

ANNEX XVI

REFERRED TO IN ARTICLE 5

PROTECTION OF INTELLECTUAL PROPERTY

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SECTION I

GENERAL PROVISIONS

Article 1

Intellectual Property

For the purposes of the Agreement, “intellectual property” covers in particular copyrights, including the protection of computer programmes and compilations of data, as well as related rights, trademarks for goods and services, geographical indications (including appellations of origin) for goods, and indications of source for goods and services, industrial designs, patents, plant varieties, topographies of integrated circuits, as well as the protection of undisclosed information.

Article 2

International Conventions

1. The Parties reaffirm their obligations set out in the following multilateral agreements:
 - (a) TRIPS Agreement;
 - (b) Paris Convention of 20 March 1883 for the Protection of Industrial Property, as revised by the Stockholm Act of 1967 (Paris Convention);
 - (c) Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works, as revised by the Paris Act of 1971 (Berne Convention);
 - (d) Patent Cooperation Treaty of 19 June 1970, as revised by the Washington Act of 2001; and
 - (e) International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention).

2. The Parties shall ratify or accede to the following agreements before 2020, provided they are not yet a party, or comply with their substantive provisions by the same date:

- (a) Nice Agreement of 25 June 1957 Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, as revised by the Geneva Act of 1979;
- (b) World Intellectual Property Organization (WIPO) Copyright Treaty of 20 December 1996;
- (c) WIPO Performances and Phonogram Treaty of 20 December 1996 (WPPT);
- (d) International Convention for the Protection of New Varieties of Plants 1991, unless the Party concerned is already a member of the International Convention for the Protection of New Varieties of Plants 1978, and chose not to accede to the 1991 Act;
- (e) Budapest Treaty of 28 April 1977 on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure;
- (f) Beijing Treaty on Audio-Visual Performances of 24 June 2012; and
- (g) Marrakesh Treaty of 27 June 2013 to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled.

3. The Parties shall make all reasonable efforts to ratify or accede to the following agreements, provided they are not yet a party:

- (a) Protocol of 27 June 1989 relating to the Madrid Agreement concerning the International Registration of Marks; and
- (b) Geneva Act of 1999 of the Hague Agreement Concerning the International Registration of Industrial Designs.

4. Upon request of a Party, the Parties agree to promptly hold expert meetings on activities relating to the conventions referred to in paragraphs 1 to 3 or to future international conventions on harmonisation, administration and enforcement of intellectual property rights and on activities in international organisations, such as the WTO and WIPO, as well as on relations of the Parties with non-parties on matters concerning intellectual property.

5. This Annex shall be without prejudice to the Doha Declaration on the TRIPS Agreement and Public Health as well as the Amendment of the TRIPS Agreement as adopted by the WTO General Council on 6 December 2005.

SECTION II

STANDARDS CONCERNING THE AVAILABILITY, SCOPE AND USE OF INTELLECTUAL PROPERTY RIGHTS

Article 3

Copyright and Related Rights

1. The Parties shall, without prejudice to the obligations set out in the international agreements to which they are parties, in accordance with their domestic laws and regulations, grant and ensure adequate and effective protection to the authors of works¹ and to performers, producers of phonograms and videograms² and broadcasting organisations for their works, performances, phonograms, videograms and broadcasts, respectively.

2. In addition to the protection provided for in the international agreements to which the Parties are parties or which the Parties shall ratify or accede to pursuant to paragraph 2 of Article 2 (International Conventions), the Parties shall grant and ensure protection to:

- (a) performers for their audiovisual and visual performances, regarding the rights:
 - i. to claim to be identified as the performers of their performances, except where omission is dictated by the manner of the use of the performance, and to object to any distortion, mutilation or other modification of their performances that would be prejudicial to their reputation;
 - ii. to authorise, with respect to their performances, the broadcasting and communication to the public of their unfixed performances except where the performance is already a broadcast performance; and the fixation of their unfixed performances;
 - iii. to authorise the direct or indirect reproduction of their fixed performances, in any manner or form;
 - iv. to authorise distribution of their fixed performances through sale or other transfer of ownership; and
 - v. of authorising the making available to the public of their fixed performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

¹ It is understood that in Ecuador, the producers of videograms are protected under copyright law, whereas in the EFTA States the producers of videograms are protected under related rights law.

² *Ibid.*

- (b) producers of videograms, regarding the rights to authorise:
- i. the direct or indirect reproduction of their videograms, in any manner or form;
 - ii. the distribution of their videograms through sale or other transfer of ownership, as well as through commercial rental; and
 - iii. the making available to the public of their videograms by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them.

3. The Parties shall ensure that a broadcasting organisation has at least the exclusive right to authorise the following acts: retransmission, distribution of fixations, communication to the public and transmission following fixation.

4. The Parties may, in their domestic laws and regulations, provide for the same kinds of limitations or exceptions with regard to the protection of performers for their visual and audiovisual performances, to the protection of producers of videograms, and to broadcasting organisations as they provide for, in their domestic laws and regulations, in connection with the protection of copyright in literary and artistic works.

5. The term of protection to be granted to performers under the Agreement shall last at least until the end of a period of 50 years computed from the end of the year in which the performance was fixed.

6. The term of protection to be granted to producers of videograms under the Agreement shall last at least until the end of a period of 50 years computed according to each Party's domestic laws and regulations.³

7. The term of protection to be granted to broadcasting organisations under the Agreement shall last at least until the end of a period of 20 years computed in accordance with each Party's domestic laws and regulations.⁴

Article 4

Trademarks

1. The Parties shall grant adequate and effective protection to trademark right holders of goods and services. Any sign, or any combination of signs, capable of distinguishing the

³ The Parties may elect to compute the term of protection from the end of the year in which the videogram was published, or from 1 January of the following year. Failing such publication within 50 years from the fixation of the videogram, the Parties may elect to compute the period of protection from the end of the year in which the videogram was fixed, or from 1 January of the following year.

⁴ The Parties may elect to compute the term of protection from the end of the year in which the broadcast took place, or from 1 January of the following year.

goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including combinations of words, personal names, letters, numerals, figurative elements, shapes of goods, sounds and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, the Parties may make registrability depend on distinctiveness acquired through use. The Parties may require, as a condition of registration, that trademarks are capable of being represented on the register in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor.

2. The Parties shall grant the owner of a registered trademark the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. If an identical sign for identical goods or services is used, likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Parties making rights available on the basis of use.

3. Protection according to paragraph 2 shall not be limited to identical or similar goods or services where the trademark is well known in the relevant country and where the use of the trademark without due cause would be detrimental to the distinctive character or take unfair advantage or be detrimental to its repute.

4. No Party may require as a condition for determining that a trademark is well-known that the trademark has been registered in that Party or in another jurisdiction, included on a list of well-known trademarks, or given prior recognition as a well-known trademark.

5. The Parties reaffirm the importance of, and shall be guided by the principles contained in the WIPO Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO in 1999, and the WIPO Joint Recommendation Concerning Provisions on the Protection of Marks and other Industrial Property Rights in Signs on the Internet, adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO in 2001.

6. Where a trademark is reproduced in a dictionary, other reference work or in a similar work without mention of the fact that it is registered, the Parties shall grant, according to their domestic laws and regulations, to the owner of the trademark the possibility to require from the publisher or distributor of the work that a corresponding note be included, at the latest in a reprint.⁵

⁵ It is understood that under Ecuadorian domestic laws and regulations this possibility can be provided for as a reparation measure after a successful claim.

Article 5

Patents

1. The Parties shall at least ensure in their domestic laws and regulations that patents are available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. Subject to paragraph 3, patents shall be 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. Importation of a product along with its distribution and offering in sufficient quantity to meet the needs of the market shall be deemed to be “working of the patent” in the country of importation.
2. The Parties may exclude from patentability inventions, the prevention within their territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by their domestic laws and regulations.
3. The Parties may also exclude from patentability:
 - (a) any invention of methods for treatment of the human or animal body by surgery or therapy or for diagnostic methods practised on the human or animal body; this subparagraph shall not apply to products, in particular substances or compositions, for use in any of these methods; and
 - (b) plant or animal varieties or essentially biological processes for the production of plants or animals and plants or animals exclusively obtained by means of an essentially biological process; this subparagraph shall not apply to microbiological processes or the products thereof.
4. The Parties shall provide a patent applicant with opportunities to make amendments, corrections, and observations in connection with its application.
5. Recognising the benefits of transparency in the patent system, the Parties shall endeavour to publish unpublished pending patent applications promptly after the expiration of 18 months from the filing date or, if priority is claimed, from the priority date.
6. If a pending application is not published promptly in accordance with paragraph 5, the Parties shall publish such application or the corresponding patent as soon as practicable.
7. The Parties shall ensure that an applicant may request the early publication of an application prior to the expiration of the period mentioned in paragraph 5.
8. With respect to any pharmaceutical product that is covered by a patent, each Party may, in accordance with its domestic laws and regulations, make available a mechanism to compensate the patent owner for unreasonable curtailment of the effective patent term

resulting from the first marketing approval of that product in that Party. Such mechanism shall confer all of the exclusive rights of a patent, subject to the same limitations and exceptions applicable to the original patent.

Article 6

Undisclosed Information

1. The Parties, when requiring as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilise chemical or biological entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use. In addition, the Parties shall protect such data against disclosure, except where necessary to protect the public, or unless steps are taken to ensure that the data are protected from unfair commercial use.

2. The Parties when requiring, as a condition for approving the marketing of pharmaceutical or of agricultural chemical products which contain new chemical entities, the submission of undisclosed test or other data, shall reject an application for marketing approval that relies on undisclosed test data or other data submitted to the competent authority by the first applicant for a period, counted from the date of marketing approval, of at least three years for pharmaceutical products and at least six years for agrochemical products. In addition, when requiring, as a condition for approving the marketing of pharmaceutical or of agricultural chemical products the submission of undisclosed test or other data, the Parties shall provide for an exclusivity period from the date of marketing approval, of five years for pharmaceutical products and of ten years for agricultural chemical products during which a third party may not commercialise a product based on such data, unless he or she presents proof of the explicit consent of the holder of the protected information or his or her own test data. The protection provided for in this paragraph shall not prevent a Party from adopting measures in response to the abuse of intellectual property rights or unreasonably trade restrictive practices.

3. The Parties may permit reliance on or reference to such data in order to avoid unnecessary duplication of tests of agrochemical products involving vertebrate animals, provided that the first applicant is adequately compensated.

4. A Party may take measures to protect public interest, public health situations of national emergency or extreme urgency in accordance with:

- (a) the implementation of the Declaration of the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) (the Declaration);
- (b) waivers of provisions of the TRIPS Agreement adopted by WTO members in order to implement the Declaration; and
- (c) amendments to the TRIPS Agreement to implement the Declaration.

Article 7

Industrial Designs

The Parties shall ensure in their domestic laws and regulations adequate and effective protection of industrial designs by providing in particular a period of protection of at least ten years in total. The Parties may provide for a shorter period of protection for designs of component parts used for the purpose of the repair of a product.

Article 8

Geographical Indications

1. The Parties shall ensure in their domestic laws and regulations adequate and effective means to protect geographical indications with regard to all goods.
2. For the purposes of this Annex, “geographical indications” mean indications which identify a product as originating in the territory of a country, region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin, which also comprehend related environmental, natural and human factors.
3. Without prejudice to Article 23 of the TRIPS Agreement, the Parties shall provide legal means for interested parties to prevent the use of a geographical indication for a product not originating in the place indicated by the designation in question in a manner which misleads the public as to the geographical origin of this product or which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.
4. The Parties shall provide legal means for interested parties to prevent the use of a geographical indication for agricultural products and foodstuffs for identical or comparable goods not originating in the place indicated by the designation in question.

Article 9

Indications of Source and Country Names

1. The Parties shall ensure in their domestic laws and regulations adequate and effective means to protect indications of source, names and flags of countries, with regard to all goods and services, in accordance with this Article.
2. For the purposes of this Annex, “indications of source” mean direct or indirect references to the geographical origin of goods or services.
3. The Parties shall provide legal means for interested parties to prevent the use of an indication of source for goods not originating in the place indicated by the designation in

question in a manner which misleads the public as to the geographical origin of those goods or which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.

4. The Parties shall provide legal means for interested parties to prevent the use of an indication of source for services, *inter alia* where such indication is used as a trademark, trade name or company name, in a manner which misleads the public as to the geographical origin or constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.

5. The Parties shall provide legal means for interested parties to prevent any incorrect or misleading use or registration of country names of a Party or of its territory names, as trademarks or as any other protected title, according to each Party's domestic laws and regulations, such as trade names.

6. In accordance with their obligations under Article 6*ter* of the Paris Convention, the Parties shall prevent that armorial bearings, flags and other State or regional emblems of a Party are used or registered as trademarks, or other protected titles, according to each Party's domestic laws and regulations, such as trade names, in non-compliance with the conditions laid down in the domestic laws and regulations of that Party. This paragraph shall also apply to signs that may be confused with armorial bearings, flags and other State or regional emblems of a Party.

Article 10

State Owned Signs

The Parties recognise the interest and importance of adopting official signs and symbols that serve to promote their respective country, their goods and services and reflect their identity, and shall seek to provide adequate means for the protection of such signs and symbols, according to their domestic laws and regulations.

SECTION III

BIODIVERSITY AND TRADITIONAL KNOWLEDGE

Article 11

Biodiversity and Traditional Knowledge

1. The Parties recognise the importance and value of biological diversity and its components and of the traditional knowledge of indigenous peoples and local communities⁶.
2. The Parties furthermore recognise the contribution of indigenous peoples and local communities to the conservation and sustainable use of biological diversity and its components, as well as the contribution of the traditional knowledge of indigenous peoples and local communities to the culture and the economic and social development of nations.
3. The Parties reaffirm their sovereign rights over their natural resources, and recognise their rights and obligations as set out in the Convention on Biological Diversity, the International Treaty on Plant Genetic Resources for Food and Agriculture, and other relevant international agreements to which they are a party⁷.
4. In accordance with their international rights and obligations, each Party shall take legislative, administrative or policy measures, as appropriate:
 - (a) to determine access to their genetic resources and to traditional knowledge associated with genetic resources;
 - (b) with the aim of sharing in a fair and equitable way the benefits arising from the utilisation of genetic resources and of traditional knowledge associated with genetic resources; and
 - (c) to provide that genetic resources and traditional knowledge associated with genetic resources utilised within its jurisdiction have been accessed in accordance with the domestic access and benefit-sharing legislation or regulatory requirements of the other Party. The Parties shall take appropriate, effective and proportionate measures to address situations of non-compliance with the measures adopted under this subparagraph.
5. The Parties shall respect, preserve and maintain knowledge, innovations and practices of indigenous peoples and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity. The Parties shall promote a wider

⁶ It is understood that the term “indigenous peoples and local communities” encompasses Afro American descendants, where applicable.

⁷ It is understood that this includes in particular the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, for those Parties that are a party to that Protocol.

application of such knowledge, innovations and practices with the free prior informed consent or the approval and involvement of the holders of such knowledge, innovations and practices, and encourage equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

6. The Parties acknowledge the usefulness of requiring the disclosure of origin or source of genetic resources and associated traditional knowledge in patent applications for inventions that are directly based on such resources or on such knowledge, as a means to enhance transparency about the utilisation of genetic resources and associated traditional knowledge. In accordance with their domestic laws and regulations, the Parties shall provide appropriate, effective and proportionate measures to address non-compliance with such requirements.

7. In accordance with their domestic laws and regulations, the Parties shall endeavour to facilitate the exchange of information on patent applications and granted patents related to genetic resources and associated traditional knowledge.

8. The Parties recognise that databases or digital libraries, which contain relevant information, may facilitate the examination of the patentability of inventions related to genetic resources and associated traditional knowledge.

9. In accordance with their domestic laws and regulations, the Parties shall, to the extent possible and as appropriate, cooperate in cases of alleged violation of domestic access and benefit-sharing legislation or regulatory requirements related to genetic resources and associated traditional knowledge.

SECTION IV

**ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY
RIGHTS**

Article 12

Acquisition and Maintenance

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

SECTION V

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Article 13

General

The Parties shall provide in their domestic laws and regulations for enforcement provisions for rights covered by Article 1 (Intellectual Property) that shall at least be the same level as provided for in the TRIPS Agreement, in particular in Articles 41 to 61.

Article 14

Suspension of Release

1. The Parties shall adopt procedures to enable a right holder, who has valid grounds for suspecting that importation or exportation of goods infringing at least trademark rights or copyright may take place, to lodge an application in writing with the competent administrative or judicial authorities for the suspension of the release of such goods by the customs authorities.
2. The Parties may also adopt procedures with respect to goods for import or export, under which a right holder can record intellectual property rights within the customs authorities for the purpose of ensuring appropriate controls in order to identify goods suspected of infringing those recorded intellectual property rights.
3. The customs authorities shall, in accordance with domestic procedures, suspend the release of the goods suspected of infringing intellectual property rights for which an application was filed as per the procedure under paragraph 1 or which were recorded as per the procedure under paragraph 2.
4. The Parties shall enable their competent authorities to act on their own initiative and suspend the release of goods when they have valid grounds for suspecting that importation or exportation of those goods would infringe an intellectual property right as referred to in paragraph 1.
5. The Parties authorise their customs authorities to inform the right holder in order to enable the lodging of an application according to paragraph 1 and the recording according to paragraph 2.
6. It is understood that there shall be no obligation to apply procedures set forth in paragraphs 1 and 2 to the suspension of the release of goods put on the market by or with the consent of the right holder.

7. In case of a suspension according to paragraphs 1 and 2 with respect to importation into or exportation from a Party, the competent authorities of the Party suspending the release of the goods shall notify the right holder of the suspension including, when applicable, the necessary information to enforce his or her rights, such as the name and addresses of the consignor or consignee, and the importer or exporter, as applicable, and the quantity of the goods in question.

8. Each Party shall ensure that its competent administrative or judicial authorities, upon request by the right holder, have the authority to decide whether the products, the release of which has been suspended pursuant to paragraphs 1 or 2, shall be held seized until a final decision is reached in the infringement dispute.

9. Each Party shall ensure that if the competent authorities have made a determination that the suspected goods infringe an intellectual property right, procedures are made available to enable the right holder to seek recovery of, and indemnify against, costs and expenses that the right holder may have incurred in connection with the exercise of rights and remedies according to this Article.

10. Each Party may exclude from the application of the above provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage or sent in small consignments. This Article applies to small consignments if they amount to import or export on a commercial scale.

Article 15

Right of Inspection

1. The competent authorities shall provide the applicant for the suspension of goods and other persons involved in the suspension with the opportunity to inspect goods whose release has been suspended.

2. When examining goods, the right holder may request the competent authorities to inspect the merchandise and, in accordance with the domestic laws and regulations of the Party concerned, the competent authorities may take samples of the merchandise and hand them over or send them to the right holder, strictly for the purposes of analysis and of facilitating the subsequent procedure. Unless circumstances prevent it, samples must be returned upon completion of the technical analysis and, where applicable, before goods are released or their detention is lifted. If technical analysis requires the damaging or destruction of the merchandise, the right holder may have to indemnify the owner of the imported or exported goods. Any analysis of these samples shall be carried out under the sole responsibility of the right holder.

3. The declarant, holder or owner of the suspected infringing goods may be present at the inspection with a view to protecting his or her trade secrets.

Article 16

Provisional Measures and Injunctions

1. The Parties shall ensure that their judicial authorities have the authority to order prompt and effective provisional measures:
 - (a) to prevent infringements of intellectual property rights from occurring, and in particular to prevent the entry of goods into channels of commerce in their jurisdiction, including imported goods immediately after customs clearance; and
 - (b) to preserve relevant evidence with regard to the alleged infringement.
2. The Parties' judicial authorities shall have the authority to adopt provisional measures where appropriate, in particular where delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed. On request for provisional measures, the Parties' judicial authorities shall act expeditiously and take a decision without undue delay.
3. The Parties shall ensure that, in civil judicial proceedings with regard to the enforcement of intellectual property rights, their judicial authorities have the authority to order a party to desist from an infringement, inter alia, to prevent the entry into the channels of commerce in their jurisdiction of imported goods that involve the infringement of an intellectual property right, immediately after customs clearance of such goods.

Article 17

Removal from Commerce

The Parties shall ensure that the competent judicial authorities in an infringement dispute may order, upon request of the right holder, that appropriate measures be taken with regard to goods that have been found to be infringing an intellectual property right and, if appropriate, with regard to materials and implements predominantly used in the creation or manufacture of those goods. Such measures shall include definitive removal from the channels of commerce or, if appropriate, destruction. In considering a request for corrective measures, proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

Article 18

Civil Remedies

1. The Parties shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered in this Annex.

2. The Parties shall ensure that:
 - (a) in civil judicial proceedings, their judicial authorities have the authority to order the infringer, who knowingly or with reasonable grounds to know engaged in infringing activities of intellectual property rights, to pay the right holder damages adequate to compensate for the actual injury the right holder has suffered as a result of the infringement; and
 - (b) in determining the amount of damages for intellectual property rights infringement, their judicial authorities shall consider, *inter alia*, the actual damage, lost profits, any profits made by the infringer or establishing a fair licence fee.

3. At least in cases of copyright or related right infringement and trademark counterfeiting, the Parties shall provide that their judicial authorities have the authority to order the infringer to pay the right holder the infringer's profits that are attributable to the infringement.

Article 19

Criminal Remedies

The Parties shall provide for criminal procedures and penalties at least for wilful trademark counterfeiting or copyright piracy on a commercial scale.

Article 20

Liability Declaration, Security or Equivalent Assurance

The Parties shall ensure that their competent authorities have the authority to hold an applicant liable towards the persons involved. In addition, the Parties may require the applicant to declare to accept liability. In justified cases the competent authorities shall have the authority to require the applicant to provide a security or equivalent assurance, sufficient to protect the defendant and the competent authorities and to prevent abuse. Such security or equivalent assurance shall not unreasonably deter recourse to these procedures.

Article 21

Final Judicial and Administrative Decisions

The Parties shall ensure that final judicial and administrative decisions relating to intellectual property rights are:

- (a) in writing and contain the findings of fact and the reasoning or the legal basis on which the decisions are based; and
- (b) published or otherwise made publicly available in a national language in such a manner as to enable interested parties to become acquainted with them, subject to protection of confidential information.

Article 22

Cooperation in the Field of Intellectual Property

The Parties, recognising the growing importance of intellectual property rights as a factor of social, economic and cultural development, agree to enhance cooperation in the field of intellectual property rights.
