

WORLD TRADE ORGANIZATION

RESTRICTED

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

Original: English

REVIEW OF LEGISLATION

Questions posed by Australia

By means of a communication from the Permanent Mission of Australia, dated 26 November 2001, the Secretariat has received a copy of the following questions that Australia has communicated to Antigua and Barbuda, Barbados, Brunei Darussalam, Cuba, Gabon, Ghana, India, Malaysia, Nigeria, Pakistan, Qatar, Saint Vincent and the Grenadines, Senegal, Sri Lanka, Swaziland, and Thailand, respectively.

ANTIGUA AND BARBUDA

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

BARBADOS

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

BRUNEI DARUSSALAM

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

CUBA

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

GABON

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

GHANA

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

INDIA

A. COPYRIGHT AND RELATED RIGHTS

1. What is the current duration of copyright in photographs? With regard to the term "Author's Life plus 50 years", when was this term enacted? Was the "Author's Life plus 50 years" term applied to all photographs currently protected by copyright at the date of force of the amendment? If so, were there any schemes or provisions to protect existing contractual arrangements, or mitigate damage to copyright users for arrangements existing prior to the amendment?

2. Does India grant WPPT standard performers' rights in audio fixations? If not, is the introduction of audio performers' rights under active consideration, and if so have any proposals been released for public comment? If yes, when were these rights enacted and was there an existing system of performers' rights (as opposed to Rome Convention anti-bootlegging rights) at that time? If there was no existing system of performers' rights, did the relevant legislation recognise rights in performances embodied in pre-amendment sound recordings (i.e. retrospectively apply the legislation)?

3. Has India enacted audio-visual performers' rights (beyond Rome Convention standards)? If not, is the introduction of audio-visual performers' rights under active consideration, and if so have any proposals been released for public comment?

4. To what extent does current copyright protection in India cover the use and dissemination of copyright works on digital networks such as the Internet? Are there any specific provisions in copyright law concerning the digital on-line environment, and are there any significant judicial or administrative decisions with bearing on this issue?

5. Are there any specific exceptions to copyright under the law of India to allow use of copyright materials by third parties for permitted purposes? Are there any significant judicial decisions with bearing on this issue? Are there any specific rules or findings concerning exceptions or limitations to copyright protection of computer software?

6. Does the law of your country provide copyright protection for material created by government? If yes, does the law provide protection to government in the same way as protection is provided for other copyright creators or do different provisions apply? How does the law of your country deal with the use of copyright material by government? For example, is government subject to the same requirements as other users of copyright material or do different provisions apply?

7. How does the law of your country deal with the copying of material by educational institutions? Are educational institutions subject to the same requirements as other users of copyright material or do different provisions apply? Are there exceptions to the general rules regarding infringement of copyright which apply in respect of copying by educational institutions?

8. How does the law of your country implement the obligations under Article 14.3 of the TRIPS Agreement in respect of broadcasting organisations?

9. Does the law of your country provide criminal sanctions for copyright infringement? If yes, please describe the operation of these provisions.

B. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

10. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

C. PROTECTION OF UNDISCLOSED INFORMATION

11. Does the law providing for the protection of undisclosed information as required by Article 39.2 of the TRIPS Agreement apply to government and government-linked agencies? If not, to whom does it apply?

MALAYSIA

A. COPYRIGHT AND RELATED RIGHTS

1. What is the current duration of copyright in photographs? With regard to the term "Author's Life plus 50 years" when was this term enacted? Was the "Author's Life plus 50 years" term applied to all photographs currently protected by copyright at the date of force of the amendment? If so, were there any schemes or provisions to protect existing contractual arrangements, or mitigate damage to copyright users for arrangements existing prior to the amendment?

2. Does Malaysia grant WPPT standard performers' rights in audio fixations? If not, is the introduction of audio performers' rights under active consideration, and if so have any proposals been released for public comment? If yes, when were these rights enacted and was there an existing system of performers' rights (as opposed to Rome Convention anti-bootlegging rights) at that time? If there was no existing system of performers' rights, did the relevant legislation recognise rights in performances embodied in pre-amendment sound recordings (i.e. retrospectively apply the legislation)?

3. Has Malaysia enacted audio-visual performers' rights (beyond Rome Convention standards)? If not, is the introduction of audio-visual performers' rights under active consideration, and if so have any proposals been released for public comment?

4. To what extent does current copyright protection in Malaysia cover the use and dissemination of copyright works on digital networks such as the Internet? Are there any specific provisions in copyright law concerning the digital on-line environment, and are there any significant judicial or administrative decisions with bearing on this issue?

5. Are there any specific exceptions to copyright under the law of Malaysia to allow use of copyright materials by third parties for permitted purposes? Are there any significant judicial decisions with bearing on this issue? Are there any specific rules or findings concerning exceptions or limitations to copyright protection of computer software?

6. Does the law of your country provide copyright protection for material created by government? If yes, does the law provide protection to government in the same way as protection is provided for other copyright creators or do different provisions apply?. How does the law of your country deal with the use of copyright material by government? For example, is government subject to the same requirements as other users of copyright material or do different provisions apply?

7. How does the law of your country deal with the copying of material by educational institutions? Are educational institutions subject to the same requirements as other users of copyright material or do different provisions apply? Are there exceptions to the general rules regarding infringement of copyright which apply in respect of copying by educational institutions?

8. How does the law of your country implement the obligations under Article 14.3 of the TRIPS Agreement in respect of broadcasting organisations?

9. Does the law of your country provide criminal sanctions for copyright infringement? If yes, please describe the operation of these provisions.

B. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

10. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

C. PROTECTION OF UNDISCLOSED INFORMATION

11. To whom does the law providing for the protection of undisclosed information, as required by Article 39.2 of the TRIPS Agreement, apply? Does the relevant law apply to government and government-linked agencies?

NIGERIA

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

PAKISTAN

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

QATAR

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

SAINT VINCENT AND THE GRENADINES

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

SENEGAL

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

SRI LANKA

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

SWAZILAND

A. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

1. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

THAILAND

A. COPYRIGHT AND RELATED RIGHTS

1. To what extent does current copyright protection in Thailand cover the use and dissemination of copyright works on digital networks such as the Internet? Are there any specific provisions in copyright law concerning the digital on-line environment, and are there any significant judicial or administrative decisions with bearing on this issue?

2. Are there any specific exceptions to copyright under the law of Thailand to allow use of copyright materials by third parties for permitted purposes? Are there any significant judicial decisions with bearing on this issue? Are there any specific rules or findings concerning exceptions or limitations to copyright protection of computer software?

3. Does the law of your country provide copyright protection for material created by government? If yes, does the law provide protection to government in the same way as protection is provided for other copyright creators or do different provisions apply? How does the law of your country deal with the use of copyright material by government? For example, is government subject to the same requirements as other users of copyright material or do different provisions apply?

4. How does the law of your country deal with the copying of material by educational institutions? Are educational institutions subject to the same requirements as other users of copyright material or do different provisions apply? Are there exceptions to the general rules regarding infringement of copyright which apply in respect of copying by educational institutions?

5. How does the law of your country implement the obligations under Article 14.3 of the TRIPS Agreement in respect of broadcasting organisations?

6. Does the law of your country provide criminal sanctions for copyright infringement? If yes, please describe the operation of these provisions.

B. PATENTS (INCLUDING PLANT VARIETY PROTECTION)

7. How does your country provide protection for new plant varieties as required under Article 27.3(b)? If your legislation is based on the UPOV system, on which UPOV Act was it modelled? Can new plant varieties be protected by patent in your country?

C. PROTECTION OF UNDISCLOSED INFORMATION

8. To whom does the law providing for the protection of undisclosed information, as required by Article 39.2 of the TRIPS Agreement, apply? Does the relevant law apply to government and government-linked agencies?
