

## *ANNEX XVII*

# INTELLECTUAL PROPERTY

### List provided for in Article 65(2)

## INTRODUCTION

When the acts referred to in this Annex contain notions or refer to procedures which are specific to the Community legal order, such as:

- preambles,
- the addressees of the Community acts,
- references to territories or languages of the EC,
- references to rights and obligations of EC Member States, their public entities, undertakings or individuals in relation to each other, and
- references to information and notification procedures,

Protocol 1 on horizontal adaptations shall apply, unless otherwise provided for in this Annex.

## SECTORAL ADAPTATIONS<sup>{1}</sup>

The specific mechanism set out in Chapter 2 (Company law) of Annex IV to the Act of Accession of 16 April 2003 shall apply between the Contracting Parties.

<sup>{2}</sup>The specific mechanisms set out in Chapter 1 (Company law) of Annex V to the Act of Accession of 25 April 2005 shall apply between the Contracting Parties.

<sup>{3}</sup>The specific mechanisms set out in Chapter 1 (Intellectual property law) of Annex IV to the Act of Accession of 9 December 2011 shall apply between the Contracting Parties.

## ACTS REFERRED TO:

1. **387 L 0054:** Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products (OJ No L 24, 27.1.1987, p. 36).

The provisions of the Directive shall, for the purposes of the Agreement, be read with the following adaptations:

- (a) in Article 1(1)(c), the reference to Article 223 (1)(b) of the EEC Treaty shall be replaced by reference to Article 123 of the EEA Agreement";

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<sup>{1}</sup> Heading and text added by the 2004 EEA Enlargement Agreement (OJ L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

<sup>{2}</sup> Text added by the 2007 EEA Enlargement Agreement (OJ L 221, 25.8.2007 and EEA Supplement No 39, 26.7.2008), provisionally applicable as of 1.8.2007, e.i.f. 9.11.2011, the words "or, as the case may be, to the Protocol of Accession of 25 April 2005" subsequently deleted by the 2014 EEA Enlargement Agreement (OJ L 170, 11.6.2014, p. 5 and EEA Supplement No 58, 9.10.2014, p. 1), provisionally applicable as of 12.4.2014, e.i.f. pending.

<sup>{3}</sup> Sentence added by the 2014 EEA Enlargement Agreement (OJ L 170, 11.6.2014, p. 5 and EEA Supplement No 58, 9.10.2014, p. 1), provisionally applicable as of 12.4.2014, e.i.f. pending.

- (b) Article 3(6) to 3(8) shall not apply;
- (c) Article 5(5) shall be replaced by the following:  
"The exclusive rights to authorize or prohibit the acts specified in paragraph 1(b) shall not apply to any such act committed after the topography or the semiconductor product has been put on the market in a Contracting Party by the person entitled to authorize its marketing or with his consent."

2. **390 D 0510**: First Council Decision 90/510/EEC of 9 October 1990 on the extension of the legal protection of topographies of semiconductor products to persons from certain countries and territories (OJ No L 285, 17.10.1990, p. 29), as amended by:

- <sup>{4}</sup> **393 D 0017**: Council Decision 93/17/EEC of 21 December 1992 (OJ No L 11, 19.1.1993, p. 22),
- <sup>{5}</sup> **1 94 N**: Act concerning the conditions of accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden and the adjustments of the Treaties on which the European Union is founded (OJ C 241, 29.8.1994, p. 21 as amended by OJ L 1, 1.1.1995, p. 1).

The provisions of the Decision shall, for the purposes of the Agreement, be read with the following adaptations:

(a)<sup>{6}</sup> in the Annex, the references to Iceland, Norway [ ]<sup>{7}</sup> shall be deleted;

(b) in addition, the following shall apply:

where a country or territory listed in the Annex does not give the same protection as provided for in that Decision to persons from a Contracting Party, the Contracting Parties will use their best endeavours to ensure that such protection is given by the said country or territory to the said Contracting Party at the latest one year after the date of entry into force of this Agreement.

3. (a) **390 D 0511**: Second Council Decision 90/511/EEC of 9 October 1990 on the extension of the legal protection of topographies of semiconductor products to persons from certain countries and territories (OJ No L 285, 17.10.1990, p.31).

(b) **390 D 0541**: Commission Decision 90/541/EEC of 26 October 1990 in accordance with Council Decision 90/511/EEC determining the countries to the companies or other legal persons of which legal protection of topographies of semiconductors is extended (OJ No L 307, 7.11.1990, p. 21).

(c)<sup>{8}</sup> **393 D 0016**: Council Decision 93/16/EEC of 21 December 1992 on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America and certain territories (OJ No L 11, 19.1.1993, p. 20), as amended by:

- **393 D 0520**: Council Decision 93/520/EEC of 27 September 1993 (OJ No L 246, 2.10.1993, p. 31).

(d)<sup>{9}</sup> **393 D 0217**: Commission Decision 93/217/EEC of 19 March 1993 in accordance with Council Decision 93/16/EEC determining the United States of America as a country to the companies or other legal

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<sup>{4}</sup> Indent, and words "as amended by:" above, added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{5}</sup> Indent added by Decision No 43/2005 (OJ L 198, 28.7.2005, p. 45 and EEA Supplement No 38, 28.7.2005, p. 26), e.i.f. 12.03.2005.

<sup>{6}</sup> Words "Finland, Iceland and Norway" added by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{7}</sup> Entries for Austria, Finland and Sweden deleted by Decision No 43/2005 (OJ L 198, 28.7.2005, p. 45 and EEA Supplement No 38, 28.7.2005, p. 26), e.i.f. 12.3.2005.

<sup>{8}</sup> Point (c) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

persons of which legal protection of topographies of semiconductor products is extended (OJ No L 94, 20.4.1993, p. 30).

- (e){<sup>10</sup>} **394 D 0004**: Council Decision 94/4/EC of 20 December 1993 on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America (OJ No L 6, 8.1.1994, p. 23).
- (f){<sup>11</sup>} **394 D 0373**: Council Decision 94/373/EC of 27 June 1994 on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America (OJ No L 170, 5.7.1994, p. 34).
- (g){<sup>12</sup>} **394 D 0700**: Council Decision 94/700/EC of 24 October 1994 on the extension of the legal protection of topographies of semiconductor products to persons from Canada (OJ No L 284, 1.11.1994, p. 61).
- (h){<sup>13</sup>} **394 D 0828**: Council Decision 94/828/EC of 19 December 1994 on the extension of the legal protection of topographies of semiconductor products to persons from certain territories (OJ No L 351, 31.12.1994, p. 12).
- (i){<sup>14</sup>} **394 D 0824**: Council Decision 94/824/EC of 22 December 1994 on the extension of the legal protection of topographies of semiconductor products to persons from a Member of the World Trade Organisation (OJ No L 349, 31.12.1994, p. 201).
- (j){<sup>15</sup>} **395 D 0237**: Council Decision 95/237/EC of 29 June 1995 on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America (OJ No L 158, 8.7.1995, p. 38).

In addition to these {<sup>16</sup>} Decisions, the following shall apply:

the EFTA States undertake to adopt for the purposes of this Agreement Council Decision 90/511/EEC and the decisions taken by the Commission in accordance with the said Council Decision, if their application is extended beyond 31 December 1992. Ensuing amendments or replacements are to be adopted before the entry into force of the Agreement {<sup>17</sup>}.

4. [ ] {<sup>18</sup>}

5. {<sup>19</sup>} **32009 L 0024**: Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (Codified version) (OJ L 111, 5.5.2009, p. 16).

6. {<sup>20</sup>} **32009 R 0469**: Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products (Codified version) (OJ L 152, 16.6.2009, p. 1), as amended by:

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{<sup>9</sup>} Point (d) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>10</sup>} Point (e) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

{<sup>11</sup>} Point (f) inserted by Decision No 10/95 (OJ L 47, 2.3.1995, p. 30 and EEA Supplement No 7, 2.3.1995, p. 125), e.i.f. 1.2.1995.

{<sup>12</sup>} Point (g) inserted by Decision No 54/95 (OJ L 140, 13.6.1996, p. 50 and EEA Supplement No 25, 13.6.1996, p. 147), e.i.f. 1.7.1995.

{<sup>13</sup>} Point (h) inserted by Decision No 54/95 (OJ L 140, 13.6.1996, p. 50 and EEA Supplement No 25, 13.6.1996, p. 147), e.i.f. 1.7.1995.

{<sup>14</sup>} Point (i) inserted by Decision No 54/95 (OJ L 140, 13.6.1996, p. 50 and EEA Supplement No 25, 13.6.1996, p. 147), e.i.f. 1.7.1995.

{<sup>15</sup>} Point (j) inserted by Decision No 66/95 (OJ L 8, 11.1.1996, p. 37 and EEA Supplement No 2, 11.1.1996, p. 6), e.i.f. 1.12.1995.

{<sup>16</sup>} Introductory sentence, introduced by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994, replaces former introductory sentence.

{<sup>17</sup>} Last sentence as introduced by the Correction Protocol.

{<sup>18</sup>} Text of point 4 (Council Directive 389/104/EEC) subsequently deleted by Decision No 146/2009 (OJ L 62, 11.3.2010, p. 43 and EEA Supplement No 12, 11.3.2010, p. 42), e.i.f. 5.12.2009.

{<sup>19</sup>} Text of point 5 (Council Directive 91/250/EEC) replaced by Decision No 39/2011 (OJ L 171, 30.6.2011, p. 40 and EEA Supplement No 37, 30.6.2011, p. 47), e.i.f. 2.4.2011.

-{<sup>21</sup>} **32019 R 0933**: Regulation (EU) 2019/933 of the European Parliament and of the Council of 20 May 2019 (OJ L 153, 11.6.2019, p. 1).

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

(a) {<sup>22</sup>}In Article 5(10), as regards the EFTA States, the words “1 July 2019” shall read “the date of entry into force of Decision of the EEA Joint Committee No 197/2022 of 10 June 2022”.

(b) The following paragraphs shall be added to Article 7:

"6. Paragraph 5 shall not apply to the EFTA States.

7. Notwithstanding paragraph 4, for five years following the entry into force of Regulation (EC) No 1901/2006 in the EFTA State concerned, the application for an extension of the duration of a certificate already granted shall be lodged not later than six months before the expiry of the certificate."

(c) The following paragraphs shall be added to Article 21:

"3. An application for an extension of the duration of a certificate can only be granted in an EFTA State where the certificate expires less than 6 months prior to the entry into force of Regulation (EC) No 1901/2006 in the EFTA state concerned. In cases where the certificate expires prior to the entry into force of Regulation (EC) No 1901/2006 in the EFTA state concerned, the extension shall take effect only with respect to the time following after both such entry into force in the EFTA state concerned and the date of the publication of the application for the extension. However, paragraph 3 of Article 13 shall apply as to the calculation of the duration of the extension.

4. Notwithstanding paragraph 7 of Article 7, in cases where a certificate expires earlier than seven months after the entry into force of Regulation (EC) No 1901/2006 in the EFTA state concerned, the application for an extension of the duration of a certificate shall be lodged no later than one month after such entry into force in the EFTA state concerned. In these cases the extension takes effect only with respect to the time following the date of publication of the application for an extension. However, paragraph 3 of Article 13 shall apply as to the calculation of the duration of the extension.

5. An application for an extension of the duration of a certificate lodged in accordance with paragraphs 3 and 4 shall not prevent any third party who, between the expiry of the certificate and the publication of the application for an extension of the duration of the certificate, in good faith has commercially used the invention or made serious preparation for such use, to continue such use."

(d) {<sup>23</sup>}In view of the patent union between Liechtenstein and Switzerland, Liechtenstein shall not deliver any supplementary protection certificates for medicinal products as laid down in this Regulation.

(e) {<sup>24</sup>}As regards the EFTA States, Annex -I shall read as follows:

**“Logo**

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{<sup>20</sup>} Point 6 (Council Regulation (EEC) No 1768/92) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994 and replaced by Decision No 92/2017 (OJ L 36, 7.2.2019, p. 41 and EEA Supplement No 11, 7.2.2019, p. 49), e.i.f. 1.6.2018.

{<sup>21</sup>} Indent and words “, as amended by:” above, added by Decision No 197/2022 (OJ L 267, 13.10.2022, p. 50 and EEA Supplement No 66, 13.10.2022, p. 48), e.i.f. 1.2.2023.

{<sup>22</sup>} Adaptations (a) added by Decision No 197/2022 (OJ L 267, 13.10.2022, p. 50 and EEA Supplement No 66, 13.10.2022, p. 48), e.i.f. 1.2.2023.

{<sup>23</sup>} Adaptations (a) to (c) are renumbered as adaptations (b) to (d) by Decision No 197/2022 (OJ L 267, 13.10.2022, p. 50 and EEA Supplement No 66, 13.10.2022, p. 48), e.i.f. 1.2.2023.

{<sup>24</sup>} Adaptation (e) added by Decision No 197/2022 (OJ L 267, 13.10.2022, p. 50 and EEA Supplement No 66, 13.10.2022, p. 48), e.i.f. 1.2.2023.



6a.<sup>{25}</sup> **396 R 1610**: Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products (OJ No L 193, 8.8.1996, p. 30), as amended by:

-<sup>{26}</sup> **1 03 T**: Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded adopted on 16 April 2003 (OJ L 236, 23.9.2003, p. 33),

-<sup>{27}</sup> **1 2005 SA**: Act concerning the conditions of accession of the Republic of Bulgaria and Romania and the adjustments to the Treaties on which the European Union is founded, adopted on 25 April 2005 (OJ L 157, 21.6.2005, p. 203),

-<sup>{28}</sup> **1 2012 J003**: Act concerning the conditions of accession of the Republic of Croatia and the adjustments to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community, adopted on 9 December 2011 (OJ L 112, 24.4.2012, p. 21).

The provisions of the Regulation, shall for the purposes of the present Agreement, be read with the following adaptations:

(a) In Article 3(1)(b), the following shall be added:

“; for the purposes of this subparagraph and the Articles which refer to it, an authorization to place the product on the market granted in accordance with the national legislation of the EFTA State shall be treated as an authorization granted in accordance with Directive 91/414/EEC or an equivalent provision of national law of an EC Member State.”;

(b) Article 20 shall not apply.

(c) As regards Iceland and Norway, this Regulation shall apply from 2 January 1998.

(d) The following paragraphs shall be added to Article 19:

“3. If a basic patent in an EFTA State lapses, due to the expiry of its lawful term, between 8 February 1997 and 2 January 1998, the certificate shall take effect only with respect to the time following the date of publication of the application for the

<sup>{25}</sup> Point inserted by Decision No 59/97 (OJ L 316, 20.11.1997, p. 21 and EEA Supplement No 48, 20.11.1997, p. 147), e.i.f. 1.4.1998.

<sup>{26}</sup> Indent and words “, as amended by:” above, added by the 2004 EEA Enlargement Agreement (OJ L 130, 29.4.2004, p. 3 and EEA Supplement No 23, 29.4.2004, p. 1), e.i.f. 1.5.2004.

<sup>{27}</sup> Indent added by the 2007 EEA Enlargement Agreement (OJ L 221, 25.8.2007 and EEA Supplement No 39, 26.7.2008), provisionally applicable as of 1.8.2007, e.i.f. 9.11.2011.

<sup>{28}</sup> Indent added by the 2014 EEA Enlargement Agreement (OJ L 170, 11.6.2014, p. 5 and EEA Supplement No 58, 9.10.2014, p. 1), provisionally applicable as of 12.4.2014, e.i.f. pending.

certificate. However, Article 13 shall apply as to the calculation of the duration of the certificate.

4. In the case of paragraph 3, the application for a certificate shall be lodged within two months of 2 January 1998.
5. A certificate applied for in accordance with paragraph 3 shall not prevent any third party who, between the lapse of the basic patent and the publication of the application for a certificate, in good faith has commercially used the invention or made serious preparation for such use, to continue such use.”

(e) In addition the following shall apply as regards Liechtenstein:

In view of the patent union between Liechtenstein and Switzerland, Liechtenstein shall not deliver any supplementary protection certificates for plant protection products as laid down in this Regulation. However, certificates for plant protection products delivered by Switzerland shall take effect in Liechtenstein as from the entry into force of the relevant legislation in Switzerland.

7.<sup>{29}</sup> [ ]

8.<sup>{30}</sup> **393 L 0083:** Council Directive 93/83/EEC of 27 September 1993 on the co-ordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmissions (OJ No L 248, 6.10.1993, p. 15).

9.<sup>{31}</sup> [ ]

9a.<sup>{32}</sup> **396 L 0009:** European Parliament and Council Directive 96/9/EC of 11 March 1996 on the legal protection of databases (OJ No L 77, 27.3.1996, p. 20).

The provisions of the Directive, shall for the purposes of the present Agreement, be read with the following adaptations:

- (a) In Article 2, the term "Community provisions" shall read "EEA provisions";
- (b) Article 11(3) shall read:

"The term of any protection extended to databases by virtue of agreements concluded by a Contracting Party extending the right provided for in Article 7 to databases made in third countries and falling outside the provisions of paragraphs 1 and 2 shall not exceed that available pursuant to Article 10".

9b.<sup>{33}</sup> **398 L 0071:** Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs (OJ L 289, 28.10.1998, p. 28).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

Article 15 shall be replaced by the following:

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<sup>{29}</sup> Text of point 7 (Council Directive 92/100/EEC) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994, and subsequently deleted by Decision No 56/2007 (OJ L 266, 11.10.2007, p. 17 and EEA Supplement No 48, 11.10.2007, p. 13), e.i.f. 9.6.2007.

<sup>{30}</sup> Point inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{31}</sup> Text of point 9 (Council Directive 93/98/EEC) inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994, and subsequently deleted by Decision No 56/2007 (OJ L 266, 11.10.2007, p. 17 and EEA Supplement No 48, 11.10.2007, p. 13), e.i.f. 9.6.2007.

<sup>{32}</sup> Point inserted by Decision No 59/96 (OJ L 21, 23.1.1997, p. 11 and EEA Supplement No 4, 23.1.1997, p. 55), e.i.f. 1.7.2000.

<sup>{33}</sup> Point and adaptation text inserted by Decision No 21/2000 (OJ L 103, 12.4.2001, p. 44 and EEA Supplement No 20, 12.4.2000, p.225), e.i.f. 1.10.2000.

“The rights conferred by a design right upon registration shall not extend to acts relating to a product in which a design included within the scope of protection of the design right is incorporated or to which it is applied, when the product has been put on the market in a Contracting Party by the holder of the design right or with his consent.”

9c.<sup>{34}</sup> **32001 L 0084**: Directive 2001/84/EC of the European Parliament and of the Council of 27 September 2001 on the resale right for the benefit of the author of an original work of art (OJ L 272, 13.10.2001, p. 32).

<sup>{35}</sup> The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

The EFTA States shall be invited to send representatives to the meetings of the Contact Committee.

9d.<sup>{36}</sup> **398 L 0044**: Directive 98/44/EC of the European Parliament and of the Council of 6 July 1998 on the legal protection of biotechnological inventions (OJ L 213, 30.7.1998, p. 13).

<sup>{37}</sup> The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

In view of the patent union between Liechtenstein and Switzerland, Liechtenstein shall not deliver any patent as laid down in this Directive.

9e.<sup>{38}</sup> **32001 L 0029**: Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10), as corrected by OJ L 6, 10.1.2002, p. 70, as amended by:

-<sup>{39}</sup> **32017 L 1564**: Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 (OJ L 242, 20.9.2017, p. 6).

The provisions of the Directive shall, for the purposes of the present Agreement, be read with the following adaptation:

The EFTA States shall be invited to send representatives to the meetings of the Contact Committee.

9f.<sup>{40}</sup> **32006 L 0116**: Directive 2006/116/EC of the European Parliament and of the Council of 12 December 2006 on the term of protection of copyright and certain related rights (codified version) (OJ L 372, 27.12.2006, p. 12), as amended by:

-<sup>{41}</sup> **32011 L 0077**: Directive 2011/77/EU of the European Parliament and of the Council of 27 September 2011 (OJ L 265, 11.10.2011, p. 1).

9g.<sup>{42}</sup> **32006 L 0115**: Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (codified version) (OJ L 376, 27.12.2006, p. 28).

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<sup>{34}</sup> Point inserted by Decision No 171/2002 (OJ L 38, 13.2.2003, p. 36 and EEA Supplement No 9, 13.2.2003, p. 24), e.i.f. 1.8.2003.

<sup>{35}</sup> Adaptation text inserted by Decision No 171/2002 (OJ L 38, 13.2.2003, p. 36 and EEA Supplement No 9, 13.2.2003, p. 24), e.i.f. 1.8.2003.

<sup>{36}</sup> Point inserted by Decision No 20/2003 (OJ L 94, 10.4.2003, p. 82 and EEA Supplement No 19, 10.4.2003, p. 24), e.i.f. 1.2.2004.

<sup>{37}</sup> Adaptation text inserted by Decision No 20/2003 (OJ L 94, 10.4.2003, p. 82 and EEA Supplement No 19, 10.4.2003, p. 24), e.i.f. 1.2.2004.

<sup>{38}</sup> Point inserted by Decision No 110/2004 (OJ L 376, 23.12.2004, p. 45 and EEA Supplement No 65, 23.12.2004, p. 30), e.i.f. 1.8.2005.

<sup>{39}</sup> Indent and words “, as amended by:” added by Decision No 165/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.10.2021.

<sup>{40}</sup> Point inserted by Decision No 56/2007 (OJ L 266, 11.10.2007, p. 17 and EEA Supplement No 48, 11.10.2007, p. 13), e.i.f. 9.6.2007.

<sup>{41}</sup> Indent and words “, as amended by:” added by Decision No 94/2013 (OJ L 291, 31.10.2013, p. 60 and EEA Supplement No 61, 31.10.2013, p. 68), e.i.f. 1.8.2014.

<sup>{42}</sup> Point inserted by Decision No 56/2007 (OJ L 266, 11.10.2007, p. 17 and EEA Supplement No 48, 11.10.2007, p. 13), e.i.f. 9.6.2007.

9h. [ ]<sup>{43}</sup>

10.<sup>{44}</sup> **32012 L 0028**: Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

- (a) The EFTA States shall participate in the single publicly accessible online database established by the Office for Harmonization in the Internal Market referred to in Article 3(6). The EFTA States shall bear the costs of translation in the Icelandic and Norwegian languages, where necessary.
- (b) For the EFTA States, the date of application referred to in Article 8 shall be the day of entry into force of Decision of the EEA Joint Committee No 29/2015 of 6 February 2015.

11.<sup>{45}</sup> **32014 L 0026**: Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptation:

- (a) In Article 32 of the Directive, the term “Articles 101 and 102 TFEU” shall read “Articles 53 and 54 of the EEA Agreement”.
- (b) The EFTA States shall be entitled to participate fully in the work of the expert group established by Article 41 of the Directive and shall within it have the same rights and obligations as EU Member States, except for the right to vote.
- (c) In Article 5(8), as regards the EFTA States, the words “10 October 2016” shall read “six months after the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.
- (d) In Article 31, as regards the EFTA States, the words “10 April 2017” shall read “one year after the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.
- (e) In Article 36(3), as regards the EFTA States, the words “10 April 2016” shall read “the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.
- (f) In Article 38(3), as regards the EFTA States, the words “10 October 2017” shall read “18 months after the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.
- (g) In Article 39, as regards the EFTA States, the words “10 April 2016” shall read “the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.
- (h) In Article 43, as regards the EFTA States, the words “10 April 2016” shall read “the date of entry into force of Decision of the EEA Joint Committee No 186/2017 of 22 September 2017”.

12.<sup>{46}</sup> **32017 R 1128**: Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1), as corrected by OJ L 198, 28.7.2017, p. 42.

The provisions of the Regulation shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 2(5) of the Regulation, the term “Articles 56 and 57 TFEU” shall read “Articles 36 and 37 of the EEA Agreement”.
- (b) In Article 9(2) of the Regulation, the words “2 June 2018” shall read “two months and one day after the date of entry into force of the EEA Joint Committee No 158/2018 of 6 July 2018”.

<sup>{43}</sup> Text of point 9h (Directive 2008/95/EC of the European Parliament and of the Council) inserted by Decision No 146/2009 (OJ L 62, 11.3.2010, p. 43 and EEA Supplement No 12, 11.3.2010, p. 42), e.i.f. 5.12.2009 and subsequently deleted by Decision No 27/2020 (OJ L 49, 16.2.2023, p. 57 and EEA Supplement No 13, 16.2.2023, p. 53), e.i.f. 1.1.2023.

<sup>{44}</sup> Point and text inserted by Decision No 29/2015 (OJ L 93, 7.4.2016, p. 44 and EEA Supplement No 21, 7.4.2016, p. 38), e.i.f. 1.10.2015.

<sup>{45}</sup> Point and text inserted by Decision No 186/2017 (OJ L 174, 27.6.2019, p. 57 and EEA Supplement No 52, 27.6.2019, p. 68), e.i.f. 1.7.2021.

<sup>{46}</sup> Point and adaptation text inserted by Decision No 158/2018 (OJ L 67, 25.2.2021, p. 51 and EEA Supplement No 13, 25.2.2021, p. 55), e.i.f. 1.8.2019.



- 13.<sup>{47}</sup> **32016 L 0943:** Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1).

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) In Article 1(1), the term “TFEU” shall, for the EFTA States, be read as “EEA Agreement”
- (b) The reference in Article 1(2)(a) and Article 5(a) to “the right to freedom of expression and information as set out in the Charter” shall, for the EFTA States, be read as “the fundamental right to freedom of expression and information”.
- (c) In Article 1(2)(b) and (c), the term “Union or national rules” shall, for the EFTA States, be read as “EEA rules or national rules”.
- (d) The reference in Article 1(2)(c) to “Union institutions and bodies” shall, for the EFTA States, be read as including “EEA EFTA institutions and bodies”.
- (e) In Article 1(2)(c) and (3)(c), Article 3(2) and Article 5(c) and (d), the term “Union or national law” shall, for the EFTA States, be read as “EEA law or national law”.
- (f) In Article 1(2)d and Article 3(1)(c), the term “Union law and national laws and practices” shall, for the EFTA States, be read as “EEA law and national laws and practices”.

14. <sup>{48}</sup> **32015 L 2436:** Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ L 336, 23.12.2015, p. 1), as corrected by OJ L 110, 26.4.2016, p. 5.

The provisions of the Directive shall, for the purposes of this Agreement, be read with the following adaptations:

- (a) As regards the EFTA States, in Articles 4(1)(i) and 4(1)(l), the words “Union legislation or the national law of the Member State concerned” are replaced by “EEA legislation or the national law of the EFTA State concerned”. The words “international agreements to which the Union or the Member State concerned is party” are replaced by “international agreements to which the EFTA State concerned is party”.
- (b) As regards the EFTA States, in Articles 4(1)(j) and 4(1)(k), the words “Union legislation or international agreements to which the Union is party” are replaced by “EEA legislation or international agreements to which the EFTA State concerned is party”.
- (c) As regards the EFTA States, in Article 4(3)(a) the words “law other than trade mark law of the Member State concerned or of the Union” are replaced by “the law other than trade mark law applicable in the EFTA State concerned or of the EEA Agreement”.
- (d) As regards the EFTA States, in Articles 5(2)(a)(i), (2)(b) and (3)(a), Article 6, Article 18(2), Article 44(3) and Article 46(5), the provisions concerning the EU trade mark shall not apply to the EFTA States unless the EU trade mark extends to them.
- (e) As regards the EFTA States, in Article 5(3)(c), the words “Union legislation or the law of the Member State concerned” are replaced by “EEA legislation or the law of the EFTA State concerned”.
- (f) Article 10(4) shall not apply to the EFTA States.

- 15.<sup>{49}</sup> **32017 L 1564:** Directive (EU) 2017/1564 of the European Parliament and of the Council of 13 September 2017 on certain permitted uses of certain works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print-disabled and amending Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 242, 20.9.2017, p. 6).

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<sup>{47}</sup> Point and adaptation text inserted by Decision No 91/2019 (OJ L 210, 2.7.2020, p. 76 and EEA Supplement No 44, 2.7.2020, p. 92), e.i.f. 1.1.2021.

<sup>{48}</sup> Point and adaptation text inserted by Decision No 27/2020 (OJ L 49, 16.2.2023, p. 57 and EEA Supplement No 13, 16.2.2023, p. 53), e.i.f. 1.1.2023 and subsequently corrected before publication by Corrigendum of 11.12.2021 and by Corrigendum of 28.10.2022.

<sup>{49}</sup> Point inserted by Decision No 165/2020 (OJ L [to be published] and EEA Supplement No [to be published]), e.i.f. 1.10.2021.

*ACTS OF WHICH THE CONTRACTING PARTIES SHALL TAKE NOTE* <sup>{50}</sup>

The Contracting Parties take note of the content of the following acts:

- 1.<sup>{51}</sup> **392 Y 0528(01)**: Council Resolution 92/C 138/01 of 14 May 1992 on increased protection for copyright and neighbouring rights OJ No C 138, 28.5.1992, p. 1).
- 2.<sup>{52}</sup> **COM(92) 445 final**: Commission Communication of 27 October 1992 on intellectual property rights and standardization (COM(92) 445 final).

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<sup>{50}</sup> Heading and points 10 and 11 inserted by Decision No 7/94 (OJ L 160, 28.6.1994, p. 1 and EEA Supplement No 17, 28.6.1994, p. 1), e.i.f. 1.7.1994.

<sup>{51}</sup> Point 10 (Council Resolution 92/C 138/01) renumbered point 1 by Decision No 29/2015 (OJ L 93, 7.4.2016, p. 44 and EEA Supplement No 21, 7.4.2016, p. 38), e.i.f.1.10.2015.

<sup>{52}</sup> Point 11 (Commission Communication of 27 October 1992) renumbered point 2 by Decision No 29/2015 (OJ L 93, 7.4.2016, p. 44 and EEA Supplement No 21, 7.4.2016, p. 38), e.i.f. 1.10.2015.