

RECORD OF UNDERSTANDING
RELATING TO ARTICLE 5 (PATENTS) OF ANNEX XVII
OF THE COMPREHENSIVE ECONOMIC PARTNERSHIP
AGREEMENT BETWEEN THE EFTA STATES AND
THE REPUBLIC OF INDONESIA

RECORD OF UNDERSTANDING
RELATING TO ARTICLE 5 (PATENTS) OF ANNEX XVII OF THE COMPREHENSIVE
ECONOMIC PARTNERSHIP AGREEMENT
BETWEEN THE EFTA STATES AND THE REPUBLIC OF INDONESIA

For greater certainty, the EFTA States and the Republic of Indonesia (hereinafter referred to as the “Parties”) hereby confirm the following common understandings relating to the Comprehensive Economic Partnership Agreement between the EFTA States and the Republic of Indonesia (hereinafter referred to as the “Agreement”).

1. With regard to Article 5 (Patents) of Annex XVII (Protection of Intellectual Property) of the Agreement, the Parties have reached the following understanding:
 - (a) paragraph 1 of Article 1.5 (Relationship to Other International Agreements) of the Agreement confirms the rights and obligations of the Parties under the WTO Agreement and the other agreements concluded thereunder to which they are a party, and any other international agreement to which they are a party; and
 - (b) article 5 (Patents) of Annex XVII (Protection of Intellectual Property) stipulates that imported products and locally produced products enjoy the same level of patent protection.
2. Indonesia confirmed that the implementing regulations of the Indonesian Patent Law will ensure and be applied in compliance with relevant rules of the Agreement and the TRIPS Agreement.
3. Indonesia informed about its intention to revisit its patent law and regulations in order to be more consistent with its rights and obligations under the TRIPS Agreement.
4. The Parties agree to keep each other informed about developments regarding their domestic patent legislation.
5. Indonesia confirmed that, in the meanwhile:
 - (a) the reasons for postponement of the requirements to manufacture the products or use the patented process in Indonesia, include among others, the importation of a product which is protected by a patent or incorporates a patented process;
 - (b) such postponement is renewable and may be extended for the whole duration of the term of patent protection;
 - (c) such postponement and its extensions are granted upon request of the patent holder through an online procedure.

6. Pursuant to Article 5 (Patents) of Annex XVII (Protection of Intellectual Property), the Parties shall ensure that importation of a product not locally manufactured shall, on its own, not be a reason to grant a compulsory license, nor to abolish a patent, nor, subject to Article 27.1 of the TRIPS Agreement, to discriminate in any other way. This Paragraph shall be without prejudice to the granting of compulsory licenses on other grounds as stipulated in the TRIPS Agreement and Doha Declaration on the TRIPS Agreements and Public Health of 2001.

7. This Record of Understanding shall form an integral part of the Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto, have signed this Record of Understanding.

Done in Jakarta, Indonesia, this 16 day of December 2018, in one original in the English language, which shall be deposited with the Depositary, who shall transmit certified copies to all the Parties.

For Iceland

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For the Republic of Indonesia

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For the Principality of Liechtenstein

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For the Kingdom of Norway

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For the Swiss Confederation

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