

# WORLD TRADE ORGANIZATION

RESTRICTED

**IP/C/W/96**

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

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## REVIEW OF LEGISLATION

### Questions Posed by the European Communities and their Member States

By means of a communication from the Permanent Delegation of the European Commission, dated 24 March 1998, the Secretariat has received the following questions posed by the European Communities and their Member States to Romania.

## QUESTIONS POSED TO ROMANIA

1. Article 147 of the Romanian Law on Copyright and Neighbouring Rights provides for certain conditions in relation to the protection of foreign owners of copyright and neighbouring rights. The previous Article, Article 146, sets out certain provisions which are linked to Romanian citizenship and/or the territory of Romania. Please clarify how these two Articles interact and whether and how they comply with Article 3 in conjunction with Article 65.2 of the TRIPS Agreement.
2. Article 14.1 of the Law on Copyright and Neighbouring Rights provides that the term "reproduction" also includes "the making of an audio-visual recording of the work". Article 9.1 of the TRIPS Agreement in conjunction with Article 9.3 of the Berne Convention states that "any *sound or visual* recording shall be considered as a reproduction". Against this background, please clarify whether a sole sound recording or a sole video recording would be considered as a reproduction under Romanian law.
3. Please explain, whether and how compilations of data are protected under Romanian legislation (Article 10.2 of the TRIPS Agreement).
4. Please clarify the effects of the distinction made between digital broadcasting and other types of broadcasting in Article 38, paragraphs 1 and 2 of the Law on Copyright and Neighbouring Rights.
5. Article 85, paragraph 2 of the Law on Copyright and Neighbouring Rights excludes photographs of letters, deeds, documents of any kind, technical drawings and other similar material from the legal protection by copyright. Please explain how this complies with Article 9 of the TRIPS Agreement in conjunction with Article 2, paragraph 1 of the Berne Convention which provides for the protection of photographic works, irrespective of the subject matter and the purpose for which they are made.

6. Article 105 of the Law on Copyright and Neighbouring Rights lists the various rights granted to the producer of sound recordings. Please clarify whether and how such a producer enjoys the right to authorize or prohibit the *indirect reproduction of their phonograms* (Article 14.2 of the TRIPS Agreement).

7. Article 121 of the Law on Copyright and Neighbouring Rights provides that "retransmission by cable without the consent of the owner of rights and without payment of a remuneration shall be permitted only in the case of programs owned by public television and radio broadcasting organisations of national scope and also those of television and radio broadcasting organisations that are retransmitted by cable compulsorily in accordance with regulations in force". Please explain the scope and meaning of this provision.

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