

# WORLD TRADE ORGANIZATION

RESTRICTED

**IP/C/W/322**

21 November 2001

(01-5897)

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

Original: English

## REVIEW OF LEGISLATION

### Questions posed by Japan

By means of a communication from the Permanent Mission of Japan, dated 17 November 2001, the Secretariat has received a copy of the following questions that Japan has communicated to Barbados, Brunei Darussalam, Cuba, Gabon, India, Lithuania, Malaysia, Nigeria, Pakistan, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Swaziland, Thailand, Tunisia, Uruguay and Zimbabwe, respectively.

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### BARBADOS

#### A. COPYRIGHT AND RELATED RIGHTS

1. Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.

### BRUNEI DARUSSALAM

#### A. COPYRIGHT AND RELATED RIGHTS

1. Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.

### CUBA

#### A. COPYRIGHT AND RELATED RIGHTS

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## GABON

### A. COPYRIGHT AND RELATED RIGHTS

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## INDIA

### A. COPYRIGHT AND RELATED RIGHTS

1. Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.

### B. TRADEMARKS

2. Regarding "well-known trademarks", please explain how legislation of your country implements Article 16.2 and 16.3 of the TRIPS Agreement, which Article 6bis of the Paris Convention shall apply, *mutatis mutandis*, to. Please cite the relevant provisions of your country's law.

### C. PATENTS

3. Does legislation of your country grant patent protection for inventions relating to products and processes in all fields of technology? Are there any exceptions? If so, please explain what these exceptions are and how they comply with Article 27 of the TRIPS Agreement.

4. Does legislation of your country grant a compulsory licences subject to all the conditions enumerated in Article 31 of the TRIPS Agreement? Please cite the relevant provisions of your country's law.

### D. PROTECTION OF UNDISCLOSED INFORMATION

5. Please explain how legislation of your county provides for the protection of "Undisclosed Information" as required by Article 39.1 and 39.2 of the TRIPS Agreement. Please explain in detail and please cite the relevant provisions of your country's law.

6. If your legislation ensures that undisclosed test or other data submitted by an applicant to the responsible State agency in the procedure for market authorisation of a pharmaceutical or an agricultural chemical product is protected against disclosure and against unfair commercial use by a competitor, for example by prohibiting a second applicant for a similar product from relying on original data of the first applicant, when applying subsequently for market authorisation for a similar product, please explain it in detail. Does legislation of your country provide for exceptions to this? Does legislation of your country set a specific term of protection by the responsible State agency for undisclosed test or other data of the first applicant? If yes, please explain such specific term in detail, citing the relevant provisions of law.

## E. ENFORCEMENT

7. Please indicate the remedies which the judicial authorities order regarding each intellectual property rights provided in the TRIPS Agreement, including injunctions, damages, expenses, destruction or disposal of infringing goods, materials or implements for their production. Please explain the criteria and the way of calculation to decide the amount of the damages which judicial authorities order to the infringer to pay the right holder.

8. Please explain the kind and amounts of criminal penalties including implement and fines regarding intellectual property rights, citing the relevant provisions of your country's law. In particular, are the crimes persecuted only when the injured party has made a formal complaint? Please explain whether penalties are consistent with Article 61 of the TRIPS Agreement, which requires provisions for a sufficient deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity.

9. Please indicate titles of laws and regulations and their provisions in which the suspension of the release of counterfeit trademark or pirated copyright goods is prescribed, as stipulated in Article 51 of the TRIPS Agreement.

## LITHUANIA

### A. COPYRIGHT AND RELATED RIGHTS

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### B. TRADEMARKS

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MALAYSIA

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B. TRADEMARKS

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NIGERIA

A. COPYRIGHT AND RELATED RIGHTS

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PAKISTAN

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B. TRADEMARKS

2. Regarding "well-known trademark", please explain how legislation of your country implements Article 16.2 and 16.3 of the TRIPS Agreement, which Article 6bis of the Paris

Convention shall apply, *mutatis mutandis*, to. Please cite the relevant provisions of your country's law.

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SAINT VINCENT AND THE GRENADINES

A. COPYRIGHT AND RELATED RIGHTS

1. Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.

## SENEGAL

### A. COPYRIGHT AND RELATED RIGHTS

1. Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.

## SRI LANKA

### A. COPYRIGHT AND RELATED RIGHTS

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### B. TRADEMARKS

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## SWAZILAND

### A. COPYRIGHT AND RELATED RIGHTS

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## THAILAND

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### B. TRADEMARKS

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### TUNISIA

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### URUGUAY

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ZIMBABWE

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