

ANNEX XII¹

REFERRED TO IN ARTICLE 15

PROTECTION OF INTELLECTUAL PROPERTY

¹ Annex XII was added in accordance with Joint Committee Decision No. 4 of 1998 (4 February 1998)

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PROTECTION OF INTELLECTUAL PROPERTY

Article 1

Definition and scope of protection

“Intellectual property protection” comprises in particular protection of copyright and neighbouring rights, including computer programmes and databases, trademarks for goods and services, geographical indications, including appellations of origin, industrial designs, patents, plant varieties, topographies of integrated circuits, as well as undisclosed information.

Article 2

International conventions

(1) The States Parties to this Agreement reaffirm their commitment to comply with the obligations and rights set out in the following multilateral agreements:

- WTO Agreement of 15 April 1994 on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement);
- Paris Convention of 20 March 1883 for the Protection of Industrial Property (Stockholm Act, 1967);
- Bern Convention of 9 September 1886 for the Protection of Literary and Artistic Works (Paris Act, 1971);

(2) The States Parties to this Agreement which are not parties to one or more of the agreements listed below shall undertake to obtain their adherence to the following multilateral agreements until 1 January 1999 from the date of entry into force of this Agreement:

- Budapest Treaty of 28 April 1977 on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure;
- International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention);
- International Convention of 2 December 1961 for the Protection of New Varieties of Plants (UPOV Convention);

- Protocol of 27 June 1989 Relating to the Madrid Agreement Concerning the International Registration of Marks;

(3) The States Parties to this Agreement agree to promptly hold expert consultations, upon request of any State Party, on activities relating to the identified or to future international conventions on harmonization, administration and enforcement of intellectual property rights and on activities in international organizations, such as the WTO and the World Intellectual Property Organization (WIPO), as well as relations of the States Parties with third countries on matters concerning intellectual property.

Article 3

Additional substantive standards

1. The States Parties to this Agreement shall ensure in their national laws at least the following:

- adequate and effective protection of copyright, including computer programmes, as well as of neighbouring rights;
- adequate and effective protection of trademarks for goods and services, in particular of well-known trademarks;
- adequate and effective means to protect geographical indications, including appellations of origin, with regard to all products and services;
- adequate and effective protection of industrial designs by providing in particular a period of protection of at least ten years from the date of application;
- compulsory licensing of patents shall only be granted under the conditions of Article 31 of the TRIPS Agreement. Licences granted on the grounds of non-working shall be used only to the extent necessary to satisfy the domestic market on reasonable commercial terms;
- adequate and effective patent protection for inventions in all fields of technology on a level similar to the one prevailing on 2 May 1992 in the states members of the European Patent Convention of 5 October 1973, in particular:
- a term of protection of at least 20 years from the date of filing,
- patents available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced,
- patentability of agrochemical products and processes.

2. The States Parties to this Agreement shall ensure in their national laws, at the latest before 1 January 1999, at least the following:

- the patentability of pharmaceutical products and processes;
- adequate and effective protection of topographies of integrated circuits;
- adequate and effective protection of undisclosed information;
- adequate and effective protection of databases.

Article 4

Acquisition and maintenance of intellectual property rights

Where the acquisition of an intellectual property right is subject to the right being granted or registered, the States Parties to this Agreement shall ensure that the procedures for grant or registration are of the same level as that provided in the TRIPS Agreement, in particular Article 62.

Article 5

Enforcement of intellectual property rights

The States Parties to this Agreement shall provide for enforcement provisions under their national laws of the same level as that provided in the TRIPS Agreement, in particular Articles 41 to 61.

Article 6

Technical co-operation

The States Parties to this Agreement shall agree upon appropriate modalities for technical assistance and co-operation of the respective authorities of the States Parties. To this end, they shall co-ordinate efforts with relevant international organizations.
