

Original: English

PAKISTAN - PATENT PROTECTION FOR PHARMACEUTICAL
AND AGRICULTURAL CHEMICAL PRODUCTS

Request for Consultations by the United States

The following communication, dated 30 April 1996, from the Permanent Mission of the United States to the Permanent Mission of Pakistan and to the Dispute Settlement Body, is circulated in accordance with Article 4.4 of the DSU.

My authorities have instructed me to request consultations with the Government of Pakistan pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU") and Article 64 of the Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS") (to the extent that it incorporates by reference Article XXII of the General Agreement on Tariffs and Trade 1994) regarding the absence in Pakistan of either patent protection for pharmaceutical and agricultural chemical products or a system to permit the filing of applications for pharmaceutical and agricultural chemical product patents and a system to grant exclusive marketing rights in such products.

The TRIPS Agreement obligates all Members of the World Trade Organization ("WTO") that do not provide product patent protection for pharmaceutical and agricultural chemicals on the date of entry into force of the WTO Agreement (January 1, 1995) to establish a means by which applications for patents for such inventions can be filed and a system by which such applications will be examined when those Members provide protection consistent with Article 27 of the TRIPS Agreement. It also obligates such Members to establish a system whereby exclusive marketing rights will be granted in products that are the subject of such an application, subject to certain stated requirements. These obligations were to be fulfilled as of the date of entry into force of the WTO Agreement.

Pakistan's laws currently do not provide product patent protection for pharmaceutical or agricultural chemical inventions, or systems that conform to Articles 70.8 and 70.9 of the TRIPS Agreement, with regard to the filing and examination of applications and the grant of exclusive marketing rights. As a result, Pakistan's legal régime appears to be inconsistent with Pakistan's obligations under the TRIPS Agreement, including but not necessarily limited to TRIPS Agreement Articles 27, 65 and 70.

We look forward to receiving your reply to the present request and to fixing a mutually convenient date for consultations.