

NOTIFICATION UNDER ARTICLES 1.3 AND 3.1 OF THE AGREEMENT

JAMAICA

The following communication, dated 21 July 1999, has been received from the Permanent Mission of Jamaica.

As agreed under the provision of the TRIPS Agreement, the Government of Jamaica wishes to notify the following:

Article 3.1

The Government of Jamaica is availing itself of the possibilities provided in Article 6 of the Berne Convention. These possibilities are reflected in Section 145 of the Copyright Act of 1993, a copy of which is attached.

The Section's application is not confined to non-Union countries as provided for in Article 6 of the Berne Convention. Any order made under this Section will take account of our international obligations and will not be made in a manner which would breach the Convention.

Section 145

- (1) If it appears to the Minister that the laws of a country fail to give adequate protection to Jamaican works to which this section applies or to Jamaican performances, or fail to give adequate protection in the case of one or more classes of such works or performances, (whether the lack of protection relates to the nature of the work or performance or the nationality, citizenship or country of its author or performer or all of those matters) the Minister may, by order, make provision in relation to that country in accordance with subsection (2).
- (2) An order made for the purposes of this section shall designate the country concerned and may provide either generally or in relation to such clauses of case as are specified in the order, that copyright shall not subsist in works first published, or, as the case may be, that rights in performances shall not subsist in performances first given, after a date specified in the order (which may be a date before the commencement of this Act) if, at the time of the first publication of those works or the giving of the performance, as the case may be, the authors of the works or the performers were or are:

- (a) citizens or nationals of that country, not being at that time persons whose habitual residence is in Jamaica or a specified country (excluding the country concerned); or
 - (b) in the case of works, bodies incorporated or established under the laws of that country.
- (3) The Minister shall, in making an order under this section, have regard to the nature and extent of the lack of protection for Jamaican works or Jamaican performances in consequence of which the order is being made.
- (4) This section applies to literary, dramatic, musical and artistic works, sound recordings and films and for the purposes of this section:

"Jamaican performances" means:

- (i) performances given by individuals who are citizens or habitual residents of Jamaica; or
 - (ii) performances that take place in Jamaica; "Jamaican works" means works of which the author was a qualified person at the material time within the meaning of Section 7(3).
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