

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/PAK/1

21 de abril de 1997

(97-1724)

**Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio**

Original: inglés

NOTIFICACIÓN DE LEYES Y REGLAMENTOS DE CONFORMIDAD CON EL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO

Pakistán

Se ha recibido del Pakistán la siguiente notificación, de fecha 5 de marzo de 1997, mediante una comunicación de la Misión Permanente del Pakistán.

He recibido instrucciones de las autoridades de mi Gobierno para remitir adjunta una copia de la Orden N° XXVI de 1997, con el ruego de que sea considerada como notificación del Pakistán de conformidad con los párrafos 8 y 9 del artículo 70 del Acuerdo sobre los ADPIC.

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW, JUSTICE, HUMAN RIGHTS & PARLIAMENTARY AFFAIRS

F.No.2(1)/97-Pub.

Islamabad, the 4th February 1997

The following Ordinance made by the President
is hereby published for general information:-

ORDINANCE NO. XXVI OF 1997

AN
ORDINANCE

further to amend the Patents and Designs Act 1911

WHEREAS it is expedient further to amend the Patents and Designs Act 1911 (Act II of 1911) for the purposes hereinafter appearing;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:-

1. Short title and commencement---

- (1) This Ordinance may be called the Patents and Designs (Amendment) Ordinance, 1997.
- (2) It shall come into force at once.

2. Amendment of section 5, Act II of 1911--- In the Patent and Designs Act 1911 (II of 1911) hereinafter referred to as the said Act, in section 5, ---

- (a) in sub-section (1), in the second proviso for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:---

"Provided also that the Controller shall not refer to an examiner any application claiming protection for chemical product intended for use in medicine or agriculture till the 31st December, 2004.";

- (b) in sub-section (4), in the proviso for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely:---

"Provided further that where the reference to the examiner has been delayed under the third proviso to sub-section (1), the period of eighteen months shall be computed from the first day of January, 2005.";

(c) after sub-section (4), amended as aforesaid, the following new sub-section shall be added, namely:---

"(5) Notwithstanding anything contained in the preceding sub-sections, all applications claiming protection for chemical products intended for use in medicine or agriculture shall, after the first day of January 1995, be dealt with in accordance with the provisos to sub-section (1) and sub-section (4).".

3. Amendment of section 10, Act II of 1911 --- In the said Act, in section 10, after sub-section (2), the following new sub-section shall be added, namely:---

"(3) Notwithstanding anything contained in sub-section (2), the time for sealing the patent on an application claiming protection for a chemical product intended for use in medicine or agriculture shall commence from the first day of January, 2005, instead of date of the application.".

4. Amendment of section 12, Act II of 1911 --- In the said Act, in section 12, in sub-section (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso and explanation shall be added, namely:---

"Provided that where a person has filed an application for the protection of chemical product intended for use in medicine or agriculture and has obtained a patent and marketing approval therefor in another member country, he shall be entitled to an exclusive privilege for marketing the said product for a period of five years after obtaining marketing approval of the Federal Government or until the patent on the application is granted or rejected, whichever period is shorter.

Explanation --- For the purpose of this section, the expression "member country" means a country which is a signatory to the Agreement for Establishment of the World Trade Organization (WTO) and Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).".

5. Amendment of section 17, Act II of 1911 --- In the said Act, in section 17, in sub-section (2) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:---

"Provided that no action shall be taken in respect of an application claiming protection for a chemical product intended for use in medicine or agriculture until the first day of January, 2005.".

6. Amendment of section 22, Act II of 1911 --- In the said Act, in section 22, in sub-section (4) in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely:---

"Provided further that in computing the period of four years, the time between the date of application and date of enforcement of provision relating to grant of patent for the chemical products intended for use in medicine and agriculture shall be excluded.".

7. Amendment of section 23, Act II of 1911--- In the said Act, in section 23, after sub-section (4), the following new sub-section shall be added, namely:---

"(5) Where the patent is granted for a chemical product intended for use in medicine or agriculture, the time between the date of application and date on which the provision therefor is enforced shall be excluded for the purpose of computing the time for filing application under sub-section (1).".