

# WORLD TRADE ORGANIZATION

RESTRICTED

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

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## REVIEW OF LEGISLATION

### Responses from Egypt to the questions posed by Japan, Switzerland and the United States

By means of a communication from the Permanent Mission of Egypt dated 7 June 2001, the Secretariat has received the following responses to the questions posed by Japan, Switzerland and the United States, as circulated in documents IP/C/W/258, 263 and 215, respectively.

#### JAPAN

##### A. COPYRIGHT AND RELATED RIGHTS

1. *Please explain exceptions or exemptions of the National Treatment and Most-Favoured-Nation Treatment under the Copyright and Neighbouring Rights Law, if any, as permitted in Articles 3 and 4 of the TRIPS Agreement.*

With respect to copyright and neighbouring rights, under the new IPR law any Egyptian person (natural or legal), as well as foreigners who belong to a WTO Member State are eligible for protection.

Regarding copyright, the protection is to be afforded to:

1. Authors who are not nationals of a WTO Member state, for their works published in one of the WTO Member states, or simultaneously in a state outside the WTO and in a Member state.
2. Authors of cinematographic work the maker of which has his headquarters or habitual residence in one of the WTO Member states.
3. Authors of works of architecture, erected in a WTO Member state or other artistic works incorporated in a building or other structure located in a member state.

Regarding neighbouring rights, the protection is to be afforded to:

1. Performers, if any of the following conditions is met:
  - (a) The performance takes place in a WTO Member state.
  - (b) The Performance is incorporated in a phonogram the producer of which is a national of a WTO Member state, or the first fixation of the sound was made in a WTO Member state.

- (c) The performance, not being fixed on a phonogram, is carried by a broadcast, if the headquarter of the broadcasting organization is situated in a WTO member state, and the broadcast was transmitted from a transmitter situated in a WTO member state.
2. Producers of phonogram, if the first fixation of the sound was made in a WTO member state.
3. Broadcasting organizations, if the headquarter of the broadcasting organization is situated in a WTO member state, and the broadcast was transmitted from transmitter situated in a WTO member state.

The new IPR law grants nationals of all WTO Member states most-favoured-nation treatment with regard to the protection of intellectual property. Exemptions from this obligation are any advantage, favour, privilege or immunity accorded deriving from (a) international agreements on judicial assistance and law enforcement of a general nature and not particularly confined to the protection of intellectual property; and (b) international agreements related to the protection of intellectual property which entered into force before 1 January, 1995.

## SWITZERLAND

### A. GEOGRAPHICAL INDICATIONS

1. *Please explain in detail how your legislation provides protection for geographical indications.*

[Response not yet received]

### B. PATENTS

2. *Does your legislation grant patent protection to all categories of products or are there any exceptions? If so, please explain in detail what kind of exceptions exist and how they comply with Article 27 of the TRIPS Agreement. In the field of pharmaceutical products are new applications of known substances patentable in your law?*

All categories of products are subject to patent protection under the new IPR law of Egypt (currently in draft form, article 1). The inventions that are excluded from patentability are only those the exclusion of which is permitted under Articles 27.2 and 27.3 of the TRIPS Agreement for the reasons given therein. Additionally, living organs, tissues, and cells, DNA and genome are excluded from patentability (article 2).

3. *Please indicate whether micro-organisms are patentable in your legislation. Please explain in this respect the relevant sections of your legislation.*

[Response not yet received]

4. *Please explain whether or not your legislation provides the possibility of granting of compulsory licenses. If so, please explain in detail the conditions under which a compulsory license may be granted.*

[Response not yet received]

5. *Please explain how in your legislation the notion of "anti-competitive practice" is defined, as referred to in Article 31 of the TRIPS Agreement. Are there any judicial or administrative decisions referring to the interpretation of this expression? If so, please indicate these decisions and comment them briefly.*

[Response not yet received]

6. *Please explain whether your legislation provides for judicial review or other independent review of the legal validity of any decision by administrative authorities relating to the authorisation of use as mentioned in Article 31 of the TRIPS Agreement.*

[Response not yet received]

7. *Does your legislation, in accordance with Article 27.1 in combination with Article 31 of the TRIPS Agreement, consider importation as "working" a patent (and therefore preclude compulsory licensing, if a product is being imported)?*

A compulsory license may be applied for on the grounds of:

- (a) Failure to work a patent, i.e. to locally exploit a patent either directly or with the patent owner's consent; or
- (b) Insufficient working, i.e. insufficient local exploitation.

The grant of a compulsory licence under such circumstances will be permitted only after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last.

- (c) Cessation of the exploitation of a patent for a period of more than one year for a reason other than a *force majeure*.

By exploitation is meant the production in Egypt of the patent-protected product or the utilization in Egypt of the patented process.

However, if the Patent Office is convinced that the failure to exploit a patent – in spite of the expiration of the aforementioned periods – results from legal, technical or economic reasons beyond the right holder's control, the latter may be granted an additional period of time of sufficient length to enable the exploitation of the patent.

The spirit and letter of the Article 5(A) of the Paris Convention are reflected in the new patent legislation (article 25).

8. *Does your legislation provide for the principle of the reversal of burden of proof in a process patent litigation? Please cite the relevant provisions of law.*

Egypt's new patent legislation provides for the principle of the reversal of burden of proof in a process patent litigation. The relevant law section (article 35) corresponds to and complies with the stipulation of Article 34.1 of the TRIPS Agreement, providing that the burden of proof shall be on the alleged infringer only if the condition referred to in subparagraph (b) of the said Article is fulfilled.

The law also provides – in accordance with paragraph 3 of the same TRIPS Article – that in the adduction of proof to the contrary, the legitimate interests of the defendant in protecting his industrial and commercial secrets must be protected.

## C. PROTECTION OF UNDISCLOSED INFORMATION

9. *Please explain in detail if your legislation ensures that undisclosed test or other data submitted by an applicant to the responsible State agency in the procedure for market authorisation of a pharmaceutical or of an agricultural chemical product is protected against disclosure and against unfair commercial use by a competitor, for example by prohibiting a second applicant from relying on, or from referring to the original data of the first applicant, when applying subsequently for market authorisation for his own product. Does your legislation provide for exceptions to this? If yes, under what conditions would such exceptions apply? Does your legislation set a specific term of protection for undisclosed test or other data of the first applicant?*

This response concerns the manner in which Egypt's new law on the protection of IPR ensures that undisclosed test or other data are protected, in compliance with Article 39.3 of the TRIPS Agreement. The matter is addressed in article 57 of the new law.

(a) The term "undisclosed test or other data", which is to be protected against unfair commercial use, embraces the undisclosed information which (i) concern pharmaceutical or agricultural chemical products; (ii) result from considerable effort; (iii) utilize new chemical entities; (iv) are submitted to the concerned authorities as a condition for approving the marketing of such products; and (v) are required for conducting the tests necessary for the marketing approval.

(b) The concerned authorities which receive such information are obliged to protect the information against disclosure and against unfair commercial use. This obligation starts from the date the information is submitted and continues until the information no longer becomes secret, or until the elapse of no more than five years, whichever occurs first. In anticipation of the formal passing of the law, a Prime Minister's Decree (No. 2211) was issued (dated 25 November, 2000) providing for the same obligation. A formal notification of this commitment was also communicated (under Article 63.2 of the TRIPS Agreement) to the Council for TRIPS, and is contained in document IP/N/1/EGY/1/Add. 1, dated 8 May, 2000.

(c) The exceptions provided for in article 57 of the new law are identical to those allowed in Article 39.3 of the TRIPS Agreement, namely: (i) where the disclosure by the concerned authorities is necessary to protect the public; or (ii) where the concerned authorities use the test information in testing or evaluating other similar products; this being a situation where protection of the public is an issue.

(d) Additionally, the following must be clarified:

(i) The test and other data, which are required for the testing, examination and evaluation of the product, are handled by a responsible government authority, the National Organization for Drug Control and Research (NODCAR) which is an organ of the Ministry of Health and Population, where all operations are conducted in complete secrecy and guarded against any form of disclosure to outside bodies except when required by law, such as by court order.

(ii) A second applicant cannot, therefore, have access to such test data as submitted by a first applicant. It is only the concerned authority (in this case NODCAR) which can use the test data for testing the product of the first applicant or, where deemed necessary, to protect the public. However, the second applicant and indeed any other applicant is required to submit the requisite test data and other information in support of his own application.

(iii) Of the undisclosed information submitted by a first applicant, one can distinguish two types:

(A) The general facts and figures pertaining to the usage of the product (such as indications, contra-indications, limitations, precautions, interaction with other products, dosage forms, dose levels, etc.) are actually disclosed, to the medical profession and to the general public, by the applicant himself upon releasing his product in the local market.

(B) The qualitative/quantitative analytical test and evaluation (chemical/biological) data and methods of procedure are kept with and reserved for the restricted use of the concerned authority (NODCAR). This authority's functions, to be sure, are limited to using – certainly not publishing or otherwise disclosing to any outside body – the test/evaluation methods which either are made available to the authority by an applicant, or are already in the authority's possession for the normal discharge of its daily responsibilities.

#### D. ENFORCEMENT

10. *Please indicate remedies provided by your legislation, which constitute effective deterrents to infringements of intellectual property rights.*

[Response not yet received]

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

[Response not yet received]

### UNITED STATES

#### A. GENERAL

1. *With respect to each form of intellectual property covered by Part II of the TRIPS Agreement, including plant variety protection, please explain the manner in which the laws of Egypt ensure that nationals of other WTO Members receive national treatment and most favoured nation treatment as required by Articles 3 and 4 of the TRIPS Agreement. Please cite to the relevant provisions of law.*

Under the new IPR law any person or legal entity who belongs to a WTO Member state is to be accorded treatment no less favorable than that Egypt accords to its own nationals. Foreigners resident or having a real and effective industrial and commercial establishment in a WTO member state are to be treated equally with regard to protection of industrial property and plant varieties. The new IPR law grants nationals of all WTO member states most-favoured-nation treatment with regard to the protection of intellectual property. Exemptions from this obligation are any advantage, favour, privilege or immunity accorded deriving from: a) international agreements on judicial assistance and law enforcement of a general nature and not particularly confined to the protection of intellectual property; and b) international agreements related to the protection of intellectual property which entered into force before 1 January, 1995.

## B. COPYRIGHT AND NEIGHBOURING RIGHTS

2. *Please explain how Egypt's copyright law protects computer programs as literary works and complications of data as required by Article 10 of the TRIPS Agreement and cite to the relevant provisions of the law.*

The Egyptian law protects computer programs and compilations of data as required by Article 10 of the TRIPS Agreement.

Article 139 of the new IPR law indicates both of these works in paras. nos. 2 & 3, respectively, in the non-exhaustive list of protected works. Moreover, the said article provides expressly that the protection of databases applies whether they are readable by computer or not. Hence, both works are protected for the lifetime of the author and seventy years after his death in cases of pseudonymous, anonymous, collective works directed by a juristic person; their term of protection is computed from the date of first publication. Collaborative works are protected for the lifetime of its author and for seventy years after the death of the last collaborator.

Article 169 of the new IPR law prohibits making copy for personal use of software. The only exception to the monopoly of the author in this regard is the right of the lawful possessor of software to make a backup copy to be used in case of loss or damage of the original copy. The new IPR law mandates to destroy this backup copy against termination of the lawful right on the original.

3. *Article 11 of the TRIPS Agreement requires that in most circumstances rental rights be provided with respect at least to computer programs and cinematographic works and Article 14.4 requires that rental rights be provided to producers of phonograms. Please describe how Egypt's law on copyright and neighbouring rights ensures that the required rental rights are provided and cite to the relevant provisions of law.*

The new IPR law complies with Article 11 of the TRIPS Agreement as it grants rental rights to authors and holders of the neighbouring rights in general. This rental rights provision applies to the computer programs whenever the essential object of the rental is the computer program itself. It also applies to cinematographic works unless such rental leads to widespread copying of these works which is materially impairing the author's exclusive right of reproduction.

4. *Please identify the term of protection available with respect to works and with respect to each form of neighbouring rights under Egypt's law on copyright and neighbouring rights and cite to the relevant provisions of law.*

As a general rule all literary and artistic works are protected for lifetime of the author and seventy years after his death. Such term is computed from the date of the first publication in case of pseudonymous, anonymous and collective works. Collaboration works are protected for the lifetime of the author and for seventy years after the death of the last collaborator. With regard to neighbouring right the same rules apply (articles 164 & 165 of the new IPR law) except for broadcasting organizations which benefit from a shorter term, i.e. twenty years (Article 166).

5. *Article 13 of the TRIPS Agreement obliges WTO Members to confine any limitations or exceptions to copyrights to certain special cases that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder. Please describe any and all limitations and exceptions to copyrights provided under Egypt's law on copyrights and neighbouring rights and cite to the relevant provision of law. Please indicate how Egypt ensures that those limitations and exceptions do not conflict with the normal exploitation of works and do not unreasonably prejudice the legitimate interests of the right holder.*

Egyptian law provides an exhaustive list of limitations and exceptions to copyright in certain special cases which are not in conflict with the normal exploitation of the work and do not unreasonably prejudice any copyrights subsisting in the data or material itself. These limitations and exceptions are as expressed in articles 169 and 170 of the new IPR law.

6. *Please describe in detail the rights provided under Egypt's law on copyright and neighbouring rights to performers, broadcasters and producers of phonograms and cite to the relevant provisions of law.*

The rights granted by the law to neighbouring rights holders (mentioned in Article 154, 155 and 156) are in agreement with those provided in Article 14 of the TRIPS Agreement and provisions of the relevant international conventions.

7. *Article 18 of the Berne Convention, as incorporated into the TRIPS Agreement by Article 9.1 of the TRIPS Agreement requires that copyright be restored for works that are still are protected under copyright in their country of origin and have not had a full term or protection in Egypt. Please describe in detail how Egypt has implemented this obligation and cite to the relevant provisions of law.*

With regard to the restoration of copyright for works that are still protected under copyright in their country of origin and have not had a full term or protection in Egypt, it is important to point out that Egypt is a member of the Berne Convention since 1976 and the said rule adopted by article 18 of the Berne Convention is considered an integral part of our legal system (Article 151 of the Egyptian Constitution). There is no need to reintegrate such rule in our domestic law as article 187 of the new IPR law indicates expressly that the provisions of this law shall apply without prejudice to the international conventions enforceable in Egypt.

8. *Article 14.6 of the TRIPS Agreement requires that protection be restored for phonograms that are still under protection of copyright or neighbouring rights law in their country of origin and that have not had a full term of protection in Egypt. Please describe in detail how Egypt has implemented this obligation and cite to the relevant provisions of law.*

Please see the response to question 7 above.

#### C. TRADEMARKS

9. *Please describe in detail the subject matter that can comprise a trademark under Egypt's trademark law and cite to the relevant provisions of law.*

Under article 64 of the new IPR law a trademark is all that distinguishes and identifies a product or service of one undertaking from those of another undertaking. It particularly includes names having a distinguishing nature, signatures, words, letters, numerals, designs, symbols, addresses, stamps, seals, pictures, figurative elements, colour combinations having a special distinguishing nature or any other combination of these signs used, or intended to be used for:

- (a) distinguishing the products of an industrial undertaking or an agricultural business or forestry utilization activity or raw materials extracted from the earth or any other goods;
- (b) indicating product source, type, quality, guarantee or mode of preparation; or
- (c) indicating the performance of specific service.

In all cases, the trademark must be visually perceptible.

It is to be noted that three-dimensional marks and single colours are not included in draft law article 64.

*10. Please describe in detail the procedure that must be followed to register a trademark in Egypt, citing the relevant provisions of the trademark law and describe the rights that the owner of a registered mark acquires with registration.*

To register a trademark in Egypt a written application is to be submitted to the Trademarks Office by the applicant himself or by his legal representative. The mark is to be drawn on the application form. The application must indicate the class or classes of the goods or services that the mark is to be used to identify. Applications are to be recorded in special register with a serial number determined by their date of deposit.

Under the new IPR law the application is to be submitted to the Trademark Office, according to the terms and conditions stipulated in the executive regulation of the law, against the fee specified in the executive regulation (article 74).

The mark is to be registered for one or more classes of the products produced, or intended to be produced, by the applicant (article 75). So, under the new IPR law, there is no previous use requirement to register a trademark.

Under the new IPR law, if the application for a mark registration was filed in a WTO Member state or in a country granting Egypt equal treatment, the applicant or whoever acquired his rights, may - within a period of six months following the date of filing - submit to the Trademarks Office in Egypt a similar application in regard to the same mark and for the same products incorporated in the earlier application. In this case, priority shall be determined on the basis of the date of the earlier application in the foreign country.

The Trademarks Office may, by way of a reasoned decision, reject the registration of the mark according to the provisions of the law. It may also instruct the applicant to introduce the necessary changes that make mark clearer and more definitive so as to avoid confusion with an already registered mark or a mark for which an application has been filed.

The applicant is to be promptly notified of this decision by registered mail within thirty days from the date of its issuance (article 78). The applicant is entitled to appeal against the rejection decision within 30 days of the date of notification. Appeals are examined by one or more committees to be composed, by a decree of the concerned Minister, of three members, one of whom is to be selected from the Council of State.

The executive regulation of the new IPR law specifies the rules and procedures of appeal and the appellate decision-making process (article 79).

If the committee supports the decision to reject the application for registration of the mark because of similarity to a previously registered mark used for the same products, or product class, the mark is not to be registered unless a self-executing ruling by a court having the jurisdiction has been issued in favor of the applicant (article 80).

The decisions accepting mark registration are to be published in the Gazette of Trademarks, Industrial Designs and Models, in the manner specified in the executive regulation of the new IPR law.

Any concerned party may object in writing to the decision of accepting the registration of the mark, within sixty days of publication. The executive regulation of the draft determines the terms and conditions of objection.



The Trademarks Office forwards a copy of the objection to the applicant, within 30 days of the date of receipt of notification. The applicant is to be required to submit to the Office, within 30 days as of the date of his receipt of the notification, a written response including pertinent reasons; otherwise he is to be considered as abandoning his application.

The Trademarks Office may, by way of a reasoned decision, reject the registration of the mark according to the provisions of the law. It may also instruct the applicant to introduce the necessary changes that make mark clearer and more definitive so as to avoid confusion with an already registered mark or a mark for which an application has been filed.

The applicant is to be promptly notified of this decision by registered mail within thirty days from the date of its issuance (article 78). The applicant is entitled to appeal against the rejection decision within 30 days of the date of notification. Appeals are examined by one or more committees to be composed, by a decree of the concerned Minister, of three members, one of whom is to be selected from the Council of State.

The executive regulation of the new IPR law specifies the rules and procedures of appeal and the appellate decision-making process (article 79).

If the committee supports the decision to reject the application for registration of the mark because of similarity to a previously registered mark used for the same products, or product class, the mark is not to be registered unless a self-executing ruling by a court having the jurisdiction has been issued in favor of the applicant (article 80).

The decisions accepting mark registration are to be published in the Gazette of Trademarks, Industrial Designs and Models, in the manner specified in the executive regulation of the new IPR law.

Any concerned party may object in writing to the decision of accepting the registration of the mark, within sixty days of publication. The executive regulation of the draft determines the terms and conditions of objection.

*11. Please explain in detail how Egypt's trademark and other laws provide for the protection of well-known trademarks and servicemarks, citing the relevant provisions of law.*

Egypt has signed and ratified the Paris Convention for Protection of Industrial Property as revised in Stockholm (1967).

The Convention was published in the Egyptian Official Gazette on 6 March, 1975 and became according to Article 151 of the Egyptian Constitution part of the Law of the Land. Therefore, the protection of the well-known mark has been recognized in Egypt before the ratification of TRIPS Agreement.

Under the new IPR law article 69, registration is not required in order to enjoy protection, in respect of internationally and locally well-known mark. The Commercial Registry, *ipso facto*, rejects any application for registration of a mark identical to a well-known mark, incorporating the use of that mark for distinguishing similar products, unless that application is submitted by the owner of the well-known mark.

With regard to the question of the protection of servicemarks, this question has been previously answered.

12. *Please describe in detail any limitations or special requirements that apply to trademark rights under Egypt's laws and indicate how those limitations take account of the legitimate interests of the owner of the trademark and of third parties.*

One of the limitations that apply to trademark rights under Egyptian new IPR law results from application of the concept of exhaustion (Article 6 of the TRIPS Agreement). Taking in consideration that the owner of a trademark has the right to prevent others from importing his trademark-bearing product, the Egyptian new IPR law considers that such an obstacle is not justified when the product has been put on the market in a legal manner in any country from which it is imported.

13. *Please indicate the length of the initial term of protection for a registered trademark under Egypt's trademark law and describe the conditions for renewing the registration and the period of the renewal. Please cite to the relevant provisions of Egypt's law.*

Under article 91 of the new IPR law a registered mark shall be protected for a period of ten years renewable for another period or other periods. The application for renewal must be submitted during the last year of the protection period, against payment of the same fee paid for the first registration. The mark owner, may however, apply for renewal of the protection period within six months of the date of expiry, against payment of the set fee and a surcharge, to be specified in the executive regulations, not exceeding L.E. five hundred. Otherwise, the Trademarks Office will cancel the mark, if the owner fails to apply within the six months period referred to above.

#### D. GEOGRAPHICAL INDICATIONS

14. *Please describe in detail how and under what laws geographical indications are protected in Egypt and cite to the relevant provisions of law.*

Under article 105 of the new IPR law, geographical indications are all that identify the origin of a good in a region or locality in a WTO Member State or in a country granting Egypt equal treatment, where a given quality, reputation or other characteristics of that good affecting its promotion are essentially attributable to its geographical origin. For extending protection to those indications, it is essential that they must have acquired protection in the country of origin.

According to the new IPR law it is not permissible to use a geographical indication in connection with the goods produced in a manner that misleads the public, for instance, by suggesting that they are originated in a famous area other than the place of origin (article 107).

To register a trademark incorporating a geographical indication, it is essential that production of the good in question must consistently be undertaken by the applicant at the especially famous geographical area. It is not to be registered if the use of which could mislead the public as to the true geographical origin of the related good.

15. *Does the law of Egypt regarding geographical indications provide for any of the exceptions to protection of geographical indications contained in Article 24 of the TRIPS Agreement, and, if so, please describe the way in which the exception is applied and cite to the relevant provisions of law.*

Under article 109 of the new IPR law, it is permissible to use on certain products such geographical names that became essentially known in the commercial terminology to denote the type of product without its geographical origin.

Furthermore, under draft art.112, a trademark that incorporates a geographical indication may be registered if the right to that mark is acquired through *bona fide* use before the law enters into force or before the geographical indication has been granted due protection in the country of origin.

## E. INDUSTRIAL DESIGNS

16. *Please describe in detail the way in which industrial designs, including textile designs, are protected under Egypt's laws and cite to the relevant provisions of law.*

Article 120 of the new IPR law states that any composition of lines or any three-dimensional form whether or not associated with colours is considered to be an industrial design provided that such form has a specific appearance that is new and could be used for industry.

Under draft article 124 it is not allowed to register designs or drawings which merely serve technical or functional considerations of the product.

Under article 126 of the new IPR law, the protection period of industrial designs is ten years effective from the date of filing the application for registration. The Commercial Registration Authority may renew the protection period for 5 more years, if the owner of the design submits a renewal application during the last year of the protection period according to the rules set in the executive regulation.

Upon registration of the industrial designs, the owner of the design will have the exclusive right to use, sell, manufacture or import the products, which embody this design.

The Commercial Registration Authority is allowed to grant others a non-exclusive compulsory license for the use of the design in return for a fair compensation. The executive regulation sets the conditions, and the procedures for granting this license.

## F. PATENTS

17. *Article 1 of the Egyptian Patent and Designs Act No. 132 of 1949 (Patent Law) authorizes the grant of patents for new products, new processes, and new applications of known manufacturing methods. Please indicate if patents may be granted for inventions that consist of a new use of a previously known product, if the process is novel and involves an inventive step, as is required by Article 27.1 of the TRIPS Agreement.*

The new Egyptian law (currently in draft form, article 1), in full conformity with Article 27.1 of the TRIPS Agreement, authorizes the grant of patents for every invention that is new, involves an inventive step, and is capable of industrial application, and whether the invention concerns new industrial products, novel industrial processes or means, or a new application of known processes or means.

A strict reading of this language (as well as that in Article 27.1 of the TRIPS Agreement) would mean that a process for making a known product is patentable if the process meets the three criteria of patentability. A new use of a previously known product, particularly in the area of food products and medicinal agents, would justifiably be taken as a scientific finding or even a discovery, i.e. treated as publishable knowledge to appear in the scientific literature to the credit of its author and for the benefit of all readers. In this connection one must recall Article 27.3(a) of the TRIPS Agreement which allows the exclusion from patentability of diagnostic, therapeutic and surgical methods for the treatment of humans or animals. Is not the use, even a new use, of a known medicinal agent, a method for treatment?

18. *Please explain whether an invention within the categories specified below may be patented under Egyptian law if it is novel, involves an inventive step, and is industrially applicable:*

- (a) *process inventions which, in whole or in part, consist of steps that are performed by a computer and are directed by a computer program;*

- (b) *product inventions consisting of elements of a computer-implemented invention including:*
  - (i) *machine-readable computer program code stored on a tangible medium such as a floppy disk, computer hard drive or computer memory; or*
  - (ii) *a general purpose computer whose novelty over the prior art arises primarily due to its combination with a specific computer program;*

In the two cases the (a) process invention, and (b) the product invention will be granted protection by patents except the software part which is to be protected by copyright; i.e. software is not patentable.

- (c) *process inventions that facilitate the conduct of business; and*

Under draft article 2 (2), scientific theories and discoveries, mathematical methods, programs, and schemes are not patentable. Accordingly, business methods including processes that facilitate the conduct of business, no matter how “inventive”, are not patentable.

- (d) *microorganisms.*

Microorganisms are patentable, in compliance with Article 27.3 (b) of the TRIPS Agreement.

19. *Under Article 2 of current law, any invention contrary to "law or morality" is automatically excluded from patentable subject matter. Please describe the process by which the Government of Egypt determines whether an invention is contrary to law or morality and the criteria used to make those determinations, citing to the relevant provisions of law. Also, please indicate whether a determination that an invention is excluded from patentability under Article 2 is appealable and, if so, to what body.*

The new Egyptian law (article 2) excludes (simply, not automatically) from patentability inventions the exploitation (meaning commercial exploitation ) of which affects (in a negative sense) national security or causes damage to the *ordre public* or morality, or causes serious damage to the environment or to human, animal or plant life or health.

There is no mention in the said article 2 of the invention being "contrary to law" as a reason for denying patentability. Needless to say, however, the basic principles of patent protection of an invention, being the fruit of human ingenuity, are not to be confused with the practical aspects of commercial exploitation . Commercial exploitation may not be permitted by law, but the award of a patent for protection of the IPR of an invention is an undeniable right of an eligible inventor.

Indeed, any decision of the Patent Office is appealable. The bodies to which the appeal would be made and the conditions associated with the appeal are stipulated in the new law articles 29, 37 and 38.

20. *Article 10 of the current patent law states that a patentee has the exclusive right to work his invention by all means. A similar provision is included in Article 6 of the proposed patent law of Egypt. Neither the current or proposed law, however, enumerates the rights specified by Article 28 of the TRIPS Agreement. Please explain in detail the rights given a patentee under Egypt's patent law and cite to the relevant provisions of law.*

It is article 11, not article 6, of the new law which states that a patentee has the exclusive right to exploit the invention by any means. Indeed, this is a broad statement of the rights of the patent title-

holder and, as such, it embraces all the rights specified by Article 28.1 and 28.2 of the TRIPS Agreement and is subject to the exceptions allowed in the same TRIPS Article; see below.

The effect of this way of expressing rights given a patentee receives reinforcement in another location of the new law, namely in article 33 on the penalties that infringers are subject to. According to this article, which takes account of article 11 (see below), punishable acts include: (a) the imitation with the intention of handling in commerce of the subject matter of a protected invention or utility model; (b) the selling, offering for sale or importation of imitated products where such acts are committed wilfully in respect of patents of inventions or utility models which protect in Egypt the products or the corresponding processes. The punishments include imprisonment and monetary fine, in addition to forfeiture of the goods found to be infringing and of the implements used in creating such goods. The court sentence will also be published, at the infringer's expense, in at least one daily newspaper.

21. *Please identify any exceptions to the rights conferred by a patent in Egypt and indicate the manner in which the law of Egypt ensures that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.*

The exceptions to the rights conferred by a patent under the new IPR law are addressed and enumerated in article 11. They all are derived from or inspired, *inter alia*, by: (a) the provisions of the TRIPS Agreement; (b) the WIPO Model law for Developing Countries on Inventions, Vol.1, Patents, WIPO (1979); (c) the New IPR Law on Patents and Utility Models proposed for Egypt by the WIPO International Bureau; (d) case law in other countries and the outcome of WTO cases of dispute settlement.

More specifically, the exceptions comprise:

(a) Exhaustion of IPR (provided in Article 6 of the TRIPS Agreement) which means the cessation of the right of the patent owner to exercise his rights in respect of the use, sale, offering for sale, importing or other distribution of goods, once he has marketed such goods (Article 28 of the TRIPS Agreement); it being understood that such marketing (by the patent owner or with his consent) has occurred anywhere in the world.

(b) Activities of scientific research, meaning of course experimentation without extending to commercial-scale activities.

(c) Where a person in Egypt has in good faith made a product, used a process for making a specific product, or has made serious preparations towards such acts before the date of filing a patent application by another person concerning the same product or process for making a product. The first person, despite the issuance of a patent, shall have the right to continue the said acts but only for the benefit of his business and without expanding it. He shall, moreover, not have the right to assign the rights associated with these acts except with the transfer of the other components of the business.

(d) After appreciation of the scientific principle involved in a patented process, making use of such principle in an indirect application of the process to obtain a product different form that which would result from the direct application of the protected process. Article 28.1(b) of the TRIPS Agreement, concerned with the situation where a process is the subject matter of a patent, prohibits the acts of making such process *per se* and of obtaining the product directly by that process. It may be added here that the basic ethic behind patent protection does not extend to fundamentals of science or to scientific discovery; the chief concern is to guard against infringement involving commercial-scale exploitation by unauthorized persons. Another basic ethic, that needs to be remembered, is portrayed by

Article 29 of the TRIPS Agreement, where the disclosure of the invention is a reward (in the form of knowledge) that the society receives in exchange for the protection it gives to the invention.

(e) Use of the patented invention on vessels, aircraft, or land vehicles belonging to a Member of the WTO, or to a country which treats Egypt reciprocally, while the vessel, aircraft or vehicle is accidentally or temporarily present in Egypt.

(f) The notion of "springboarding" in connection with those products which require marketing authorization by a government body before circulation of the products in the normal channels of commerce. In such circumstances it would not be an infringement if a third party makes, constructs, uses, sells the product during the term of protection for the purpose of obtaining a marketing authorization, with the proviso that such marketing does not occur except after the termination of the term of protection (WTO document WT/DS114/R, dated 17 March, 2000).

(g) Without being specific, any other acts that constitute limited exceptions to the exclusive rights conferred by a patent, provided that such acts do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

22. *Article 33 of the TRIPS Agreement requires that patents have a term of protection that does not end before a period of twenty years measured from the date of filing. Please describe the term of protection for patents available under Egypt's patent law and indicate if there is any variation in that term, based upon the area of technology to which the patent relates. If so, please indicate what the variations are and for what technologies and describe Egypt's plans to bring its law into compliance with Article 27.1, which prohibits discrimination in the enjoyment of patent rights based on the field of technology.*

The term of protection for inventions in the new IPR law article 10 is twenty years measured from the date of filing the application. There is absolutely no discrimination as to the term of protection between patents based upon the area of technology to which the patent relates.

23. *Please verify that the terms of all patents in existence in Egypt on 1 January 2000, will not end before the expiration a period of twenty years measured from the date of filing.*

According to the new IPR law, the protection period shall be applicable for patents, which their protection periods have not expired at the effective date of this law.

24. *Article 30 of Egypt's patent law authorizes the grant of a compulsory licence three years after the grant of the patent, without reference to whether four years has expired since the filing of the application. Please describe in detail how Egypt ensures that its obligations under Article 5 of the Paris Convention, as incorporated by Article 2.1 of the TRIPS Agreement, are fulfilled.*

The new IPR law authorizes and regulates the grant of a compulsory licence (grounds in article 25 and conditions in article 26). The fourth ground for granting a compulsory licence (in article 25) corresponds to the Article 5.A(4) of the Paris Convention, as incorporated by Article 2.1 of the TRIPS Agreement. It addresses the circumstance when the patent right holder fails to work (i.e. to exploit) or insufficiently works (i.e. insufficiently exploits) his patented invention, thereby creating a ground for applying a compulsory licence. In such circumstances the grant of the compulsory licence will be permitted only after the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last.

25. *Article 27.1 of the TRIPS Agreement requires that patents be available and patent rights enjoyable without discrimination as to whether products are imported or locally produced. Please verify that importation of patented products will satisfy the working requirement in Egypt's patent law.*

In conceiving Egypt's new law on patents, due consideration has been given to the provisions of the TRIPS Agreement and of the Paris Convention. The latter, in Article 5.A (2), stipulates that countries of the Union "shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work".

The conventional wisdom is that the working of the patented invention occurs by exploitation which involves actual production of the patent-protected product locally, or by actual utilization of the patent-protected process locally. A basic ethic of relevance here is that a reward that the society deservedly receives, in exchange for conferring complete and strict protection of IPR, is the local working (meaning local exploitation commercially in real production operations) of the patent by or with the consent of the patent owner, thereby creating work opportunities for the local population in a win-win type of relationship.

This lofty goal will be defeated in the situation where working occurs only through importing of patented products. To the Paris Convention, non-working is distinctly an example of abuse of the exclusive rights conferred by the patent.

Attention is also drawn to the fact that the Paris Convention provides, in Article 5.A(1), a specific limitation concerning the importation by the patentee of goods. Such importation "into the country where the patent has been granted of articles manufactured in any of the countries of the Union shall not entail forfeiture of the patent". The limitation thus has no effect relative to the criteria of patentability, nor does it establish any link between the importation of goods and the working of the patent issued to protect such goods. In fact failure to work a patented invention is only linked, according to the second provision of Article 5.A of the Paris Convention, to abuses which might result from the exercise of the exclusive rights conferred by the patent.

26. *Please explain how the safeguards contained in Article 31(l) of the TRIPS Agreement are implemented under Egypt's patent law.*

Egypt's new law on patents provides in article 25 - which enumerates the grounds for granting compulsory licences - the safeguards contained in Article 31(l) of the TRIPS Agreement. The sixth ground for granting a compulsory licence addresses the situation of interdependent inventions, where the terms "the second patent" and "the first patent" in Article 31(l) of the TRIPS Agreement correspond to the terms "the invention" and "the other invention" in the new law article 25, respectively. The safeguards are the same, namely that granting a compulsory licence to exploit the other invention is permitted if the conditions stipulated in (the new law) article 26 are fulfilled in addition to the following two conditions: (a) the invention must involve a technical and economic importance in comparison with the other invention, and (b) the owner of the patent of the other invention may be granted a compulsory licence to use the (first) invention. It is thus implied that either of the two patents may not be assigned expect with the assignment of the other patent.

27. *Please indicate the number of compulsory licences issued under Egypt's patent law in each of the last five years.*

The number of compulsory licences issued under Egypt's patent law during the past five years: NONE.

28. *Please describe in detail the manner in which plant varieties are protected under Egypt's laws.*

The essentials of the manner in which plant varieties are protected under Egypt's new law for the protection of IPR (Book 4, entitled "Plant Varieties") are contained in an effective *sui generis* system, based on the provisions of Article 27.3(b) of the TRIPS Agreement and derive extensively from the UPOV Convention (1991).

#### G. LAYOUT-DESIGNS OF INTEGRATED CIRCUITS

29. *Please describe how Egypt implements the obligations of Section 6, Part II of the TRIPS Agreement and cite to relevant provisions of law.*

The relevant Articles in TRIPS Agreement are 35, 36, 37 and 38. Egypt's new draft law grants protection for the layout-designs of integrated circuits for 10 years. The level of protection is in full compliance with the TRIPS Agreement; terms of protections are stated in articles 46-55 of the new IPR law. The Patent Office will be the national authority that will be responsible for implementing Egypt's obligations of protecting the layout-designs of integrated circuits.

Currently, the Egyptian Patent Office is formulating the procedure relevant to implementation aspects of the layout-designs protection; this procedure is subject to approval by the Cabinet after the People's Assembly approval of the new IPR law. We will be very happy to receive technical assistance from developed countries as to this issue.

#### H. PROTECTION OF UNDISCLOSED INFORMATION

30. *Paragraph 2 of Article 39 of the TRIPS Agreement requires Members to provide protection for all undisclosed information, including technical know-how and commercial information, which meets certain criteria. This protection must endure as long as the conditions identified in paragraph 2 of Article 39 are met and protection cannot be conditioned on registration. Please explain how Egypt fulfils this obligation.*

The new law contains provisions on the protection of undisclosed information which fulfil Egypt's obligations under Article 39.2 of the TRIPS Agreement. The new law articles of relevance are:

- (a) article 56 concerning the qualification of the undisclosed information;
- (b) article 58 concerning the duties of the person lawfully in control of such information to prevent the disclosure to, acquisition by, or use by others of such information without his consent;
- (c) article 59 enumerating some of the more important acts that are considered contrary to honest commercial practices, which constitute acts of unfair competition;
- (d) article 60 enumerating, by way of contrast, some of the more important acts that are not considered contrary to honest commercial practices; and
- (e) article 62 providing for the imposition of penalties (as imprisonment and monetary fines) in situations where it is established that the information has been disclosed to, acquired by, or used by other persons without the rightful owner's consent in a manner contrary to honest commercial practices, subject to the qualification provided in article 56.



31. *What measures, as required by Article 42 of the TRIPS Agreement, are taken by judicial authorities in Egypt to protect the confidentiality of undisclosed information furnished by a party during legal proceedings to enforce rights in such information, or for other purposes.*

The proposed law indicates that the owner of the undisclosed information has the right to resort to the courts in case of proving that others infringe his rights.

32. *Paragraph 3 of Article 39 of the TRIPS Agreement requires that Members protect certain test data associated with requests to obtain approval to market pharmaceutical and agricultural chemical products from disclosure and from "unfair commercial use." Please explain how Egypt implements this obligation, and in particular, please explain procedures if any that the Ministry of Health and Population and the Ministry of Agriculture have implemented to give practical effect to this obligation.*

The obligation of Egypt, as related to the matter addressed in Article 39.3 of the TRIPS Agreement, is fulfilled through implementation of article 57 of the new law in the following manner.

(a) The term "undisclosed test or other data", which is to be protected against unfair commercial use, embraces the undisclosed information which (a) concern pharmaceutical or agricultural chemical products; (b) result from considerable effort; (c) utilize new chemical entities; (d) are submitted to the concerned authorities as a condition for approving the marketing of such products; and (e) are required for conducting the tests necessary for the marketing approval.

(b) The concerned authorities, which receive such information, are obliged to protect the information against disclosure and against unfair commercial use. This obligation starts from the date the information is submitted and continues until the information no longer becomes secret, or until the elapse of no more than five years, whichever occurs first. In anticipation of the formal passing of the law, a Prime Minister's Decree (No. 2211) was issued (dated 25 November, 2000) providing for the same obligation. A formal notification of this commitment was also communicated (under Article 63.2 of the TRIPS Agreement) to the Council for TRIPS, and is contained in document IP/N/1/EGY/1/ADD.1, dated 8 May, 2000.

(c) The exceptions provided for in article 57 of the new law are identical to those allowed in Article 39.3 of the TRIPS Agreement, namely: (i) where the disclosure by the concerned authorities is necessary to protect the public; or (ii) where the concerned authorities use the test information in testing or evaluating other similar products; this being a situation where protection of the public is an issue.

(d) Additionally, the following must be clarified:

(i) The test and other data, which are required for the testing, examination and evaluation of the product, are handled by a responsible government authority, the National Organization for Drug Control and Research (NODCAR) which is an organ of the Ministry of Health and Population, where all operations are conducted in complete secrecy and guarded against any form of disclosure to outside bodies except when required by law, such as by court order.

(ii) Another applicant cannot, therefore, have access to such test data as submitted by a first applicant. It is only the concerned authority (in this case NODCAR) which can use the test data for testing the product of the first applicant or, where deemed necessary, to protect the public.

(iii) Of the undisclosed information submitted by a first applicant, one can distinguish two types:

(A) the general facts and figures pertaining to the usage of the product (such as indications, contra-indications, limitations, precautions, interaction with other products, dosage forms, dose levels, etc.) are actually disclosed, to the medical profession and to the general public, by the applicant himself upon releasing his product in the local market.

(B) The qualitative/quantitative analytical test and evaluation (chemical/biological) data and methods of procedure are kept with and reserved for the restricted use of the concerned authority (NODCAR). This authority's functions, to be sure, are limited to using - certainly not publishing or otherwise disclosing to any outside body - the test/evaluation methods which either are made available to the authority by an applicant, or are already in the authority's possession for the normal discharge of its daily responsibilities.

## I. ENFORCEMENT

33. *Please describe in detail what civil actions and what civil remedies are available under Egypt's laws to right holders of each kind of intellectual property covered by Part II of the TRIPS Agreement, including plant variety protection, that permit effective action against any act of infringement to prevent infringement and deter further infringement, and cite to the provisions of law providing for those remedies.*

The TRIPS Agreement regulates the civil procedures in article (42 – 48).

Article 42 concerns the general principles that must be available in the equitable trial (the principle of confrontation between the litigant parties – guarantee of the right to defence – proxy in litigation).

Undoubtedly, these principles are established in most legislations that regulate the civil procedures just as they are well and completely covered in the Egyptian civil and commercial code of procedure.

Article 45 of TRIPS concerns "damages" as to the balance between the injury and the obligation of the person sentenced to pay damages and to pay legal expenses and attorney's fees, as well. This principle is governed by the general rules of procedural and relevant legislation that regulate procedures and the very subject matter of civil litigation in Egypt.

There is also the authorization by TRIPS to the judicial authorities in Article 46 to dispose of goods that they have found to be infringing to intellectual property rights, to the extent that they may destroy them and destroy the tools and equipment mainly used in making infringing goods. It is to be noted that the draft Egyptian law adopts that rule to a considerable extent and requires its enforcement to all areas of intellectual property rights (articles 33, 36 concerning the area of patents). Both articles apply to layout-designs of integrated circuits and undisclosed information. Article 118 concerning trademarks and geographical indications, article 134 concerning industrial designs and models, article 179 concerning copyright and neighbouring rights and article 200 concerning plant varieties, all address the question of punishable acts and the penalties that may be imposed in situations of infringement.

34. *Please state whether decisions on the merit in court proceedings are provided in writing and if those written opinions are available to the public so that people can become familiar with the law.*

It is established in the principles of litigation in Egypt that the trials are public. Such principle provides that the decisions issued during trial, as well as the decisions issued in cases shall be written and caused. They are available for the parties to get acquainted. They are also to be based on documents and evidence submitted to the court. These principles are reflected by procedural laws organizing the litigation measures either on civil level [code of civil and commercial procedures] or on criminal level [code of criminal procedures]. These laws, as governing procedures, also govern all sorts of cases including those concerning intellectual property rights, in the manner that complies fully with the provisions of Article 41 of the TRIPS Agreement.

35. *Please describe what civil provisional measures are available to right holders under Egypt's laws, describe the procedures that must be followed and cite the relevant provisions of law.*

The TRIPS Agreement, in its Article 50, binds WTO Members to include in their legislations provisions on effective, prompt, provisional measures to deter any aggression upon intellectual property rights, especially in order not to release goods, including imported goods directly after paying their customs duties, into free circulation and to protect the evidence relevant to the alleged aggression.

It is to be noted that such provisional measures already are provided and enforced in the current Egyptian laws that protect the intellectual property rights: the Trademark Law (57/1939), Patent and Industrial Design Law (132/1949) and Copyright Law (354/1954). It is also to be noted that the new draft law on IPR protection also provides for provisional measures as prescribed in TRIPS: article 34 concerning patents that applies also to utility models, integrated circuits and undisclosed information, articles 116 & 117 concerning trademarks and geographical indications – article 135 concerning copyright and neighbouring rights, and articles 136, 201 and 202 concerning the plant varieties field.

36. *Please state whether judicial authorities have authority to adopt provisional measures inaudita altera parte, as required under Article 50.2 of the TRIPS Agreement and under what circumstances that authority will be invoked.*

The same requirement and obligation are reflected in the draft of the new Egyptian law on IPR protection in its various areas.

37. *Please describe in detail the procedures under Egypt's laws, at least with respect to counterfeit trademarked goods and pirated copyrighted works, that allow right holders to request customs authorities not to release goods into free circulation and cite to the relevant provisions of law. Please indicate if the customs authorities have ex officio authority to take such action.*

With regard to trademarks and geographical indications the draft new law in article 116 (1, 2 & 3) stipulates that the president of the court having jurisdiction in respect of the original dispute and, at the request of any interested party, is entitled to give an order in writing to apply the precautionary measures he deems necessary regarding in particular:

- (1) Substantiating the act of infringing the right covered by protection;
- (2) making an assessment and detailed description of what had been the object of the offence including the goods imported from abroad following their entry and being subjected the seizure; and

(3) seizure may, as the case may be, be made by Customs Authorities before releasing such goods.

Article 177 relating to the protection of copyright and related rights does not preclude taking such measures. Likewise, this may include any other field of intellectual property rights if infringement has been committed in the form of imitated or falsified goods.

As for the possibility of taking such measure by Customs Authorities *ex officio*, i.e. without the request of the interested party, and despite the fact that such act does not constitute an obligation pursuant to Article 50.2 of the TRIPS Agreement, the Egyptian Customs Regulations allow such authorities to open parcels for inspection purposes, if there is doubt that such parcels contain any infringing goods, without the presence of the concerned party (Article 51 of Customs Regulations no. 66/1963).

38. *Please indicate whether border enforcement is available with regard to other forms of intellectual property rights and cite to the relevant provisions of law.*

Please refer to the answer to the previous question no. 37.

39. *Please describe in detail how Egypt implements the remaining provisions of Section 4 of Part III of the TRIPS Agreement, citing to the relevant provisions of law.*

Please refer to the answers to the previous questions nos. 35, 36 and 37.

40. *Please describe in detail the criminal actions and remedies that are available under Egypt's laws with respect to counterfeit trademarked goods and pirated copyrighted works and cite to the relevant provisions of law.*

The TRIPS Agreement binds WTO Members to provide the criminal procedures and penalties in cases of wilful trademark counterfeiting or copyright piracy on a commercial scale.

As to the penalties, the Agreement stipulated the imprisonment and/or fine and the seizure of the infringing goods or any tools or equipment used in committing the crime, or destroying the infringing goods.

With reference to the new draft law of Egypt, article 114, enumerates the forms of infringement with respect to trademarks and geographical indications; and provides that the infringer shall be punished with imprisonment for a period of no less than two months and a fine of L.E. 5,000-20,000 or one of the two penalties where the crime is committed for the first time. In case of recurrence of any form of infringement, the penalty will be imprisonment for not less than two months and a fine of L.E. 10,000-50,000. The seizure of infringing goods is to be ordered in all cases. The judicial authority may also decide to order the closure of the business; the closure being mandatory in case of recurrence. As to the copyright, the penalties, (article 179) are imprisonment for a period of no less than one month and a fine of L.E. 5,000-10,000 or either of the two penalties where the crime is committed for the first time. It also stipulates that the imprisonment shall be binding for a period of no less than 3 months together with a fine of L.E. 10,000-50,000 in case of recurrence. The same article also stipulates the imposition of multiple penalties. It obligates, in all cases, seizure of the infringing copies and the tools and equipment used in committing the crime and destruction of the pirated copies together with publishing a summary of the issued verdict in one daily paper or more at the expense of the person found guilty. The article permits closure of the establishment for a period of not more than six months in case of committing the crime for the first time; the closure is obligatory in case of return.

41. *Please indicate the authorities responsible for criminal actions involving intellectual property rights and indicate whether their authority extends to other forms of intellectual property rights.*

These authorities include police units located within some departments of the Government.

Furthermore, the draft IPR law states that the Minister of Justice shall issue a decree specifying the Law Enforcement Agencies for implementation of the provisions of such law.

There is also the role of public prosecution as an authority of investigation, and the misdemeanour courts according to their local jurisdiction. It is to be noted that the person exposed to damage can resort directly to a misdemeanour court through direct prosecution and the jurisdiction of these authorities extends to other areas of intellectual property rights if their jurisdiction was criminally decided.

42. *Please explain whether and under what circumstances seizure, forfeiture and destruction of infringing goods and any materials and implements are available as remedies in wilful trademark counterfeiting or copyright piracy cases and describe the conditions under which such penalties would be imposed.*

Please consider the answer given to the previous question no. 40.

43. *Please provide statistical information related to civil copyright, trademark, geographical indication, industrial design, patent, integrated circuit layout-design, and trade secret enforcement for each of the years 1998 and 1999, including the number of cases filed; injunctions issued; infringing products seized; infringing equipment seized; cases resolved (including settlement); and the amount of damages awarded.*

The general statement given during the review session will include a response to this question.

44. *Please provide statistical information related to criminal enforcement in the area of copyright piracy and trademark infringement for each of the years 1998 and 1999, including the number of raids, prosecutions, convictions, and the amount of fines and/or jail terms (including whether the fines were paid and whether the jail term was actually served or was suspended) and any other information establishing that the criminal system operates effectively to deter copyright piracy and trademark counterfeiting.*

The general statement given during the review session will include a response to this question.

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

The Government, in the draft of the new law on protecting intellectual property rights, established provisions to guarantee the criminal procedures for all areas of intellectual property. The matter is being submitted to the People's Assembly to decide whether the criminal procedures shall be limited to what is required by TRIPS only, or will be extended to all other areas.

In addition, the abilities of the authorized seizure bodies have been greatly improved through training courses and provision of the necessary materials and equipment. Moreover, intensive training courses were conducted for public prosecution personnel and judges so that they could acquire the skills necessary for investigating and deciding in cases related to protecting of intellectual property rights.

Furthermore, since Egypt acceded to the TRIPS Agreement, an active campaign to spread public awareness on intellectual property rights through public advocacy, instruction and training programs. This is evidenced, as one example, by the creation of a center for intellectual property rights studies in the form of a non-governmental organization which receives support form the Council of Ministers.

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