

**Please describe the status of preparations and tell us if there have been any changes in the times when enactment of these industrial property laws is expected.**

**ANSWER:**

The first version of the Patent Law, the Trademark Law, and the Law on Industrial Designs, has been prepared. Their enactment is planned for the end of 1996 and entry into force for the beginning of 1997.

**QUESTION 87:**

**In answer to question 73, Croatia reported that a law on layout-designs of integrated circuits was expected to be prepared in late 1996, and to be enacted early in 1997. The answer to question 86 says the protection would be provided in 1996. Please describe the status of those plans. Has drafting of a bill begun? Are WIPO experts assisting with the drafting of the legislation? (WT/ACC/HRV/3)**

**ANSWER:**

The work on the Law on Integrated Circuits (what includes semi-conductors) is planned for 1997. The drafting of the Law has not started yet so the experts of the World Intellectual Property Organization have not yet been asked for assistance.

The determination of the Republic of Croatia is to consult the experts of the World Intellectual Property Organization in the final phase of enacting of all the laws in the field of industrial property.

**QUESTION 88:**

**Trade secrets are "to a certain extent" regulated by the new Draft Law on Trade. Could you provide more detailed information on the extent to which trade secrets are protected? Which models, if any, were selected to ensure protection? (WT/ACC/HRV/3, Question 74)**

**ANSWER:**

The text of the Law on Trade, which entered into force on 19 February 1996, was sent to the WTO Secretariat on 21 March 1996.

Trade secret in the Croatian law is not comparable to the institution of "trade secret" as recognized by the law of, for example, USA, but beside the above mentioned Law on Trade some protection in this sense is provided for in some provisions of the Criminal Law (NN (Official Gazette) 32/93), Article 104, referring to crimes against economy - release and unauthorized acquisition of trade secret; the Labour Law (NN 38/95), Article 89, Article 92, paragraph 4, Articles 93 and 155, referring to inventions made at work and in connection with work, prohibition of the competition of employees with the employer and the protection of trade secret; and the Companies Law (NN 111/93), Articles 248, 273 and 629, referring to the prohibition of competition, the liability for damage inflicted by the use of one's influence in the society and the breach of the obligation to protect a secret.

**QUESTION 89:**

**Croatia reported that trade secrets are protected to a certain extent under the unfair competition provisions of the Draft Law on Trade. Please tell us if the law has been enacted and, if not, when is enactment expected. Please provide a copy of the draft law. Is it also possible to have an opportunity to comment? (WT/ACC/HRV/3)**

**ANSWER:**

The Trade Law has entered into force on February 19, 1996, and the text of the same Law was submitted to the WTO Secretariat on March 21, 1996.

Although a trade secret in the Croatian legislation is not comparable to the institution of the "trade secret" recognized by e.g., the law of the USA, apart from the above mentioned Trade Law - Article 58. paragraph 1. al. 13, some protection in this sense is provided under particular provisions of the Criminal Law (NN (Official Gazette) 32/93), Article 104, referring to crimes against economy - release and unauthorized acquisition of trade secret; the Labour Law (NN 38/95), Articles 89, 92, paragraph 4, Article 93 and 155, referring to inventions made at work and in connection with work and the protection of trade secret and prohibiting the competition of employees with the employer; and the Companies Law (NN 111/93), Articles 248, 273 and 629, referring to the prohibition of competition, the liability for damage inflicted by the use of one's influence in the society and the breach of the obligation to protect a secret.

**QUESTION 90:**

**Did Croatia join the PTC at the end of 1995? If not, when can it be expected to happen? (WT/ACC/HRV/3, Question 76)**

**ANSWER:**

The Republic of Croatia is just about to initiate the parliamentary procedure for the accession to the Patent Cooperation Treaty; the accession is planned for this year.

**QUESTION 91:**

**In responding to question 79 Croatia reported that the provisions on compulsory licensing of patents in the new industrial property legislation would be consistent with the obligations of the TRIPs Agreement. Please describe for us the provisions of the draft law that will deal with compulsory licensing and if possible, provide us with a copy of the draft law. (WT/ACC/HRV/3)**

**ANSWER:**

We can inform you that the State Patent Office will provide you with a copy of all the Laws drafted in the field of industrial property so it will be the same with the Law dealing with patent matters, and compulsory licensing respectively. Please note, that the Patent Law is not, for the time being, available to the general public.

**QUESTION 92:**

**Please provide more detailed information on how Croatia intends to regulate compulsory licensing. What does "adequately" mean?**

**ANSWER:**

The issue of compulsory licensing is regulated by the Law on Industrial Property currently in force. Within the draft new Law on Patents this aspect will be consistently harmonized with Article 31 of TRIPS. For the time being we are not releasing the draft new Law on Patents to the general public.

**QUESTION 93:**

**What exactly is meant by the statement the Ministry of Economic Affairs "requires in practice that a contract ensures a guarantee by a foreign entity as the licensors of patents and know-how that their use will not affect...things..."? This may include everything. Please provide more precise language. (WT/ACC/HRV/3, Question 88)**

**ANSWER:**

In our answer to question 88 the word "adversely" affect has not been stressed clearly enough; the sentence should have read: "As for Chapter VIII of the Law on Foreign Trade Operations - Acquisition and Cession of Industrial Property Rights and Know-How - despite provision of the guarantees i.e. restrictive clauses in Articles 71 and 72 of the Law, the Ministry of Economic Affairs

as the competent government body requires in practice that a contract ensures a guarantee by a foreign entity as the licensors of patents and know-how that their use will not adversely affect the life and health of people, things or the environment. New legislation is being drafted, with Chapter VIII omitted and with the emphasis on maintaining records, but without giving consent for the above-mentioned contracts."

Apart from that, with the entry into force of the Law on Trade (19 February 1996), among other laws the Law on Foreign Trade Operations has been repealed, whose Chapter VIII regulated the acquisition and assignment of industrial property rights and know-how.

**QUESTION 94:**

**Does Croatia require, as a condition of approving the marketing of pharmaceutical or agricultural chemical products which utilize new enmities, the submission of undisclosed test or other data, the organization of which involves a considerable effort? If so, how does Croatia plan to protect such data against unfair commercial use?**

**ANSWER:**

Some of the documents required for the procedure for the registration of medicines with the Ministry of Health are considered confidential and are treated as trade secret. Article 16 of the new Law on Medicines and Medical Products, whose adoption procedure is under way in the Parliament, stipulates that the documents received on a medicine or medical product shall be treated as trade secret. The Law also provides for the obligation to deal with such documents in a special way, as well as for a mechanism of their protection.

Positive regulations of the Republic of Croatia require, as a condition for obtaining permission for releasing into circulation means for the protection of plants (when a product is being registered), the submission of data which are the result of undisclosed tests, but such undisclosed data are treated as trade secret, also by the Ministry of Health (prior toxicological analysis) and the Ministry of Agriculture and Forestry. So far no claims have been recorded in connection with the protection of data on plants protection. A new by-law is being prepared on the manner of and conditions for releasing into circulation means for plants protection. It is expected to replace the existing by-law, taken over from the former state, by the end of the year. It will contain provisions securing the protection of data from possible abuse, based on the established principles of international trade with this kind of products.

**QUESTION 95:**

**What kind of legal institutions and remedies do exist or are intended to guarantee fair and equitable (civil and/or administrative) procedures?**

**ANSWER:**

In a wider sense civil and administrative procedures are secured by municipal, county and commercial courts, the High Commercial Court of the Republic of Croatia, the Administrative Court of the Republic of Croatia and the Supreme Court of the Republic of Croatia as the highest court in Croatia.

Commercial courts, which are seated in Zagreb, Osijek, Rijeka and Split, have original jurisdiction over intellectual property cases. Appeals against the decisions by courts of original jurisdiction may be lodged with the High Commercial Court of the Republic of Croatia, seated in Zagreb.

Administrative procedure in the area of industrial property is carried out by the Croatian State Patent Office. Against an act of the Office an administrative lawsuit can be initiated before the Croatian Administrative Court, which either recognizes the appeal or dismisses it as unfounded, in which case it annuls the disputed act. The administrative procedure itself is regulated by the Law on Industrial

Property, Law on General Administrative Procedure, Law on Administrative Lawsuits and the Law on Copyright.

Legal remedies securing the adoption of adequate and unbiased court decisions are the appeal and the objection as regular legal remedies, and the request for the protection of legality, the review and the request for the repetition of the procedure as extraordinary legal remedies. For example, a request for the review of a decision of the Croatian High Commercial Court is filed with the Croatian Supreme Court within 30 days from the day on which the decision of the appellate court was received. A request for the protection of legality is filed with the Croatian Supreme Court by the Croatian State Attorney if the law or a treaty have been violated by a final decision.

The dissatisfied party to the dispute may obtain the protection of his or her right by using regular or extraordinary legal remedies before the appellate court, in accordance with the theory and practice of the countries of the European continental system.

**QUESTION 96:**

**Are in criminal procedures remedies available that include seizure, forfeiture and the destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence?**

ANSWER:

Chapter XXVIII, Articles 480-496, of the Law on Criminal Procedure (NN 34/93) is devoted to the procedure for the application of security measures and forfeiture of benefits acquired by the infringer. Article 104 of the Law provides for the possibility of taking provisional measures during the criminal procedure to secure the property-rights claim arising out of the commission of the crime. Chapter VII, Articles 95-99 and 103b of the Law on Copyright (NN 53/91, 58/93), among other things, envisages the possibility of seizing, altering or destroying the infringing objects. Such measures have also been pronounced by courts.

**QUESTION 97:**

**Do judicial authorities have the authority to adopt provisional measures *inaudita altera parte*?**

ANSWER:

As a rule, courts do not have the authority to introduce provisional measures *inaudita altera parte*. However, a court can adopt a provisional measure *inaudita altera parte* if there is a realistic and serious threat to the rights of the infringed party, and if from the party requesting the provisional measure a security can be requested for the damage that might be inflicted to the other party by the adoption and implementation of the provisional measure (Articles 262-274 of the Law on Enforcement Procedure).

Beside this, Article 442 of the Law on Civil Procedure stipulates that court authorities can introduce provisional measures *inaudita altera parte* for the purpose of eliminating an imminent threat of unlawful damage, preventing violence or removing irreparable damage.

**QUESTION 98:**

**Please provide more detailed information on how Croatia intends to introduce a system of enforcement at borders.**

ANSWER:

Croatia has adopted the Law on the Ratification of the International Convention on the Harmonization of Border Controls of Goods, thus committing itself to organizing border services for customs, medical and sanitary, veterinary, phytosanitary, quality and technical standards controls. The

market inspectorate of the Ministry of Economy, which has controlled the quality of agricultural and food products at the border for years, will start carrying out the technical standards control as well on 1 June 1996.

The objective of all these measures of the quality control and the technical standards control is to protect foreign producers, secure the legality of imports to Croatia and prevent counterfeiting as to the quality of the product and its trademark.

In the near future or within five years from its accession to WTO at the latest, Croatia will regulate in more detail the issue of exercising the rights at the border, particularly in the area of intellectual property, in accordance with the provisions of the World Customs Organization and TRIPS respectively.

**QUESTION 99:**

**Is the Government of Croatia enforcing the existing regulations regarding intellectual property, which were taken over from the former Yugoslav legal system in 1991?**

**ANSWER:**

The Republic of Croatia is enforcing the regulations concerning intellectual property, taken over from the former Yugoslav legal system in 1991. It should be mentioned that the important amendments - changes and amendments in the field of copyright and neighbouring rights were enacted in 1993.

**IV.1(b) Copyright and Related Rights**

**QUESTION 100:**

**Per the discussion in question 83: What efforts are being made to combat the pirating of sound recordings, videos and computer software in Croatia? (WT/ACC/HRV/3)**

**ANSWER:**

The Ministry of the Interior's Department for Preventing Economic Crime, the Market Inspectorate of the Ministry of Economic Affairs and the Financial Police of the Ministry of Finance are institutions which take measures aimed at preventing the infringement of intellectual property rights. To mention an example, in 1994 and 1995 the Ministry of the Interior's Department for Preventing Economic Crime seized 22,554 audio tapes, 2,140 CDs and 52,345 video tapes, all illegally produced.

The abuse of copyright and the right of performers is controlled by the agents of the organization of authors for the protection of the rights of public performance and mechanical reproduction and agents of the organization for performers' rights respectively.

**QUESTION 101:**

**Croatia reported in the answer to question 84, that no compulsory licenses had been issued under the patent law. Is that still the case? (WT/ACC/HRV/3)**

**ANSWER:**

We can inform you that the Republic of Croatia has not, up to now, granted any compulsory license on the basis of the patent legislation.