

# WORLD TRADE ORGANIZATION

RESTRICTED

**IP/C/W/337/Add.1**

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

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## REVIEW OF LEGISLATION

### Responses from Moldova to questions posed by Canada and Switzerland

#### Addendum

By means of communications from the Permanent Mission of Moldova, dated 12 and 15 February 2002, the Secretariat has received additional responses to questions posed by Canada and Switzerland, as circulated in documents IP/C/W/333 and 334, respectively. These responses supplement those circulated in document IP/C/W/337.

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#### CANADA

2. *What protection does your copyright legislation afford to "foreign works"?*

The enforcement obligations of the Republic of Moldova under Articles 41-61 of the TRIPS Agreement are reflected in the enclosed document: "Compliance of the legislation of the Republic of Moldova in the field of intellectual property protection with the requirements of the TRIPS Agreement, Articles 41-61".

"Foreign works are protected in the Republic of Moldova according to the Law on Copyright and Neighbouring Rights (as amended by the Law No. 29-XIV of 28 May 1998 and Law No. 1207-XIV of 28 July 2000). In conformity with the provisions of Article 5(1) of the above Law, the copyright protection shall extend to:

- (a) works, irrespective of place of first publication, of which the copyright holder is a natural or legal person of the Republic of Moldova;
- (b) works published for the first time in the Republic of Moldova whatever the nationality of the holder of the copyright in such works;
- (c) other works, in accordance with the international treaties to which the Republic of Moldova is party.

A work shall be deemed published for the first time in the Republic of Moldova if it has been published in the country within 30 days of the date of its first publication abroad.

According to Article 26(7) of the Law of the Republic of Moldova on Copyright and Neighbouring Rights, neighbouring rights of foreign natural and legal persons shall be protected in accordance with the international agreements to which the Republic of Moldova is party.

Copyright and neighbouring rights of foreign natural and legal persons are protected in the Republic of Moldova both according to the provisions of Berne Convention for the Protection of Literary and Artistic Works, Rome Convention for the Protection of Performers, Producers, of Phonograms and Broadcasting Organizations and other international treaties in the field of intellectual property. At the same time, Parliamentary Decision No. 294-XIII of 23 November 1994 contains provisions related to the protection of pre-existing works and sound recordings and provides for retroactivity protection.

In conformity with Article 17(12) of the above Law, if the term of protection for a work by a foreign author that is used in the Republic of Moldova is greater, under the laws of the country of the author, than the term set out in this Article, the term of protection laid down by this Law shall apply; if it is lesser, the term of protection laid down by the laws of the country of the author shall apply.

Moreover, the Law on Copyright and Neighbouring provides that in case where an international treaty to which the Republic of Moldova is party contains rules different from those specified in the Law, the provisions of the international treaty shall apply."

## SWITZERLAND

### C. ENFORCEMENT

7. *Please describe any new initiatives that are planned to improve enforcement of intellectual property rights in your country, particularly initiatives related to criminal enforcement.*

The Republic of Moldova is undertaking every possible measure to enforce the rights of the owners of intellectual property rights. All laws in force on the protection of intellectual property objects have articles stipulating the sanctions for infringement of the rights of intellectual property owners. The Criminal Code currently in force contains provisions on the violation of inventors rights (Article 141), on the violation of copyright (Article 141(1) and on the violation of the right of an owner of a warrant of protection of the objects of industrial property (Article 142(2)). Prosecution of offenders has taken place under the Criminal, Civil and Administrative Codes.

At the same time, the Parliament of the Republic of Moldova has for examination amendments to the Criminal Code that contain significantly higher penalties for the infringement of intellectual property rights. The new draft of the Civil Code of the Republic of Moldova has passed in the Parliament its second reading and the new draft of the Criminal Code has passed its first reading. The Draft Law on amending the Copyright and Related Rights Law, No. 293-XIII of 23 November 1994, which is fully harmonized with the provisions of the TRIPS Agreement and WIPO Internet Treaties is under consideration in the Parliament of the Republic of Moldova.

A number of measures were adopted in order to ensure the protection of intellectual property rights at the borders. According to Chapter XII of the Customs Code, in cases when the right holder has suspicion of some goods being carried across the border that will infringe his rights, he is entitled to request assistance from the customs authorities presenting a written request. National Bureau SECI/ RILO was established within the Customs Department of the Republic of Moldova on the base of the Governmental Decision No. 815 of 13 August 2001 in order to provide boarder protection of intellectual property rights and to fulfill the relevant provisions of the TRIPS Agreement. For the time being, 75 objects of industrial property are offered customs protection at the borders of the Republic of Moldova.

The system of legal protection of the rights of owners of intellectual property is becoming stronger in our country. The judicial practice shows that the mechanisms of examination of patent disputes and appeals filed by applicants, patent owners and third parties is in the stage of development and the legislation in force often satisfies the requests of owners of titles of protection when speaking about disagreements and guarantees. At present, the Republic of Moldova has a complete and efficient legislative base, which includes necessary rules and procedures for ensuring appropriate protection of intellectual property rights.

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