

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE AGREEMENT**

POLAND

By means of communications from its Permanent Mission, dated 9 February 2000 and 19 April 2000, the following notification has been received from Poland under Article 63.2 of the Agreement.

I have pleasure in submitting the enclosed notification of domestic legislation that Poland wishes to effect under Article 63.2 of the TRIPS Agreement.

The texts that have been notified and circulated in 1996-1998 (see documents IP/N/1/POL/1 and Rev.1; IP/N/1/POL/C/1-2; IP/N/1/POL/L/1; IP/N/1/POL/P/1-2; and IP/N/1/POL/T/1) were notified for the purpose of Articles 3, 4 and 5 of the TRIPS Agreement. These texts are now notified for the purpose of the other provisions of the Agreement.

In addition, the following laws are also notified¹:

- Act of 16 April 1993 on combating unfair competition.
- Act of 24 February 1990 on counteracting monopolistic practices and protection of consumer interests.
- The Code of Civil Procedure, adopted on 17 November 1964.
- The Code of Criminal Procedure, adopted on 6 June 1997.
- Regulation of the Council of Ministers of 2 February 1999 on the procedure and operating principles for Customs Authorities for withholding goods in case of suspected violation of provisions of intellectual, commercial and industrial property.

In relation to some of these laws a draft of a new Industrial Property Law is currently in Parliament. Some information on this draft law is provided in Annex III.

Poland is also preparing additional responses to the checklist of issues on enforcement, because the responses that were circulated in document IP/N/6/POL/1 of 11 May 1998 only concerned the area of copyright and related rights.

¹ Further details are provided in Annexes I and II below.

ANNEX I

MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS

TITLE, DATE OF ADOPTION AND ENTRY INTO FORCE	BRIEF DESCRIPTION
<p>Special requirements related to border measures</p> <p><u>Regulation of the Council of Ministers of 2 February 1999,²</u> on the procedure and operating principles for Customs Authorities for withholding goods in case of suspected violation of provisions of intellectual, commercial and industrial property.</p> <p>(Entry into force: 13 March 1999.)</p>	<p>The regulation contains provisions on procedure for customs authorities.</p>

² See document IP/N/1/POL/E/1.

ANNEX II

OTHER LAWS AND REGULATIONS

TITLE, DATE OF ADOPTION AND ENTRY INTO FORCE	BRIEF DESCRIPTION
<p>Marketing practices rights</p> <p><u>Act of 24 February 1990</u> on counteracting monopolistic practices and protection of consumer interests. (Entry into force: 13 April 1990.)</p> <p>Protection of undisclosed information</p> <p><u>Act of 16 April 1993</u> on combating unfair competition. (Entry into force: 9 December 1993.)</p> <p>Civil judicial procedures and remedies</p> <p><u>The Code of Civil Procedure,</u> adopted on 17 November 1964. (Entry into force: 1 January 1965.)</p> <p>Criminal procedures</p> <p>The Code of Criminal Procedure, adopted on 6 June 1997. (Entry into force: 1 September 1998.)</p>	<p>The Act prohibits monopolistic practices and abuses of dominant position and various types of restrictive agreements, all of which are treated as monopolistic practices. At the same time Article 3.1 states that "the Act does not violate any exclusive rights ensuing from the legal regulations concerning protection of intellectual or industrial rights, and in particular provisions on inventions, trademarks, decorative patterns, protection of topography of integrated circuits, copyright and neighbouring rights.</p> <p>The Act on combating unfair competition deals, among others, with the protection of undisclosed information. The Act does not apply to specific products such as pharmaceuticals or agricultural chemical products. Issues connected with specific products or information on them and related problems are dealt with by sectoral legislation or by legislation in the field of patents.</p> <p>The Code contains procedural rules regarding civil procedures in various cases.</p> <p>The Code contains procedural rules for criminal judicial proceedings and prosecution.</p>

ANNEX III

Some Information on the Draft Law on Industrial Property

Legislative works in the Polish Parliament for the adoption of the new Industrial Property Law are nearing completion. At present, the draft is being prepared for the third reading in Sejm. According to the present expectations, the Law will be finally adopted in late April or early May, with the entry into force on the date of promulgation (on the turn of May/June). The delay in the adoption of the Law was caused by the pressure of legislative works in Parliament on the one hand, and the complexity of the subject-matter under regulation as well as the sensitivity of some controversial issues which required to be consulted with interested circles, on the other hand.

The new law is supposed to bring the Polish system of industrial property protection in full compliance with the TRIPS requirements, in some respects providing even more enhanced protection than that required. When compared with the present regulations, it includes the following changes and additions:

I. Patents

1. It provides for the protection for inventions in all fields of technology.
2. It permits patent claims to be amended for the purpose of claiming enhanced protection, which was not earlier available.
3. It determines detailed conditions for granting compulsory licences.

II. Trademarks

1. It provides full protection for famous, well-known and having-reputation trademarks.
2. It includes the notion of a counterfeit trademark.
3. It provides for penal liability for counterfeiting of a trademark.
4. It provides for a possibility of granting a common right of protection for a trademark.
5. It provides for a possibility for a product bearing a counterfeit trademark to be seized at the border.
6. It permits a trademark application to be divided in respect of a list of goods.

III. Geographical indications

1. In addition to the provisions on combating unfair competition, it provides protection for geographical indications by way of registration.
2. Registration of a geographical indication may be sought by an organization representing interests of the producers from a given territory or by a local or autonomous administration agency.

3. It provides for additional protection for geographical indications for wines and spirits.
4. It provides for a possibility for a product bearing a deceiving geographical indication to be seized at the border.

IV. Industrial designs

1. It provides protection for any industrial designs, including textile designs, by way of registration.
2. It provides for a possibility of covering in one application various individual forms of a subject having common essential features, i.e. varieties of a design.
3. It establishes the 25-year-protection period.
4. It provides for design protection under the copyright regime after the termination of the registration.

V. Topographies on integrated circuits

1. It determines the detailed requisites for the registration of topographies of integrated circuits.
2. It provides for more detailed regulations in respect of the protection for topographies and makes them harmonized with the TRIPS requirements.

VI. Miscellaneous

1. It provides for judicial review of the Patent Office's decisions.
 2. It provides for additional rules and procedures for border control.
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