



27 October 2014

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

Original: English

## REVIEW OF LEGISLATION

### QUESTIONS POSED BY THE UNITED STATES OF AMERICA

By means of a communication from the delegation of the United States, dated 27 October 2014, the Secretariat has received a copy of the following questions that it has communicated to Tajikistan.

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#### TAJIKISTAN

#### 1 COPYRIGHT

1. We note that during the accession process, we had an opportunity to review Tajikistan's Copyright law, but that the Copyright law has not been notified to the WTO pursuant to TRIPS Article 63, or at least such a law is not reflected in the WTO database of such laws. Has the Copyright law been notified?

#### WT/ACC/SPEC/TJK/5/Rev.2:

2. **Page 82, paragraph 261:** There is a wording/translation problem in Articles 4 and 30, that the government of Tajikistan noted would be clarified in document WT/ACC/TJK/23, questions 77, 87 and 95.

3. **Page 83, paragraph 262:** In earlier documents, the GOT had clarified that works whose term had expired and had fallen into the public domain in Tajikistan would still be protected in Tajikistan if they had not fallen into the public domain in their country of origin. WT/ACC/TJK/23, Questions 77, 87 and 95.

4. **Page 83, paragraph 263:** As noted in WT/ACC/TJK/24, question 94, this exception would not apply to books that the publisher makes available in Braille, regardless of whether the work was "originally" created in Braille or not.

5. **Page 83, paragraph 264:** We would like to understand this better. What right holders are subject to these government regulations? Can an exclusive right holder deny use or demand whatever payment or concessions it wants to license use of its works?

#### WT/ACC/TJK/24:

6. **Page 27, Question 65/84:** Please confirm that the owners of audiovisual works have the exclusive right of "in sequence" demonstrations. Does Article 16(5) include both in and out of sequence demonstrations? Please explain the difference between 16(4), presentation of works in public, and 16(5), performance of works in public.

7. **Page 28, Question 68/97:** Please clarify where broadcasting organizations have the right to prohibit non-simultaneous broadcasting/communication to the public via wireless broadcasting.

**WT/ACC/TJK/30:**

8. **Paragraph 264, pp. 58-59:** When does Tajikistan intend to file its documents and accede to the Convention for the Protection of the Interests of Producers of Phonograms from Illegal Broadcasting of their Phonograms (the Geneva Convention)?

9. **Paragraph 273, pp. 60-61:** Are foreign works that were still protected in their country of origin, but were in the public domain in Tajikistan in 1998 because the 25 year term had expired, protected in Tajikistan? For example, how long would a US work created in 1965 by an author who died in 2000 be protected in Tajikistan?

10. **Paragraph 276, p. 61:** Paragraph 276 explains the rights of producers of phonograms, including the right to remuneration. Do performers on phonograms have similar rights?

**2 PATENTS**

11. We look forward to reviewing amendments to the Law "On Inventions" and other relevant legislation that further implement the requirements of the TRIPS Agreement, particularly with Articles 30 and 31.

**3 PROTECTION OF UNDISCLOSED INFORMATION**

12. We look forward to reviewing the relevant legislation that further implements the requirements of the TRIPS Agreement, particularly with regard to Article 39. The laws currently notified to the WTO do not appear to provide such protections.

**4 ENFORCEMENT**

13. We note that during the accession process, we also had an opportunity to review Tajikistan's Enforcement laws, but that such laws have not been notified to the WTO pursuant to TRIPS Article 63, or at least are not reflected in the WTO database. Has the Enforcement law been notified?

14. How will the government deal with anti-competitive licensing and how is this reflected in the law?

15. Are only Tajikistani citizens permitted to be patent attorneys in Tajikistan and if so, what's the rationale for the citizenship requirement?

16. Can you provide some examples of recent actions to enforce intellectual property rights? Do customs and criminal enforcement officials have ex officio authority to enforce intellectual property rights? What measures are Tajikistan taking to address copyright infringement and digital piracy?

17. Are penalties for counterfeiting and piracy a deterrent so that infringers do not view fines and penalties as merely the cost of doing business?

18. We recognize that Tajikistan is committed to intellectual property rights. In this respect, does the Government of Tajikistan take the necessary steps to eliminate unlicensed software use by all Government Ministries, including the allocation of appropriate funding for the purchase of legitimate software?

19. We note that U.S. expert agencies stand ready to assist Tajikistan on implementing specific reforms and to engage in technical-level exchanges.

**WT/ACC/SPEC/TJK/5/Rev.2**

20. **Page 83, Paragraph 263:** Regarding Tajikistan's answer to question 93 regarding whether the phrase "...exclusively for the purposes of personal use ..." allows persons to make unlimited copies – how will Tajikistan's assumption in the original legislation that the number of copies is limited to one, have the force of law? Will the appropriate bodies enforce this assumption? Is Tajikistan prepared to clarify this assumption in the text of the laws or regulations?

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