

REVIEW OF LEGISLATION

Responses from Albania to the follow-up questions posed by Switzerland

Addendum

By means of a communication from the Permanent Mission of Albania, dated 18 March 2002, the Secretariat has received the following responses to the follow-up questions posed by Switzerland, circulated in document IP/C/W/263/Add.1. These questions follow up Albania's responses to initial questions, circulated in document IP/C/W/267/Add.1.

A. PATENTS

Ad response to question 3:

Please confirm whether your law, in accordance with Article 27.1 of the TRIPS Agreement in combination with Article 31 of the TRIPS Agreement, considers importation as "working/utilising" a patent (and therefore precludes compulsory licensing, if a product is imported).

According to Article 27 of the Law on Industrial Property (1994), paragraph 1(b):

- "(2) Where the patent concerns a product, the owner of the patent shall have the right to prevent third parties from performing, without his authorization, the following acts:
- (a) the making of a product incorporating the protected invention;
 - (b) the offering or the putting on the market of a product incorporating the protected invention, the using of such a product, or the importing or stocking of such a product for such offering or putting on the market".

In such cases, it is considered as working patent; so, no compulsory licence can be granted.

Ad response to question 4:

Does your legislation provide for the granting of compulsory license to allow the exploitation of a patent ("second patent") which cannot be exploited without infringing another patent ("the first patent") as mentioned in Article 31(l) of the TRIPS Agreement? If so, which conditions shall apply for the granting of such licences in your legislation?

Our legislation does not provide (until now) for the granting of compulsory licence to allow the exploitation of a patent ("second patent") which cannot be exploited without infringing another patent ("the first patent").
