

ANNEX XII

REFERRED TO IN ARTICLE 54

PROTECTION OF INTELLECTUAL PROPERTY

Article 1

Intellectual Property

"Intellectual property" comprises in particular copyright, including computer programmes and databases¹, as well as neighbouring rights, trademarks for goods and services, geographical indications, including appellations of origin², industrial designs, patents, plant varieties, topographies of integrated circuits, as well as undisclosed information.

Article 2

International Conventions

1. The Parties reaffirm their obligations set out in the international agreements to which they are parties, in particular 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); and
- Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works (Paris Act, 1971).

2. The Parties which are not party to one or more of the agreements listed below shall undertake to obtain their adherence to the following multilateral agreements on or before 1 January 2005.

- the Geneva Act (1999) of the Hague Agreement concerning the International Registration of Industrial Designs;

¹ Databases are understood to be compilations of data or other material, in any form, which by reason of selection or arrangement of their contents constitute intellectual creations.

² Appellations of origin are understood to be one form of geographical indications.

- the WIPO Copyright Treaty (Geneva 1996);
- the WIPO Performances and Phonogram Treaty (Geneva 1996);

3. The Parties agree to hold, without undue delay, expert consultations, upon request of any Party, on activities relating to the identified or to future international conventions on harmonisation, 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 on relations of the Parties with third countries on matters concerning intellectual property.

Article 3

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. For Liechtenstein and Switzerland, this means protection on a level corresponding to the one in the European Patent Convention of 5 October 1973, as implemented in their national law. For Iceland and 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 their national law. For Singapore this means protection on a level corresponding to Articles 52 through 57 of the European Patent Convention as revised at the diplomatic Conference of November 2000 and as reflected under the Singapore Patents Act in force on 7 November 2001. Nothing in this provision shall preclude the Parties from affording higher levels of patent protection;
- (b)
 - (i) with respect to pharmaceutical and plant protection products that are subject to patent protection, an extension of the patent term to compensate the patentee for curtailment of the patent term as a result of the marketing approval process³, subject to a maximum of 5 years. The overall term of patent protection, including any extension, shall not exceed 25 years from the filing date of the patent application. This compensatory extension will only apply when the marketing approval

³ Marketing approval process is understood to encompass the period between the filing date of the patent application and the date of the first market authorisation of the product in the territory of the Party granting this authorisation. Singapore reserves the right to depart from the definition of the marketing approval process if it is found to be inconsistent with well established and recognised national or regional standards.

process takes more than 5 years;

- (ii) the implementation of paragraph (i) before or on 1 January 2005 and in accordance with well established and recognised national or regional standards⁴.

Article 4

Designs

The Parties shall ensure in their national laws adequate and effective protection of industrial designs by providing in particular a period of protection of five years from the date of application with a possibility of renewal for at least two consecutive periods of five years each.

Article 5

Geographical Indications

1. The Parties shall provide legal means to protect geographical indications, including appellations of origin, with regard to all products and services.
2. The Parties may provide different legal means⁵ to prevent the misleading use of geographical indications in relation to services than that provided for the protection of geographical indications for products and shall be deemed to be in full compliance with the obligations under paragraph 1.

Article 6

Well-Known Marks

The Parties who have not given effect to the WIPO Joint Resolution on Well-Known Marks⁶ shall undertake to do so on or before 1 January 2005.

Article 7

Acquisition and Maintenance of Intellectual Property Rights

Where the acquisition of an intellectual property right is subject to the right being

⁴ Singapore reserves the right to adopt the US regime.

⁵ In accordance with the TRIPS Agreement.

⁶ As adopted by WIPO in September 1999.

granted or registered, the Parties 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 8

Enforcement of Intellectual Property Rights

The Parties 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 9

Technical Co-Operation

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