

Intellectual Propriety Rights Workshop

9-10 Sep 2008

Ulcinj, Montenegro.

Introduction¹

- Dobro jutro dame i gospoda, Drobodoschlii to this workshop on IPR organize by the EU TRIM project. Unfortunately, my knowledge of Serbian Montenegrin is extremely weak so let me please continue in English and sorry for this!
- The TRIM project is pleased to collaborate with the Montenegro Intellectual Propriety Office (MIPO) and the Ministry for Economic Development (MED) in the organization of this workshop. As many of you know, the TRIM is a project financed by the EU with the purpose to increase the approximation in trade and single market issues between Montenegro and the EU. In this context the project is supplying support to revise and amend when necessary Intellectual Propriety Rights (IPR) legislation, support in the design IPR national strategy, supply technical equipment (server, computers, printers etc) and increase capacity building and awareness.
- Is in this later direction that the present workshop will be carry out and with the goal to increase capacity and awareness in 3 main IPR areas such as the **patent law, the law on trademarks and the law on geographical indications**. These laws are part or among the pillars of the WTO Trade Related Intellectual Propriety Rights (TRIPS) agreement and are also essential elements to consider in the designing an IPR strategy. The project trough one senior expert in IPR, has supported the amendment of the patent law and is going to support the national organizations in designing an **IPR strategy**.
- This strategy is a useful tool given the IPR goals that country has set up for himself for the coming years. Thus, by the end of 2009 after the NPI, the level of IPR protection in Montenegro will be the same as in the EU and by 2012 a complete IPR legislative framework should be harmonized with EU acquis and all international standards. Beside this, Montenegro is expecting accession to WTO in the coming years, has signed the Central European Free Trade Agreement (CEFTA) in 2006 and the Stabilization Association Agreement (SAA) in 2007. The article 75 of the SAA states a full IPR protection after 5 years of the signature of the agreement, i.e., by 2012.
- The targets as you can see are high and ambitious. The goals are coherent each other and they are according to the long-term policy line set up by the government i.e. become member of the EU in the future. As you can remark these commitments will push for strong coordination of all bodies dealing with IPR in the country, i.e., custom authorities, MIPO, Ministry of Foreign Affairs and MED mainly for out the border IPR issues and market inspectorate, MIPO, Ministry of Culture, related judicial bodies and parliamentarian IPR committees for in the border activities.

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*All opinions and interpretations presented are responsibility of the author.

- All these commitments will also require right IPR information systems, increase budget and capacity building, and follow closely international IPR issues to make credible policy proposals in the various international organizations and forums. On Information systems support, the project will provide Montenegro with 2 servers, one for the data base system, one for the web site, 12 laptops, 13 printers and 2 scanners.
- Regarding **WTO accession**, the country has already presented more than 50 laws and most of the laws related to IPR are according with WTO TRIPS agreement and international regulations. Additional amendments are probably necessary in selected aspects, but they are not going to put in question the accession of Montenegro to WTO. However, major challenges will be the enforcement mechanism of TRIPS agreement and the position that will take the country, ie IPR authorities regarding current Doha negotiations. We must remember by previous accession experiences that no country can accede to WTO if there is not an **appropriate and credible enforcement** mechanism on TRIPS agreement.
- On the other side, once WTO accession is carried out, the country should take a position on **geographical indications (GI) & patents** in the Doha Round negotiations. The TRIPS agreement together with agriculture and GATS (services agreement) are among the most controversial in WTO. In the case of GI, the positions are clearly divided between from one side Argentina, Australia, Canada, Chile, Mexico, New Zealand, South Korea, Taiwan & USA, and a group of 108 WTO members led by Brazil, EU, India and Switzerland.
- The propose of the later group is: 1) establish a register for geographical indications of wines and spirits, 2) extend GI to all products, 3) make mandatory for patents applicants to disclose the origin of any genetic resources and/or associated **traditional knowledge (TK)** in their inventions.
- For the former group, only the register of GI is officially part of the Doha Round single undertaking, so negotiations should be only focus on this, but even the modalities for such GI register are far from be clear and agreed yet. Thus, Parma Ham (It), Darjeeling tea (In), Roquefort cheese (Fr) and others are excluded after those countries from the register and from negotiations. In their view, many of these names with the time have become generic and the changes will hurt long establish producers and exporters.
- As you all can understand these positions are not only on market access & millions of US\$ of sales in the international markets but it also concerns on the necessary amendments of TRIPS if the extension of GI and TK proposals are agreed among negotiators, and this is far from been the case, even between EU members.
- Taking position on these issues will be perhaps push IPR officials to revise Doha declaration, TRIPS agreement, study advantages & disadvantages for Montenegro producers and consumers on key proposals and agree with selected group of countries or coalition on specific positions of interest for the country.
- In its short live as a country, Montenegro has accomplished important tasks not only in drafting its IPR legislation according to international conventions but also has projected a positive image in the regional and European tourist market. This put the country today, among those with the highest FDI per capita in the world; however, this trend in increasing investments also creates problems not only in development the adequate infrastructure but also in the enforcement of IPR in the country.

- Increase number of international companies are arriving and will arrive to Montenegro in the future and they will ask for clarifications on **trademarks, copyrights, licensing, patents registration** and other aspects of IPR. This will require from IPR organizations, a proper information system, strengthening of institutions capabilities and deeper coordination. Usually, IPR implementation is not an easy task, neither a cheap one; it is estimated depending on the size and level of the country that TRIPS agreement requires about 4-20 m US\$/y for appropriate enforcement. Mexico for example spend about 20-30 m US\$ for improving institutions and harmonization of its IPR legislation with Canada and US in the NAFTA agreement. Thus, in this aspect the authorities should consider the appropriate **budget** to face all those challenges in the application of the country commitments in IPR.
- We hope that many of these questions and much more will be discussed and clarified during this workshop. We leave you with a top international expert in IPR, Mr. Bojan Pretnar, who is well know by many of you. Bojan has more than 25 years experience in IPR issues, he has taken part in the creation of the Slovenian IPO (SIPO) and was its director from 1991-2000. He has also been the main Slovenian government negotiator with EC on IPR issues and Permanent Representative at ambassador level of Slovenia to WIPO, WTO TRIPS council and head of the Slovenian delegation in the administrative Council of European Patent Office. Bojan has a PhD in Economics from Ljubljana University and acts today and in the coming weeks as TRIM expert supporting you in different IPR issues.

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Thanks very much for your attention.

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Ulcinji, Sep. 2008. Montenegro.