

ANNEX XIII

REFERRED TO IN PARAGRAPH 1 OF ARTICLE 7.1

INTELLECTUAL PROPERTY RIGHTS

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Article 1

International Conventions

1. The Parties reaffirm their obligations set out in the international agreements to which they are party, in particular the following multilateral agreements:

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

2. The Parties that are not party to one or more of the multilateral agreements listed below, shall ratify or accede to them, or shall apply their substantive standards, at the latest by 2008:

- (a) WIPO (World Intellectual Property Organization) Performances and Phonograms Treaty (Geneva 1996);
- (b) WIPO Copyright Treaty (Geneva 1996); and
- (c) International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention).

Article 2

Patents

The Parties shall ensure in their national laws at least the following:

- (a) adequate and effective patent protection for inventions in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application.

For Korea, Iceland, Liechtenstein and Switzerland this means protection on a level corresponding to the one in Article 27.1 of the TRIPS Agreement. In addition to what is provided for in Article 27.2 of the TRIPS Agreement, the Parties may exclude from patentability:

- (i) diagnostic, therapeutic and surgical methods for the treatment of humans or such methods practised on the animal body; this provision shall not apply to products, in particular substances or compositions, for use in any of these methods; and

- (ii) plant or animal varieties or essentially biological processes for the production of plants or animals; this provision shall not apply to microbiological processes or the products thereof. Plant varieties shall be protected either by patents or by an effective *sui generis* system or by any combination thereof.

For Norway, this means protection on a level corresponding to the one in the Agreement on the European Economic Area of 2 May 1992, as implemented in national law;

- (b) a compensatory term of protection for pharmaceuticals and plant protection products¹ for a period of up to five years for curtailment of the effective patent term as a result of the marketing approval process; and
- (c) that any granting of compulsory licenses is in compliance with the conditions of the TRIPS Agreement and the Declaration on the TRIPS Agreement and Public Health (adopted at the WTO's DOHA Ministerial on 14 November 2001).

Article 3

Undisclosed Information

The Parties shall protect undisclosed information in accordance with Article 39 of the TRIPS Agreement. The Parties shall prevent applicants for marketing approval for pharmaceuticals and agricultural chemical products from relying on undisclosed test or other undisclosed data, the origination of which involves a considerable effort, submitted by the first applicant to the competent authority for marketing approval for pharmaceuticals and agricultural chemical products, utilising new chemical entities, for an adequate number of years² from the date of approval, except where approval is sought for original products. Any Party may instead allow in their national legislation applicants to rely on such data if the first applicant is adequately compensated³.

Article 4

Industrial Designs

The Parties shall ensure in their national laws adequate and effective protection of industrial designs by providing a period of protection of at least 15 years. Any Party may provide for a shorter period of protection for designs of component parts used for the purpose of the repair of a product.

Article 5

¹ "Plant protection products" shall encompass at least:

- products which protect plants or plant products against all harmful organisms or prevent the action of such organisms, in so far as such substances or preparations are not otherwise defined below;
- products which influence the life processes of plants, other than as a nutrient (e.g. plant growth regulators);
- products which destroy undesirable plants; or
- products which destroy parts of plants, check or prevent undesirable growth of plants.

² The number of years shall be determined by the relevant laws and regulations of the Parties.

³ The Parties note that Korea currently does not have such a compensation system.

Geographical Indications

1. The Parties shall provide in their national laws for adequate and effective means to protect geographical indications, including appellations of origin, with regard to all goods.
2. With regard to the use of such indications for services, the Parties shall provide in their national laws for adequate and effective means to prevent the use of indications in a manner that misleads the public regarding the geographic origin of the service or that otherwise constitutes an act of unfair competition⁴.
3. Korea, Iceland, Liechtenstein and Switzerland agree to initiate negotiations on the adoption of an agreement on the mutual protection of geographical indications three years after the entry into force of this Agreement.

Article 6

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 Parties shall ensure that the procedures for grant or registration are in accordance with the TRIPS Agreement, in particular Article 62 thereof.

Article 7

Enforcement of Intellectual Property Rights

The Parties shall provide for enforcement provisions under their national laws in accordance with the TRIPS Agreement, in particular Articles 41 to 61 thereof.

⁴ It is up to the Parties to define which use constitutes an act of unfair competition.