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

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REVIEW OF LEGISLATION

QUESTIONS POSED BY THE EUROPEAN UNION

By means of a communication from the delegation of the European Union, dated 2 April 2013, the Secretariat has received a copy of the following questions that it has communicated to the Russian Federation.

RUSSIAN FEDERATION

IPR IN INFORMATION AND TELECOMMUNICATION NETWORKS INCLUDING THE INTERNET

We have been informed about a new legislative proposal by the Ministry of Culture titled "On Introduction of Amendments to Certain Legislative Acts of the Russian Federation for the Purpose of Elimination of Violations of Intellectual Property Rights in Information and Telecommunication Networks Including the Internet".

1. How will this proposal work together with the planned amendments to Part IV of the Civil Code?
2. What are the current intentions of the Russian government in respect of the liability of internet service providers? Do any of the measures notified or planned modify the commitment to take action against internet websites that promote illegal distribution?

COLLECTIVE RIGHTS MANAGEMENT

3. Do any of the measures notified or planned, modify the scope of rights that are subject to collective management as provided for in Article 1244 of the Civil Code?
4. Do these measures envisage expansion of the mandate of collective management organisations?
5. Do any of the measures notified or planned, modify the right under Article 1244 of the Civil Code, which ensures that the rights holder without a contract with a collective management organisation has the right to refuse its services?
6. Do any of the measures notified or planned involve those that would be intended to monitor and hold accountable organizations engaged in collective management of rights to ensure that rightholders receive remuneration that is due to them?
7. Is the Russian Federation following up on its commitment to review its system of collective management of rights in order to eliminate non-contractual management of rights within five years after Part IV of the Civil Code entered into effect (2008)?

PRIVATE COPYING

8. Do any of the measures notified or planned modify the scope of "private copy" concept as defined in Article 1273 of the Civil Code?

THE MONETARY THRESHOLD IN CRIMINAL PROCEDURES AND PENALTIES REGARDING COPYRIGHT PIRACY

9. Do any of the measures notified or planned provide guidance on the application of the monetary threshold for application of criminal procedures and penalties with regard to copyright piracy, in order to reflect realities of the commercial market, notably regarding the internet market?

THE NEW DRAFT SEED LAW

It seems that a new draft seed law is being prepared in Russia. The issue is currently dealt with by the Federal Law on the Protection of Selection Achievements of August 6, 1993. This new law, regarding plant variety protection would introduce the so-called agricultural exemption which is an optional exemption under Article 15(2) of the UPOV 1991 Convention. Under such an exemption a farmer is allowed to use the product of his harvest for further propagating purposes of a protected variety without the authorization of the title holder but against a reasonable remuneration. Nevertheless, pursuant to the recommendation on Article 15(2), annexed to the UPOV Convention, such an exemption can be introduced only to the extent as such use has been common practice in the given country, i.e. only for certain crops and for one generation.

It appears that the plan is to introduce such an exemption without any limits, meaning that for all crops and for several generations. This seems not to be in line with the UPOV 1991 Convention to which Russia is a contracting party.

10. Could we receive a detailed explanation as to the rationale behind the new law?

THE LAW ON THE CIRCULATION OF MEDICINES

11. Please explain how Article 18.6 of the Law on Circulation of Medicines is currently applied in Russia, e.g., is the six-year term of protection currently in force or does it require additional guidelines or other implementing measures?

12. If it is in force, could you explain the process used to provide this protection?

13. Please explain the relationship of Article 18.6 with Article 26 of the Law on Circulation of Medicines, which allows for the accelerated review of generic applications.

14. What are the measures being taken in order to avoid legal uncertainty that is created by lack of clarity regarding data protection?

GEOGRAPHICAL INDICATIONS (GIS)

15. Where does the Russian notion of appellations of origin (AOs) stand with respect the TRIPS concept of GIs?

16. Please explain, how the generic use of EU geographical indications in the draft Customs Union Technical Regulation on Safety of Alcoholic Products is in line with the protection provided to those terms under TRIPS rules?