23, 1997).

The debate about protecting pharmaceutical products sometimes takes on an inflammatory aspect, with the allegation that the patent system is responsible for the lack of affordable AIDS drugs in sub-Saharan Africa. The AIDS crisis in Africa is a tragedy of catastrophic proportions that is compounded by the dire poverty of sub-Saharan Africa. Millions of infected people do not have access to basic medical services, much less AIDS drugs.

Clearly, the patent system is not the root of this problem. Many countries in sub-Saharan Africa have no patents on AIDS drug products yet have high rates of HIV infection.[19] In countries where AIDS drug products are patented, other factors such as the level of development,[20] price controls, and other government policies[21] have a greater effect on pricing and access.[22] In addition, a number of measures have been undertaken to ensure that intellectual property is not a barrier to access. Pharmaceutical firms that own patents in sub-Saharan Africa have taken such steps as offering their products at or below cost, granting a royalty-free license to a generic manufacturer, or agreeing not to enforce their patent

Third World Businesses Share First World Success through Franchise Arrangements

All over the world, small business owners have chosen the advantages of an established reputation and proven business method. This is made possible through the business method franchise, a complex license agreement governing use of a mark and other intellectual property. Franchising offers a successful business a means to expand with a smaller investment. It offers the franchisee an opportunity to participate in the success of an established business. Many types of businesses have been franchised, but the trend toward franchising is most apparent with restaurants, where thousands of entrepreneurs have the benefit of consumer recognition of internationally known marks such as McDonald's, Burger King, Kentucky Fried Chicken, Arby's, Taco Bell, or Wimpy's.[18]

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[18] Some points to be considered by potential franchisees are discussed by the British Franchise Association at www.whichfranchise.com/feature_template.cfm?FeatureID=50.

[19] Patents on Anti-Retroviral Drugs in Africa, www.cptech.org/ip/health/ africa/jama-patents-table.html.

[20] See, for example, Barringer, "South African Leader Defends Delay in Offering AIDS Drugs," *New York Times* September 25, 2003, in which South Africa's President Mbeki states that it was first necessary to have sufficient health care workers. Available at http://query.nytimes.com/gst/abstract.html?res=F00817FD3F590C768EDDA00894DB404482.

[21] See, for example, Ashurst, "Africa's Aids drugs debate heats up," *BBC News*, January 30, 2002, at www.aegis.com/news/bbc/2002/BB020112.html; and "South Africa Aids drug protests," August 4, 2003, at www.aegis.com/news/bbc/2003/BB030802.html, describing South African government policies opposing distribution of anti-retroviral drugs. See also Reelie, Douglas, "South Africa's Battles with Drug Prices," National Center for Policy Analysis Brief Analysis No. 334. August 15, 2000, at www.ncpa.org/ba/ba334/ba334.html, describing effect of distribution system on prices.

[22] The subject continues to be studied and debated extensively. See, for example, Attaran, Amir and Lee Gillespie-White, "Do Patents for Antiretroviral Drugs Constrain Access to AIDS Treatment in Africa?" *JAMA* 286 (15) October 17, 2001, at www.cptech.org/ip/health/africa/attaran-white.html. Also discussed in Powell, Alvin, "Effect of Patents Pending: Attaran: Drug Patents Not Crucial in AIDS fight," *Harvard Gazette*, October 18, 2001, at www.news.harvard.edu/gazette/2001/10.18/08-aids.html; Comment on Attaran/Gillespie-White and PhRMA surveys of patents on Antiretroviral drugs in Africa, Consumer Project on Technology, Oxfam Treatment Access Campaign, October 16, 2001, at www.cptech.org/ip/health/africa/dopatentsmatterinafrica.html; Facts and Figures on Patenting and Access in Africa, www.cptech.org/ip/health/africa/phrmasurveytext.html; Lippert, Owen, "Poverty, Not Patents, Is the Problem in Africa," www.cnehealth.org/pubs/lippert_poverty_not_patents.htm; Petersen, Melody, and Donald G. McNeil Jr., "Maker Yielding Patent in Africa for AIDS Drug," biosci.usc.edu/courses/2001-spring/documents/bisc150-ca3-article7.pdf.

rights on AIDS drugs, and WTO Members have agreed to measures intended to promote access by countries that lack the capacity to manufacture pharmaceutical products. (See Appendix B.)

INDIGENOUS KNOWLEDGE AND NATURAL RESOURCES

Another objection sometimes raised is that developed-country interests might use the intellectual property system to deprive a developing country of the economic benefits of its own resources. Developing countries are particularly concerned about practices such as "bio-prospecting," by which foreign interests obtain samples of biological materials that they use to generate patentable products, and about patents for inventions that build on indigenous knowledge. Fueling interest in this subject are reports of foreign patents being issued for naturally occurring products to cure diseases, uses that are well-known in the developing country. The biggest worry is that a patent will prevent people from continuing to make use of technology that has been part of their culture for centuries, a situation unlikely to occur by virtue of a foreign patent because patents apply only in the country where they are granted.

In some cases, patents have been obtained on technological advances that built and improved on traditional knowledge. This is an appropriate use of the patent system. In other cases, it appears that individuals have filed patent applications claiming that they invented technology that was in fact not invented by them but derived from others, on technology that was not new but was well-known. Although patent applications are examined for novelty, the examination is no better than the collection of information available to the examiner. Bringing a legal challenge against such patents can be expensive and time-consuming. A better approach is to minimize the chances of such occurrences by the simple measure of assuring that "traditional knowledge" is part of the collection consulted by patent examiners—a possible subject for technical assistance.

Technical Assistance That Works

The most successful USAID-funded technical assistance links intellectual property with local needs and interests, builds effective communication with policymakers and local interests, provides time and resources to strengthen local institutions, and plans for sustainability.

FOCUS ON LOCAL NEEDS AND INTERESTS

Some developing countries have products with export potential. Many are seeking ways to protect their natural and cultural assets. Using intellectual property to accomplish those objectives demonstrates its benefit to the local population and highlights improvements needed to benefit domestic interests. Examples of effective assistance include the USAID Competitiveness Initiative (TCI) projects, which work with industry clusters to strengthen

their competitiveness. Technical assistance on intellectual property is a natural outgrowth of those efforts, which demonstrate the value of the intellectual property system and highlight any shortcomings of the local system. Focusing first on increasing competitiveness creates a domestic constituency for stronger intellectual property protection. In countries that would otherwise align with the developing country bloc, local industries become advocates for many of the same reforms foreign interests seek.

BUILD LOCAL SUPPORT

It is essential to lay a foundation for policy improvements through effective communication with government officials and local industry. Policymakers and implementing officials can make improvements work—or fail. Their perspectives, and those of local industry and the bar, can be useful in structuring technical assistance. Failing to take into account the concerns of any of these groups may derail or delay reforms.

One successful USAID-supported effort was a series of legislation-drafting workshops in Uganda. The Uganda Law Reform Commission invited participation by individuals representing all sectors with a stake in reform—authors, performers, scientists, agricultural interests, health care providers, and others. An intellectual property adviser was available to provide technical support. Professional legislative staff consolidated recommendations and specialized technical advice into documents that were reviewed, discussed, and amended in a later workshop. Besides offering an opportunity to address specific concerns, these workshops gave each sector a sense of ownership of the initiative.

Another successful USAID effort was a program to educate the media. A series of interactive workshops for journalists was organized by the Technical Assistance on Intellectual Property Rights in Egypt (TIPRE) project in conjunction with a leading local newspaper. Speakers included ministers and other high-level officials, attorneys, publishers, representatives of both research-based and generic pharmaceutical companies, software firms, and others with a stake in the intellectual property system—including opponents of stronger protection. Participants agreed to publish or broadcast one story on intellectual property. No restrictions were placed on the content of their stories, yet press coverage improved dramatically. Explaining the turnabout in their positions, journalists were candid: No one had ever bothered to explain the issues to them before. When they understood the interests involved, their criticism switched from demanding to know why Egypt was agreeing to change its intellectual property system to asking why it had taken so long.

Another successful program of the TIPRE Project was the IPR Roundtable, a small-group discussion promoting public–private sector dialogue on intellectual property. Influential individuals from government, academia, and the private sector were invited to participate on the basis of their likely interest in the topic to be presented. A brief technical presentation by an intellectual property expert was followed by questions and open discussion in a friendly

setting. This arrangement permitted the project to deliver its message and helped to clarify issues.

STRENGTHEN LOCAL INSTITUTIONS

The intellectual property system is no stronger than the institutions that implement it. Effective institutional development requires time, an intimate knowledge of local conditions, and direct and sustained involvement with the relevant institutions.

One of the most important ways to strengthen local institutions is through training. Host governments often have specific technical and practical concerns about intellectual property. For this reason, it is best to match training needs with experts who have practical experience in a given subject. Other important considerations are matching training with local practices and directing training to the individuals who will actually carry out intellectual property functions, even if they do not meet other criteria such as English proficiency or seniority.

Other types of assistance, such as modernizing industrial property offices and strengthening procedures, may also be needed and welcome. These activities require sustained involvement with the industrial property offices as well as a sound grasp of intellectual property practice. Institutional development assistance promotes the efficiency, transparency, and reliability of the intellectual property system.

USAID's Strengthening Intellectual Property Rights in Egypt (SIPRE) project was a comprehensive technical assistance project to strengthen intellectual property institutions. SIPRE worked with Egypt's patent, trademark, and industrial design offices over a period of five years to provide training and technical legal assistance, modernize the offices, and strengthen the institutions that administer the intellectual property laws. These efforts resulted in examination that was more objective and transparent, procedures that were more transparent and consistent, and records that were both more accessible and more secure. Important results included the automation of industrial property records, which had been maintained in paper files, the adoption of administrative guidelines on industrial property examination to ensure consistency in the treatment of applications, and a reduction by more than a year in the time required to register a mark or design or to obtain a patent.

PLAN FOR SUSTAINABILITY

Technical assistance on intellectual property should promote sustainable development and help developing countries participate more fully in international trade. A common problem in developing countries is lack of knowledge on how to use the intellectual property system. Training attorneys and agents can help build local capacity and sustainability. USAID-

Colombo sponsored the development of a university postgraduate course on intellectual property. The SIPRE and TIPRE projects in Egypt developed a curriculum and textbook[23] and taught courses in three Egyptian universities. These projects also reached out to practicing attorneys and agents through workshops on subjects of interest, such as the effect of joining international agreements.

Another aspect of sustainability is ensuring that offices that administer the intellectual property system have adequate funding. These offices must compete for their governments' scarce resources. One solution to this problem is to institute a system of user fees and to permit the offices to retain at least a portion of the income the offices generate. Such a system can ensure adequate resources for many years.

Sustainability is also promoted by improving access to the intellectual property system—by removing barriers to obtaining rights and by promoting disclosure, which is an important function of the intellectual property system. Technical assistance is often needed to make information more accessible—to develop better filing systems, acquire modern office equipment, and improve publication of industrial property information.

Resources for Technical Assistance on Intellectual Property

A number of resources are available to USAID Missions and host country governments seeking to improve their intellectual property systems or participate more fully in international systems of protection. These resources include information, training, some limited assistance with hardware and office equipment, and other forms of technical assistance.

U.S. GOVERNMENT AGENCIES

Several U.S. Government agencies have responsibilities for various aspects of the intellectual property system. Information on intellectual property issues in foreign countries can be obtained through country desks in the Department of State and the Department of Commerce's International Trade Administration. Fact sheets are available at usinfo.state.gov/topical/econ/ipr. The U.S. Trade Representative publishes an annual National Trade Estimates Report that outlines concerns about the adequacy of intellectual property protection. This report, as well as information on intellectual property aspects of trade issues, can be accessed at the USTR website at www.ustr.gov. Information on technical issues can be obtained from the U.S. Patent and Trademark Office's website at

[23] The book is available to USAID missions; see the section on "Resources for Technical Assistance on Intellectual Property."

www.uspto.gov.[24] International issues are discussed in detail on the page of the Office of External Affairs.

Preventing trade in infringing goods, and particularly trademark counterfeit and copyright pirated items, is a U.S. Government priority. The U.S. Customs Service describes its intellectual property program at www.customs.gov/xp/cgov/import/commercial_enforcement/ipr.xml. The site offers a wealth of information on Customs intellectual property rights enforcement. It includes a link to the Intellectual Property Rights Branch in the Office of Regulations & Rulings, the legal arm of Customs that leads the civil administrative side of Customs IPR enforcement. The site also links to the National Intellectual Property Rights Coordination Center, a multi-agency center that coordinates U.S. Government efforts to combat violations of intellectual property rights, particularly criminal violations.

A number of agencies offer training on intellectual property. The Patent and Trademark Office's Visiting Scholars Program is a short course on patent and trademark examination, designed specifically for developing country nationals. Its enforcement seminar is oriented toward managers and policy officials concerned with enforcement of intellectual property rights. On occasion the Patent and Trademark Office will make experts available for specific technical assistance assignments. The Department of Commerce's Commercial Law Development Program offers workshops and facilitates access to government experts. The U.S. Customs Service works with other U.S. Government agencies and multilateral organizations to provide technical assistance in civil administrative seizure and forfeiture of infringing goods and partners with the FBI to offer workshops on intellectual property enforcement through the National Intellectual Property Rights Coordination Center. Training and other types of technical assistance are also occasionally available through other agencies.

One useful resource for locating training opportunities is the Intellectual Property Rights Training Program Data Base sponsored by the Bureau of Economic and Business Affairs of the Department of State. This database, which can be searched or browsed, can be accessed at www.training.ipr.gov/index.cfm?fuseaction=db.search.

USAID missions should also consider obtaining copies of materials prepared by technical assistance projects. A text prepared by the SIPRE and TIPRE Projects, *Intellectual Property Principles and Practice*, is available in English and Arabic to missions that may wish to develop training programs on intellectual property. [25]

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[24] This site and several others are best navigated from the site index, which can be accessed through the search feature.

[25] An electronic copy can be requested from goans@comcast.net.

INTERNATIONAL ORGANIZATIONS

Some assistance may be available to host country governments through international organizations that administer intellectual property agreements or trade agreements with intellectual property provisions. The WTO website, www.wto.int, contains the text of the TRIPS Agreement as well as other relevant documents. This site also contains summaries, particularly for the press, of current and pending issues, and a presentation explaining the provisions of the TRIPS Agreement. The WTO Training Institute offers courses for government officials on WTO topics. These course offerings may change over time. Plans are underway to expand WTO training to include distance education and university networking. In addition to these training programs, the WTO arranges technical assistance for developing countries on a case-by-case basis, with the exact nature of the assistance determined according to the circumstances.

Several United Nations organizations offer technical assistance on intellectual property. The World Intellectual Property Organization website, www.wipo.int, contains the most comprehensive collection of technical information on intellectual property, including the text of most intellectual property treaties and other international agreements, and current lists of members of those agreements; intellectual property laws from many countries; statistical information on industrial property, such as the number of trademark applications filed and number of trademarks registered in a given country and in a given year; and succinct discussions of various intellectual property topics. A major element of WIPO's technical assistance program is training. The WIPO Worldwide Academy offers distance learning programs as well as meetings, courses, and seminars. WIPO offers a professional training program for managers and technical staff of industrial property offices, particularly in developing countries and countries in transition to market economies. Other activities include a summer school, a diploma program, and fellowships for postgraduate study.

In addition to its training programs, WIPO operates Cooperation for Development, a program whose mission is to "enable developing countries all over the world to establish or modernize intellectual property systems, consistent with national objectives and requirements, and to utilize them for their social, economic and cultural benefit." This program functions in concert with WIPO's regional bureaus to offer special services to developing countries on such subjects as the collective management of copyright and related rights and participation in international agreements that facilitate filing in multiple countries. Technical assistance available through WIPO may include providing short-term technical advisers, working with local industrial property offices, or arranging for the delivery of computers and software.

Other international organizations also have programs of technical assistance on intellectual property. The International Union for the Protection of New Varieties of Plants (UPOV) operates within the WIPO system and is responsible for an international system of protection of new plant varieties. UPOV provides technical assistance that includes aid in legislative drafting as well as seminars and courses. Information on UPOV can be accessed at

www.upov.int. The U.N. Food and Agriculture Organization (FAO) also offers trade-related technical assistance on intellectual property. The FAO program includes a variety of forms of technical assistance, including advice and assistance in formulating legislation for the protection of new plant varieties, workshops and meetings, and advice on the structure of implementing organizations. The FAO technical assistance program on intellectual property is described at www.fao.org/docrep/003/X3452E/x3452e07.htm. Two other U.N. agencies, UNESCO and UNCTAD, also have programs relating to intellectual property.

A few other international organizations provide resources on intellectual property. Articles that analyze the role of intellectual property in economic development are available on the World Bank's website at www1.worldbank.org/wbiep/trade/othertrade/TRIPS.html. Other organizations, such as the Asian Development Bank, have limited technical assistance programs on intellectual property. Finally, technical assistance is sometimes available through regional industrial property offices, such as the European Patent Office.

Appendix A. Intellectual Property Definitions

Intellectual property generally is divided into two main branches—industrial property and copyright. Industrial property comprises inventions, marks, and the repression of unfair competition. Copyright relates to works of authorship.

An *invention* is a new development in any field of technology. It is typically a new device, process, composition of matter, or an improvement on any of these. A *patent* is a government grant of exclusive rights in the invention for a limited period of time, in exchange for which the inventor must disclose the invention to the public. To be patentable, an invention must be new, useful (or industrially applicable), and not an obvious improvement over previously known inventions.

An *industrial design* is any composition of lines or colors, or any three-dimensional form that gives a special appearance to and can serve as a pattern for a product of industry or handicraft. An industrial design is generally protected if it is new or original and not dictated solely by technical or functional features.

A *mark* is any sign or combination of signs capable of distinguishing the goods or services of one undertaking (i.e., person or business) from those of another. The terms "mark" and "trademark" include service marks. A related area is the *geographical indication* (also called an *appellation of origin),* which identifies a good as originating in the territory of a particular country, or a region or locality in that territory where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.

Plant variety protection (also referred to as *plant breeders' rights*) gives the developer of a new variety of plant the exclusive right to produce, offer for sale, or market the propagating material of the variety. Plant varieties are generally protected if they are distinct, uniform, and stable, have an appropriate denomination (name), and are commercially novel.

Intangible property such as business goodwill, trade secrets, and know-how are protected under the laws prohibiting unfair competition. *Unfair competition* includes any act contrary to

honest commercial practices. Acts of unfair competition include, but are not limited to, breach of contract, misappropriation of trade secrets, and false or misleading representations as to the origin or quality of goods or services. The laws against unfair competition are sometimes included in *commercial (companies) law* and are sometimes included in *consumer protection law*. *Restrictive business practices (monopolies)* related to licensing may also be acts of unfair competition.

Copyright refers to protection for works of authorship, including computer programs. Copyright protects any original work of authorship against copying—reproducing copies, preparing derivative works, distributing copies, selling copies, or performing or displaying the work publicly. The related area of *neighboring rights* protects performers, producers of phonograms (sound recordings), and broadcasting organizations.

Integrated circuit-layout designs (or topographies) used in semiconductor chips are protected either under copyright or a *sui generis* law against copying the mask used in the production of the semiconductor chips.

Appendix B. Summary of TRIPS Developments from Doha to Cancun

The TRIPS Agreement calls for further action on a few issues. These include the protection of geographical indications, a possible extension of the deadline for least-developed nations to meet TRIPS requirements and to deal with implementation issues, and other issues that might warrant modification of the TRIPS Agreement. At the Doha Ministerial Conference in November 2001, developing countries expressed concern about the relationship between TRIPS and public health concerns, particularly how patents might affect access to affordable medicines. The Ministerial addressed developing country concerns within the framework of the TRIPS Agreement. Ministerial documents explained the TRIPS Agreement in a manner that permits WTO members a great deal of flexibility in responding to public health emergencies. The issue of public health proved controversial and was not resolved until nearly two years after the Ministerial, as discussed below.

Doha Ministerial Documents

The Doha Ministerial produced three documents with provisions relating to the TRIPS Agreement:

1. A Ministerial Declaration;
2. A Statement on Implementation-related Issues and Concerns, adopted as a decision of the Ministerial Conference; and
3. A Declaration on the TRIPS Agreement and Public Health.

MINISTERIAL DECLARATION

The Ministerial Declaration called for action on three issues affecting intellectual property: (1) the negotiation of a multilateral system of notification and registration of geographical

indications for wines and spirits; (2) instruction to the TRIPS Council to examine the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore, and other relevant developments; and (3) the adoption of a separate Declaration on the TRIPS Agreement and Public Health.

STATEMENT ON IMPLEMENTATION-RELATED ISSUES AND CONCERNS

This statement directed the TRIPS Council to continue its consideration of non-violation complaints (see discussion below), reaffirmed that developed countries are obligated to offer incentives to promote technology transfer to least-developed countries, and agreed to require annual reports on the incentives.

DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH

The Declaration on the TRIPS Agreement and Public Health addressed the relationship between the TRIPS Agreement and public health, particularly "public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics." The Declaration provided guidance on interpretation of the TRIPS Agreement, such as the following:

> We recognize that under WTO rules no country should be prevented from taking measures for the protection of human, animal or plant life or health, or of the environment at the levels it considers appropriate, subject to the requirement that they are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, and are otherwise in accordance with the provisions of the WTO Agreements.

While most developed countries believed that the TRIPS Agreement is flexible enough to address emergencies of any type, including public health emergencies, developing countries complained that they were uncertain about what conditions justified use of exceptions in the TRIPS Agreement and feared using them to address public health problems. The Ministerial responded by agreeing that "the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health." It also reaffirmed "that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all" and "the right of WTO Members to use, to the full, the provisions in the TRIPS Agreement which provide flexibility for this purpose."

Much discussion focused on *compulsory licenses*, which are government grants of permission to exploit a patented product without the owner's permission. The Declaration recognized "that each Member has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." It also recognized

> that each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency, it being understood that public health crises, including those relating to HIV/AIDS, tuberculosis, malaria and other epidemics, can represent a national emergency or other circumstances of extreme urgency.

Recognizing as legitimate the concern that "WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement," the Ministerial referred this issue to the TRIPS Council.

The Declaration also extended to January 1, 2016, the period for least-developed country members to implement or enforce TRIPS provisions on patents and undisclosed information, with regard to pharmaceutical products only. For all other matters, the deadlines remain the same (i.e., January 1, 2005, for most provisions)

Implementation of the Doha Development Agenda on IPR

The Doha Ministerial instructed the TRIPS Council to address a number of intellectual property issues. Work on each of these elements is described below.

COMPULSORY LICENSING FOR COUNTRIES WITHOUT DOMESTIC MANUFACTURING CAPACITY

The Doha Ministerial instructed the TRIPS Council to find a solution for countries with insufficient or no manufacturing capacity in the pharmaceutical sector before the end of 2002. Focusing on this gap in authority for effective compulsory licenses in non-manufacturing countries, opponents of intellectual property protection proposed a broad weakening of the compulsory licensing disciplines that had been agreed to in TRIPS. This led to a stalemate at the end of 2002.

The TRIPS Council reached an agreement in August 2003 to permit countries without domestic manufacturing capacity in the pharmaceutical sector to import pharmaceutical products. TRIPS Article 31 requires that a compulsory license be predominantly for the supply of the *domestic* market of the WTO Member authorizing the license. The solution called for dual compulsory licenses to meet an emergency—one for the importing country and one for the exporting country—with safeguards to prevent misuse of the licenses and diversion of the goods to other markets.

A major concern was the diversion of goods to markets where they are sold at higher prices to the detriment of the country whose public health emergency justified the license. On August 30, 2003, after extensive negotiations, agreement was reached on procedures to permit the import and export of medicines under compulsory license. Under this agreement, least-developed countries can authorize a compulsory license for importation. Other countries with

no or insufficient manufacturing capacity in the pharmaceutical sector are also eligible but must notify the TRIPS Council that they intend to take advantage of the agreement as an importing country. Importing countries can authorize the importation of a pharmaceutical product, including active ingredients and diagnostic kits, provided the compulsory license meets certain requirements. These include notification of the TRIPS Council, specifying the names and amounts of pharmaceuticals subject to the compulsory license; limiting the license to the amount necessary to meet the importing country's needs; and having the exporting country export the entire amount to the importing country. Goods produced under the license must be so identified through special packaging, coloring, labeling, or other methods, provided that such identification does not add significantly to the cost of the goods. Compulsory licenses must provide for equitable remuneration of the patent owner, but the importing country can receive credit for the fees paid by the exporter licensed by the patent holder to produce the medicines.[26]

Use of these new export and import compulsory licenses is subject to annual review. The TRIPS Council will also consider amending the TRIPS Agreement to incorporate the August 30, 2003 decision.

GEOGRAPHICAL INDICATIONS

The TRIPS Agreement provides two levels of protection for geographical indications. All goods must be protected against use of an indication, on goods or in a mark, that indicates goods originate in a place other than their true origin and that misleads the public as to the true origin of the goods, or use that constitutes an act of unfair competition.[27] Wines and spirits are accorded a higher level of protection, which prohibits using such indications even when "accompanied by expressions such as 'kind', 'type', 'style', 'imitation', or the like."[28]

The TRIPS Council considered two issues: whether to create a multilateral system of registration for geographical indications for wines and spirits, and whether to extend the higher level of protection to other goods. The main issue in creating a multilateral system is the legal effect of registration. Extending a higher level of protection to other goods has been linked to agricultural discussions. Issues include the cost of implementation and the effect on goods produced by immigrants according to traditional methods. The United States has expressed support only for a voluntary system of registration, as opposed to extending the higher level of protection to other goods. The Cancun Ministerial reached no conclusion on either issue.

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[26] The full text of the decision can be found at Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health, WTO, Council for TRIPS Decision of August 30, 2003, WT/L/540 www.wto.int/english/tratop_e/trips_e/implem_para6_e.htm.
[27] TRIPS Article 22.
[28] TRIPS Article 23.

TRIPS, CBD, TRADITIONAL KNOWLEDGE, AND FOLKLORE

The Doha Declaration directed the TRIPS Council to consider the relationship between the TRIPS Agreement and the CBD and the protection of traditional knowledge and folklore. This mandate augmented an ongoing review under TRIPS Article 27.3. That article permits WTO Members to exclude from patentability certain biological inventions. The CBD has as its object not only the conservation of biological diversity and the sustainable use of its components but also the equitable sharing of benefits arising from the use of genetic resources. Among the topics under discussion are proposals to require patent applications to disclose the origin of biological materials or traditional knowledge used in the invention, and to demonstrate "prior informed consent" and equitable benefit sharing for such use. Some developed countries oppose these measures, which, as a practical matter, would impose significant burdens on inventors, and believe that contractual arrangements offer a satisfactory vehicle for communities to negotiate access to their genetic resources or traditional knowledge. Discussions on these topics is continuing but may be deferred to take advantage of the results of technical discussions under way in WIPO.[29]

TECHNOLOGY TRANSFER

TRIPS Article 66.2 requires developed countries to provide incentives for their companies to transfer technology to least-developed countries. In Doha, it was agreed that the TRIPS Council would "put in place a mechanism for ensuring the monitoring and full implementation"[30] of this obligation. In February 2003, the TRIPS Council adopted a decision requiring developed country WTO Members to submit annual reports on actions taken or planned in pursuance of their commitments under Article 66.2, including how their incentives are functioning in practice.

NON-VIOLATION COMPLAINTS

The Statement on Implementation-related Issues directed the TRIPS Council to continue its consideration of non-violation complaints under the TRIPS Agreement.[31] Non-violation complaints—complaints that the actions of one government have resulted in harm to another, even though those actions may not directly violate an agreement—are permitted under agreements on trade in goods or services. At issue is whether to further extend the moratorium on intellectual property disputes brought on the basis of non-violation complaints.[32] If such complaints are permitted, agreement would be needed as to their "scope and modalities."[33] Many countries want to continue the moratorium on intellectual property

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[29] The Convention on Biodiversity can be found at www.biodiv.org/convention/articles.asp.
[30] Implementation-Related Issues and Concerns, Para. 11.2, WTO, WT/MIN(01)/W/10 (14 November 2001).
[31] The ability to bring a complaint for a direct TRIPS violation was unchanged.
[32] TRIPS Art. 64.2 contained a five-year moratorium on non-violation complaints; this has been extended.
[33] *Op.cit*, para. 11.1.

non-violation complaints or make it permanent, while others, including the United States, favor allowing non-violation cases to discourage Members from engaging in "creative legislative activity" to evade their TRIPS commitments.[34] The Cancun Ministerial reached no consensus on this issue.

[34] TRIPS: 'Non-Violation' Complaints (Article 64.2), Background and the current situation, WTO, www.wto.int/english/tratop_e/trips_e/nonviolation_background_e.htm.

Appendix C. Illustrative TRIPS-related Capacity Building Projects, 2002

Project	Country	Funding ($) and Source	Description
More Open Trade and Investment Policies	Central Americas	1,307,972 USAID/G-CAP	Works to increase public support for open trade and investment policies; increase Central American compliance with the second FTAA business facilitation measure and with WTO recommendations on customs valuation; strengthen national intellectual property rights (IPR) institutions; and raise public awareness of IPR issues through effective dissemination of information.
Algeria Trade Capacity Building	Algeria	129,450 USAID	Judges in the civil/administrative and criminal courts, as well as rights holder groups, were trained in the adjudication of intellectual property cases. Training was also provided on those issues to the Algerian Ministry of Justice and the Algerian Judicial Training Center. The "Algerian Intellectual Property Judges Bench Reference Manual" was drafted. Consultations were held with government officials, rights holder groups, and academics on technology transfer and licensing issues. Consultations were also held with Algerian judges on the WTO TRIPs Agreement. A workshop—"Protecting and Enforcing IP rights in Algerian Authors, Artists and Composers" —was held for rights holder groups And consultations were held with Algerian judges and lawyers on new developments in IPR.
Intellectual Property Crimes Training	Philippines	60,000 U.S. Department of State	The U.S. State Department Bureau for International Narcotics and Law Enforcement Affairs (INL) working with the U.S. Department of Justice Office of Prosecutorial Development, assistance and Training (OPDAT) is conducting a training program in the Philippines to build effective IPR crime enforcement.
Technical Assistance for Intellectual Property Rights Enforcement	Costa Rica	40,952 U.S. Department of State	Customs and Border Protection coordinated training program for Costa Rican law enforcement and trade communities to encourage compliance and policy formulation for IPR enforcement.

Project	Country	Funding ($) and Source	Description
Intellectual Property Rights	South Africa	187,500 USAID/South Africa	Works with the South African Departments of Trade and Industry as well as Science and Technology to review policy and implementation of IPR in South Africa. Also works with the Southern African Research and Innovation Managers Association to improve research and innovation at South African universities, technikons, and think tanks The activity also works to expand the use of IPR protection to generate resources for future research, a process known as the commercialization of research.
Ukraine WTO	Ukraine	50,000 USAID	With assistance from the Commercial Law Development Program's (CLDP), Ukraine adopted an IPR Omnibus Law to bring intellectual property laws and regulations into compliance with the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).
Technical Assistance on Communication, Arbitration & Intellectual Property Rights	Dominican Republic	15,000 USAID/Dominican Republic	Provides support for commercial arbitration and IPR to make local laws compliant with TRIPs.
Intellectual Property Rights	Tunisia	12,000 U.S. Department of State	Ten lawyers traveled to the United States to attend meetings with an Algerian delegation on IP and Internet technology. The group examined recent case law and thought on how strong IP standards contribute to growth in the IT sector.
Bolivian Trade and Business Competitiveness	Bolivia	150,000 USAID/Bolivia	Provides technical and other assistance to overcome constraints on trade and competitiveness and to improve the competitive production of goods and services in individual firms or groups of firms. Activities include promotion of Bolivian exports, especially in sectors benefiting from the Andean Trade Preferences and Drug Eradication Act (ATPDEA); technical assistance to improve firms' ability to export; assistance in implementing TRIPS commitments; training and other capacity building to ensure effective participation in trade negotiations; and improvement of the policy environment for business and trade.

SOURCE: USAID Trade Capacity Building Database, available at http://qesdb.cdie.org/tcb/index.html.