

WORLD TRADE ORGANIZATION

RESTRICTED

IP/C/W/320/Add.2
30 November 2001

(01-6124)

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

Original: English

REVIEW OF LEGISLATION

Questions posed by the European Communities and their member States

Addendum

By means of communications from the Permanent Mission of the European Commission, dated 29 November 2001, the Secretariat has received copies of the following additional questions that the European Communities and their member States have communicated to Nigeria, Pakistan and Sri Lanka.

NIGERIA

Having noted that draft amendments to the intellectual property laws of Nigeria are currently being considered by the Nigerian Government in order to meet Nigeria's obligations under the TRIPS Agreement, please advise precisely when the anticipated draft bills will be:

- (a) *promulgated in Nigeria, and*
- (b) *come into operation as law in Nigeria.*

PAKISTAN

A. COPYRIGHT AND RELATED RIGHTS

1. *In the Copyright Ordinance 1962, Section 2(c) defines "an artistic work" whilst Section 2(p) defines a "literary work". Would these two definitions, viewed conjunctively, be interpreted in Pakistan to cover fully the definition of the expression "literary and artistic works" in Article 2(1) of the Berne Convention for the Protection of Literary and Artistic Works (1971)?*
2. *Please advise, with reference to the relevant Section, whether a translation of a "literary work" is protected by the Copyright Ordinance 1962 as is required by Article 8 of the Berne Convention.*
3. *Please advise, with reference to the particular Section, if a translation of an "artistic work" is protected by the Copyright Ordinance 1962 as required by Article 8 of the Berne Convention.*

4. *In chapter XI "INTERNATIONAL COPYRIGHT", Sections 53 to 55, of the Copyright Ordinance 1962, reference is made to notifications/orders by the Federal Government to be published in the official Gazette. Please provide copies of such notifications/orders as published.*

5. *Please advise where in the notifications/orders (if any) by the Federal Government as aforesaid reference is made to Pakistan's compliance with Articles 3, 4, 5, 6, 15 and 18 of the Berne Convention.*

6. *Please advise where in the Copyright Ordinance 1962 reference is made to the protection of moral rights as envisaged by Article 6 bis of the Berne Convention.*

B. TRADEMARKS

7. *Please indicate where in the Trade Mark Ordinance 2001 provision is made for a presumption of a likelihood of confusion in the case of the use of an identical mark to that registered for identical goods or services as required in terms of Article 16.1 of the TRIPS Agreement.*

C. GEOGRAPHICAL INDICATIONS

8. *Except for the definition of "geographical indication" in Section 2(xix) of the Trade Mark Ordinance 2001, please state where provisions appear in the Trade Mark Ordinance 2001, or elsewhere, which are in compliance with each of Articles 22.2 through to 23.3 of the TRIPS Agreement.*

D. INDUSTRIAL DESIGNS

9. *Please provide details of legislation in Pakistan which include provisions in compliance with Articles 25 and 26 of the TRIPS Agreement.*

E. PATENTS

10. *Please provide details of legislation in Pakistan which include provisions in compliance with Articles 27 to 34 of the TRIPS Agreement.*

F. LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

11. *Please provide details of legislation in Pakistan which include provisions in compliance with Articles 35 to 38 of the TRIPS Agreement.*

G. PROTECTION OF UNDISCLOSED INFORMATION

12. *Please provide details of legislation in Pakistan which include provisions in compliance with Article 39 of the TRIPS Agreement.*

SRI LANKA

A. COPYRIGHT AND RELATED RIGHTS

1. *Please provide details as to where provisions for "rental rights", in accordance with Articles 11 and 14.4 of the TRIPS Agreement, are to be found in the Code of Intellectual Property Act No 52 of 1979 (as amended).*
2. *With particular reference to the element of fixation, please indicate where, in Act 52 of 1979, provisions in compliance with Article 14.1 of the TRIPS Agreement are to be found.*
3. *With particular reference to indirect reproduction, please state where provision is to be found in Act 52 of 1979 for producers of phonograms to enjoy such protection in compliance with Article 14.2 of the TRIPS Agreement.*
4. *Again with particular reference to the prohibition on fixation, please indicate where protection for broadcasting organisations, in compliance with Article 14.3 of the TRIPS Agreement, is to be found in Act 52 of 1979.*
5. *Please advise whether Section 22(c) of Act 52 of 1979 will be interpreted in Sri Lanka to mean that all works of the kind covered by Part II, Chapter II of that Act are protected in the precise terms of the TRIPS Agreement; the Paris Convention (1967); the Berne Convention (1971); and the Rome Convention (1961).*
6. *Please advise where in particular provisions in compliance with Articles 3, 4 and 5 of the Berne Convention are to be found in Act 52 of 1979.*
7. *Please also indicate where provisions corresponding to Article 18 of the Berne Convention are to be found in Act 52 of 1979.*
8. *Please explain why Section 15 of Act 52 of 1979 is not to be interpreted as being in conflict with Article 8 of the Berne Convention.*
9. *Please advise where provisions corresponding to each of Articles 51 to 60 of the TRIPS Agreement are to be found in Act 52 of 1979 or elsewhere in the national legislation of Sri Lanka.*

B. TRADEMARKS

10. *Please indicate where in Act 52 of 1979 provision is made for compliance with the presumption specified in Article 16.1 of the TRIPS Agreement of a likelihood of confusion being presumed in the case of the use of an identical sign for identical goods or services by a third party.*
11. *Please indicate where in Act 52 of 1979 provision is made for compliance with Article 16.2 and 16.3 of TRIPS relating to well known trade marks.*
12. *Please explain whether the provisions of Section 166 of Act 52 of 1979 read with the relevant Sections of the Customs Ordinance, are in compliance with Articles 51 to 60 of the TRIPS Agreement.*

C. INDUSTRIAL DESIGNS

13. *Please explain if the provisions of Section 44(1) of Act 52 of 1979 include the right of the owner of a registered design to prevent a third party from committing an act of infringement in relation to "substantially a copy" of the protected design as provided for in Article 26.1 of the TRIPS Agreement.*

D. PATENTS

14. *Please explain how Section 80 of Act 52 of 1979 complies with Article 33 of the TRIPS Agreement.*

15. *Please advise where provisions in compliance with Article 31 of the TRIPS Agreement are to be found in Act 52 of 1979.*

16. *Please advise where provisions in compliance with Article 34 of the TRIPS Agreement are to be found in Act 52 of 1979.*

E. LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

17. *Please advise where provisions in compliance with Article 35 through to 38 are to be found in Act 52 of 1979 and, if no such direct provisions are in operation in Sri Lanka, what steps (if any) are being implemented in Sri Lanka to bring about compliance with the TRIPS Agreement.*

F. PROTECTION OF UNDISCLOSED INFORMATION

18. *Please advise whether Act 52 of 1979, or any other provision of the law of Sri Lanka, contains provisions in compliance with Article 39 of the TRIPS Agreement.*
