

ANNEX V

REFERRED TO IN ARTICLE 23

PROTECTION OF INTELLECTUAL PROPERTY

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Article 1

Intellectual property

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

Article 2

International conventions

1. The Parties to this Agreement reaffirm their commitment to comply with the obligations 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);
- Berne Convention of 9 September 1886 for the Protection of Literary and Artistic Works (Paris Act, 1971).

2. The 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 before five years after the entry into force of this Agreement:

- International Convention of 26 October 1961 for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention);
- International Convention for the Protection of New Varieties of Plants 1978 ("1978 UPOV Convention"), or the International Convention for the Protection of New Varieties of Plants 1991 ("1991 UPOV Convention");

- Geneva Act (1999) of the Hague Agreement Concerning the International Registration of Industrial Designs;
- WIPO Copyright Treaty (Geneva 1996);
- WIPO Performances and Phonogram Treaty (Geneva 1996);
- Budapest Treaty of 28 April 1977 on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure.

3. Tunisia will do its utmost to accede to the international conventions concerning intellectual property rights to which the EFTA States are party.

4. The Parties to this Agreement agree to promptly hold 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 organisations, such as the WTO and the World Intellectual Property Organization (WIPO).

Article 3

Patents

The Parties to this Agreement 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 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 national law. For Tunisia this means protection on a level corresponding to the one in Article 27.1 of the TRIPS Agreement, as implemented in national law.

In addition to what is provided for in Article 27.2 of the TRIPS Agreement, Tunisia may exclude from patentability:

- any invention of a method for treatment of the human or animal body by surgery or therapy or for diagnosis practised on the human or animal body;
- plant and animal varieties other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes;

- (b) compulsory licensing of patents shall only be granted under the conditions of Article 31 of the TRIPS Agreement.

Article 4

Undisclosed information

The Parties to this Agreement shall protect undisclosed information in accordance with Article 39 of the TRIPS Agreement. Parties shall prevent applicants for marketing approval for pharmaceuticals and agricultural chemical products from relying on or referring to undisclosed test or other data submitted by prior applicants to the competent approval authorities for a period, from the date of approval, of at least five years, except where approval is sought for original products, or unless the first applicant is adequately compensated. Nothing in the present Article shall be interpreted as preventing Parties from disclosing data, as far as necessary, to protect public health against harmful effects of the products. The period of protection shall not exceed the period applying to the identical product in the country of origin or in the exporting country.

Article 5

Designs

The Parties to this Agreement 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. The Parties shall, not later than five years after the entry into force of this Agreement, extend the possibility of renewal to four consecutive periods of five years each. 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 6

Geographical indications

The Parties to this Agreement shall ensure in their national laws adequate and effective means to protect geographical indications, including appellations of origin, as provided for by the TRIPS Agreement.

Article 7

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 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.
