

REVIEW OF LEGISLATION

Questions posed by Australia

By means of a communication from the Permanent Mission of Australia, dated 11 July 2002, the Secretariat has received copies of the following questions that Australia has communicated to China and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

CHINA

A. TRADEMARKS AND GEOGRAPHICAL INDICATIONS

1. What legislation does China have in place to implement protection of geographical indications as required by Articles 22 and 23 of the TRIPS Agreement?
2. How are geographical indications defined under the relevant legislation?
3. Does China provide protection for geographical indications from other countries?
4. How many geographical indications are currently recognised by China, and how many proposed geographical indications are currently being considered for recognition by China?
5. Does China's legislation provide a mechanism to adjudicate between competing claims for recognition of a particular geographical indication?
6. How does China's trademark legislation define a trademark? Are letters, numerals, shapes and colours eligible for registration as trademarks, as required by Article 15 of the TRIPS Agreement?
7. How does China meet the obligations of Article 21 of the TRIPS agreement concerning the licensing and assignment of trademarks?

B. COPYRIGHT

8. How does China meet the obligations of Article 14 of the TRIPS Agreement concerning the protection of performers, producers of phonograms and broadcasting organisations?
9. What procedures are available to a person seeking to enforce his or her copyright?
 - (a) What remedies are available to a person whose copyright has been infringed?

- (b) If awards of damages are available, how are the amounts of damages assessed?
- (c) If monetary fines are imposed on copyright infringers, how is the amount of the fine assessed?

C. BIOTECHNOLOGY

10. What intellectual property protection is available for biotechnology inventions? Does the People's Republic of China exclude from patentability any of the items listed in Article 27 (3) of the TRIPS Agreement?

THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

A. TRADEMARKS AND GEOGRAPHICAL INDICATIONS

1. What legislation does Chinese Taipei have in place to implement protection of geographical indications as required by Articles 22 and 23 of the TRIPS Agreement?
2. How are geographical indications defined under the relevant legislation?
3. Does Chinese Taipei provide protection for geographical indications from other countries?
4. How many geographical indications are currently recognised by Chinese Taipei, and how many proposed geographical indications are currently being considered for recognition by Chinese Taipei?
5. Does Chinese Taipei's legislation provide a mechanism to adjudicate between competing claims for recognition of a particular geographical indication?
6. How does Chinese Taipei's trademark legislation define a trademark? Are letters, numerals, shapes and colours eligible for registration as trademarks, as required by Article 15 of the TRIPS Agreement?
7. How does Chinese Taipei meet the obligations of Article 21 of the TRIPS agreement concerning the licensing and assignment of trademarks?

B. COPYRIGHT

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C. BIOTECHNOLOGY

10. What intellectual property protection is available for biotechnology inventions? Does Chinese Taipei exclude from patentability any of the items listed in Article 27 (3) of the TRIPS Agreement?
