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The texts will be final upon signature. The agreement will become binding on the Parties under international law only after completion by each Party of its internal legal procedures necessary for the entry into force of the Agreement (or its provisional application).

CHAPTER [XX]

INTELLECTUAL PROPERTY

SECTION A

GENERAL PROVISIONS

Article X.1

Objectives and principles

1. The objective of achieving an adequate and effective level of protection and enforcement of intellectual property rights should:
 - a) contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations; and
 - b) promote and govern trade between the Parties as well as reduce distortions and impediments to trade.
2. A Party may, in formulating or amending its laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of

vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of this Chapter.

3. Appropriate measures, provided that they are consistent with the provisions of this Chapter, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology.

4. Taking into consideration the underlying public policy objectives of domestic systems, the Parties recognise the need to:

- (a) promote innovation and creativity;
- (b) facilitate the diffusion of information, knowledge, technology, culture and the arts; and
- (c) foster competition and open and efficient markets,

through their respective intellectual property systems, while respecting the principles of transparency, and taking into account the interests of all relevant stakeholders, including right holders, users and the general public.

Article X.2

Nature and Scope of Obligations

1. The Parties commit to ensure an adequate and effective implementation of the international treaties dealing with intellectual property to which they are parties including the Agreement on Trade-related Aspects of Intellectual Property (hereinafter referred to as “TRIPS Agreement”) contained in Annex IC to the WTO Agreement. This chapter shall complement and further specify the rights and obligations of the Parties under the TRIPS Agreement and other international treaties in the field of intellectual property to which they are parties.
2. For the purposes of this Chapter the notion of “intellectual property rights” refers to all categories of intellectual property rights that are subject of Section 1 through 7 of Part II of the TRIPS Agreement as well as plant variety rights. The protection of intellectual property includes protection against unfair competition as referred to in Article 10bis of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as last revised at Stockholm on 14 July 1967 (hereinafter referred to as “Paris Convention”).
3. Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

Article X.3

Exhaustion

This Chapter does not affect the freedom of the Parties to determine whether and under what conditions the exhaustion of intellectual property rights applies.

Article X.4

National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to the nationals of the other Party treatment no less favourable than it accords to its own nationals with regard to the protection¹ of intellectual property rights, subject to the exceptions provided in, respectively, the Paris Convention, the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886, as last revised at Paris on 24 July 1971 (hereinafter referred to as “Berne Convention”), the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, done at Rome on 26 October 1961 (hereinafter referred to as “Rome Convention”), or the Treaty on Intellectual Property in Respect of Integrated Circuits, done at Washington, D.C., on May 26, 1989. In respect of performers, producers of phonograms and broadcasting organizations, this obligation only applies in respect of the rights provided under this Agreement.
2. The parties shall not, as a condition of according national treatment under this Article, require right holders to comply with any formalities or conditions in order to acquire rights in respect of copyright and related rights.²
3. A Party may avail itself of the exceptions permitted under paragraph 1 in relation to judicial and administrative procedures, including the designation of an address for service or the appointment of an agent within the jurisdiction of a Party, only where such exemptions are:
 - (a) necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and
 - (b) not applied in a manner that would constitute a disguised restriction on trade.
4. No Party shall have any obligation under this Article with respect to procedures provided in multilateral agreements concluded under the auspices of the World Intellectual

¹ For the purposes of this provision, “protection” shall include matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights as well as those matters affecting the use of intellectual property rights specifically addressed in the Chapter.

² This is without prejudice of Article 11 of the Rome Convention.

Property Organization relating to the acquisition or maintenance of intellectual property rights.

SECTION B

STANDARDS CONCERNING INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

Copyright and Related Rights

Article X.5

International Treaties

1. The Parties reaffirm their commitment to comply with the following international agreements:
 - (a) the Berne Convention for the Protection of Literary and Artistic Work;
 - (b) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting;
 - (c) the WIPO (World Intellectual Property Organisation) Copyright Treaty, adopted in Geneva on 20 December 1996; and
 - (d) the WIPO Performances and Phonograms Treaty, adopted in Geneva on 20 December 1996.
2. The Parties shall make all reasonable efforts to comply with the provisions of the Beijing Treaty on Audiovisual Performances, adopted by the Diplomatic Conference on the Protection of Audiovisual Performances in Beijing, on 24 June 2012, and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, adopted by the Diplomatic Conference to Conclude a Treaty to Facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities in Marrakesh, on June 27, 2013.

Article X.6

Authors

Each Party shall provide for authors to have the exclusive right to authorise or prohibit:

- (a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their works;
- (b) any form of distribution to the public, by sale or otherwise of the original of their works or of copies thereof;
- (c) any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them; and
- (d) the commercial rental to the public of originals or copies of their works.

Article X.7

Performers

Each Party shall provide for performers to have the exclusive right to authorise or prohibit:

- (a) the fixation³ of their performances;
- (b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their performances;
- (c) the distribution to the public, by sale or otherwise, of the fixations of their performances;
- (d) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them;
- (e) the broadcasting by wireless means and the communication to the public of their performances, except where the performance is itself already a broadcast performance or is made from a fixation; and
- (f) the commercial rental to the public of the fixation of their performances.

Article X.8

Producers of Phonograms

³ Fixation means the embodiment of sounds or moving images, or of the representation thereof, from which they can be perceived, reproduced or communicated by means of a device.

Each Party shall provide for phonogram producers to have the exclusive right to authorise or prohibit:

- (a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part of their phonograms;
- (b) the distribution to the public, by sale or otherwise, of their phonograms, including copies thereof;
- (c) the making available to the public of their phonograms, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them; and
- (d) the commercial rental of their phonograms to the public.

Article X.9

Broadcasting Organisations

Each Party shall provide broadcasting organisations with the exclusive right to authorise or prohibit:⁴

- (a) the fixation of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite;
- (b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of fixations of their broadcasts, whether those broadcasts are transmitted by wire or over the air, including by cable or satellite;
- (c) the making available to the public, by wire or wireless means, of fixations of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite in such a way that members of the public may access them from a place and at a time individually chosen by them;
- (d) the distribution to the public, by sale or otherwise, of fixations, including copies thereof, of their broadcasts, whether these broadcasts are transmitted by wire or over the air, including by cable or satellite; and
- (e) the rebroadcasting of their broadcasts by wireless means, as well as the communication to the public of their broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

⁴ For Mexico this provision is without prejudice to the compliance with obligations under its Telecommunication and Broadcasting Law.

Article X.10

Broadcasting and Communication to the Public of Phonograms Published for Commercial Purposes⁵

1. Each Party shall provide for the performers and producers of phonograms the right to a single equitable remuneration paid by the user, if a phonogram published for commercial purposes, or a reproduction of such phonogram, is used for broadcasting by wireless means or for any communication to the public.⁶
2. Each Party shall recognize that the single equitable remuneration be distributed between the performers and producers of the corresponding phonograms. Each Party may enact legislation that, in the absence of an agreement between performers and producers of phonograms, sets the terms according to which performers and producers of phonograms shall share the single equitable remuneration.

Article X.11

Term of Protection

1. The rights of a work shall run for the life of the author and for at least seventy years after his death, irrespective of the date when the work is lawfully made available to the public.
2. The term of protection of a musical composition with words shall expire at least seventy years after the death of the last of the following persons to survive, whether or not those persons are designated as co-authors: the author of the lyrics and the composer of the musical composition.⁷
3. In the case of anonymous or pseudonymous works, the term of protection shall expire at least seventy years after the work is lawfully made available to the public. However, when the pseudonym adopted by the author leaves no doubt as to his identity, or if the author discloses his identity during the period referred to in the first sentence, the term of protection applicable shall be that laid down in paragraph 1.

⁵ Each Party may grant more extensive rights as regards the broadcasting and communication to the public of phonograms published for commercial purposes to performers and producers of phonograms.

⁶ For the purpose of this Article, “communication to the public” does not include the making available to the public of a phonogram, by wire or wireless means, in such a way that a member of the public may access them from a place and at a time individually chosen by them.

⁷ The Parties may decide that the application of this paragraph requires that both contributions were specifically created for the respective musical composition with words.

4. The term of protection of cinematographic or audiovisual works shall expire at least seventy years after the death of the last of at least the following persons to survive, whether or not these persons are designated as co-authors: the principal director, the author of the screenplay, the author of the dialogue and the composer of music.⁸
5. The rights of broadcasting organisations shall expire not less than fifty years after the first transmission of a broadcast, whether that broadcast is transmitted by wire or over the air, including by cable or satellite.
6. The Parties shall provide⁹ that:
 - a) The term of protection of rights of performers shall expire in seventy-five years from either the first fixation of the interpretation or performance in a phonogram, or from the first interpretation or performance of works not recorded in phonograms, or from the transmission for the first time by any means.
 - b) The term of protection of rights of producers of phonograms shall expire in seventy-five years, starting from the first fixation of the sounds in the phonogram.

Alternatively, the Parties shall provide that:

- a) The rights of performers otherwise than in phonograms shall expire not less than fifty years after the fixation of the performance and, if published within this period, not less than fifty years after the first lawful publication.
 - b) The rights of performers in phonograms and producers of phonograms shall expire not less than fifty years after the fixation of the performance and, if published within this period, not less than seventy years after the first lawful publication. Effective measures shall ensure that the profit generated during the twenty years of protection beyond fifty years after the first lawful publication is shared fairly between the performers and the producers of phonograms.
7. The terms laid down in this Article shall be calculated from the 1st January of the year following the event.

Article X.12

Resale Right

⁸ The Parties may decide that the music must be specifically created for the use in the cinematographic or audiovisual work.

⁹ For greater certainty, each Party shall choose either the first option or the under “alternatively” mentioned option based on their domestic legislations.

1. Each Party shall provide, for the benefit of the author of works of graphic or plastic art except for applied works of art, a resale right, defined as an inalienable right, which cannot be waived, even in advance, to receive a proportional participation¹⁰ of the price obtained from any resale of that work, after the first transfer of that work by the author¹¹.
2. The right referred to in paragraph 1 shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art.

Article X.13

Cooperation on Collective Management of Rights

1. The Parties shall promote cooperation between their respective collective management organisations for the purposes of fostering the availability of works and other protected subject-matter in the territories of the Parties and the transfer of rights revenue for the use of such works or other protected subject-matter.
2. The Parties agree to promote the transparency and non-discrimination among entitled members of collective management organisations, in particular as regards the rights revenue they collect, deductions they apply to such revenue, the use of the rights revenue collected, the distribution policy and their repertoire.

Article X.14

Exceptions and Limitations

Each Party shall confine limitations or exceptions to rights to certain special cases that do not conflict with a normal exploitation of the work, performance, phonogram, or broadcast, and do not unreasonably prejudice the legitimate interests of the right holder.

Article X.15

Protection of Technological Measures

¹⁰ The Parties may express this proportional participation in a percentage of the resale price.

¹¹ Each party may establish minimum conditions for the application of the resale right.

1. Each Party shall provide adequate legal protection against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that he is pursuing that objective.
2. Each Party shall provide adequate legal protection against the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which:
 - (a) are promoted, advertised or marketed for the purpose of circumvention of any effective technological measures;
 - (b) have only a limited commercially significant purpose or use other than to circumvent; or
 - (c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of any effective technological measures.
3. For the purposes of this Article, the term “technological measures” means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject matter, which are not authorised by the right holder of any copyright or related right as provided for by domestic legislation. Technological measures shall be deemed “effective” where the use of a protected work or other subject matter is controlled by the right holders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject matter or a copy control mechanism, which achieves the objective of protection.
4. Notwithstanding the legal protection provided for in paragraph 1, in the absence of voluntary measures taken by the right holders, each Party may take appropriate measures, as necessary, to ensure that the adequate legal protection against the circumvention of effective technological measures provided for in accordance with this Article does not prevent beneficiaries from enjoying exceptions and limitations provided for in accordance with Article X.14.

Article X.16

Obligations Concerning Rights Management Information

1. Each Party shall provide adequate legal protection against any person knowingly performing, without authority, any of the following acts, if such person knows, or has reasonable grounds to know, that by so doing he is inducing, enabling, facilitating or concealing an infringement of any copyright or any related rights:
 - (a) the removal or alteration of any electronic rights-management information; or

- (b) the distribution, importation for distribution, broadcasting, communication or making available to the public of works or other subject matter protected under this Sub-Section from which electronic rights-management information has been removed or altered without authorisation.
- 2. For the purposes of this Sub-Section, “rights-management information” means any information provided by right holders which identifies the work or other subject matter referred to in this Chapter, the author or any other right holder, information about the terms and conditions of use of the work or other subject matter, or any numbers or codes that represent such information.
- 3. Paragraph 2 shall apply when any of these items of information is associated with a copy of, or appears in connection with the communication to the public of, a work or other subject matter referred to in this Chapter.

SUB-SECTION 2

Trademarks

Article X.17

International Agreements

Each Party:

- (a) shall make all reasonable efforts to adhere to the Trademark Law Treaty and to the Singapore Treaty on the Law of Trademarks, done at Singapore on 27 March 2006.
- (b) shall adhere to the Protocol related to the Madrid Agreement concerning the International Registration of Marks, adopted at Madrid on 27 June 1989, as last amended on 12 November 2007, and to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, done at Nice on 15 June 1957, as amended on 28 September 1979 (“Nice Classification”).

Article X.18

Registration Procedure

- 1. Each Party shall establish a system for the registration of trademarks in which each final negative decision, including the partial refusal of registration issued by the relevant trademark administration shall be notified in writing, duly reasoned and open to challenge.

2. Each Party shall provide for the possibility to oppose applications to register trademarks or, where appropriate, trademark registrations and for the opportunity for the trademark applicant to respond to such opposition¹².
3. Each Party shall provide a publicly available electronic database of applications and registrations of trademarks.

Article X.19

Rights Conferred by a Trademark

1. A registered trademark shall confer on the proprietor exclusive rights therein. The proprietor shall be entitled to prevent all third parties not having his consent from using in the course of trade:
 - (a) any sign which is identical with the trademark in relation to goods or services which are identical with those for which the trademark is registered;
 - (b) any sign where, because of its identity with, or similarity to, the trademark and the identity or similarity of the goods or services covered by the trademark and the sign, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association between the sign and the trademark.
2. The proprietor of a registered trademark shall be entitled to prevent all third parties from bringing, in the course of trade, goods into the territory of the Party where the trademark is registered without being released for free circulation there, where such goods, including packaging, come from third countries and bear without authorisation a trademark which is identical to the trademark registered in respect of such goods, or which cannot be distinguished in its essential aspects from that trademark¹³.

Article X.20

Well-known Trademarks

¹² The Parties shall make all reasonable efforts to adopt an adversarial proceeding for the opposition.

¹³ The parties may provide that the entitlement of the proprietor of the trademark shall lapse if, during the proceedings to determine whether there was a breach of the registered trademark, evidence is provided by the declarant or the holder of the goods that the proprietor of the registered trademark is not entitled to prohibit the placing of the goods on the market in the country of final destination.

For the purpose of giving effect to protection of well-known trademarks, as referred to in Article 6bis of the Paris Convention and paragraphs 2 and 3 of Article 16 of the TRIPS Agreement, each Party shall apply the Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO on 20 to 29 September 1999.

Article X.21

Bad Faith Applications

Each Party may provide that a trademark shall not be registered where the application for registration of the trademark was made in bad faith by the applicant. Each Party shall provide that such a trademark shall be declared invalid in the case that it has been registered.

Article X.22

Cancellation¹⁴

1. Each Party shall provide that a trademark shall be liable to cancellation, if within period of time determined by the domestic law of each Party, the trademark has not been used¹⁵ in the relevant territory in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use.
2. A trademark shall also be liable to cancellation if, after the date on which it was registered in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service in respect of which it is registered.
3. A trademark shall also be liable to cancellation, if it was registered despite being capable to deceive the public as to the nature, quality or geographical origin of the goods or services for which it was registered.¹⁶

Article X.23

Exceptions to the Rights Conferred by a Trademark

¹⁴ For greater certainty, the Parties may define cancellation as revocation, expiration or nullity.

¹⁵ The Parties may require that the use is of genuine character or made in a quantity or manner corresponding to commercial use. The Parties may further decide to disregard the commencement or resumption of use just before the filing of the cancellation request.

¹⁶ For greater certainty, the Parties may also cancel a trademark as a consequence of the use made of it by the proprietor of the trademark or with his consent in respect of the goods or services for which it is registered, if it is liable to mislead the public.

Each Party:

- (a) shall provide for the fair use of descriptive terms¹⁷ as a limited exception to the rights conferred by trademarks; and
- (b) may provide for other limited exceptions,

provided that these exceptions take account of the legitimate interests of the owners of the trademarks and of third parties.

SUB-SECTION 3

Industrial Designs

Article X.24

International Agreements

Each Party shall make all reasonable efforts to accede to the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs done at Geneva on 2 July 1999.

Article X.25

Protection of Registered Industrial Designs

1. Each Party shall provide for the protection of independently created industrial designs that are new or original¹⁸. This protection shall be provided by registration and shall confer an exclusive right upon their holders in accordance with this Sub-Section.
2. The holder of a registered industrial design shall have the right to prevent third parties not having the holder's consent at least from using and notably making, offering for sale, selling, putting on the market or importing such a product or using articles bearing or embodying the protected industrial design when such acts are undertaken for commercial purposes, unduly prejudice the normal exploitation of the industrial design, or are not compatible with fair trade practice.

¹⁷ The fair use of descriptive terms includes the use of a sign to indicate the geographic origin of the goods or services, and where such use is in accordance with honest practices in industrial or commercial matters.

¹⁸ The Parties agree that when the domestic law of a Party so provides, individual character of industrial designs can also be required.

3. An industrial design applied to or incorporated in a product which constitutes a component part of a complex product shall only be considered to be new or original:
 - (a) if the component part, once it has been incorporated into the complex product, remains visible during normal use of the latter; and
 - (b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty or originality.
4. “Normal use” in subparagraph 3 (a) shall mean use by the end user, excluding maintenance, servicing or repair work.

Article X.26

Term of Protection

The duration of protection available shall amount up to twenty-five years from the date of filing the application.

Article X.27

Exceptions and Exclusions

1. Each Party may establish limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected industrial designs and do not unreasonably prejudice the legitimate interests of the holder of the protected industrial design, taking account of the legitimate interests of third parties.
2. Industrial design protection shall not extend to designs dictated essentially by technical or functional considerations. In particular, an industrial design shall not be protected if it consists of features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product, in which the industrial design is incorporated or to which it is applied, to be mechanically connected to, or placed in, around or in contact with another product so that either product may perform its function.
3. By way of derogation from paragraph 2, an industrial design right may subsist in an industrial design, which has the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

Article X.28

Relationship to Copyright

An industrial design shall also be eligible for protection under the law of copyright of a Party as from the date on which the industrial design was created or fixed in any form. The extent to which, and the conditions under which, such a protection is conferred, including the level of originality required, shall be determined by each Party.

SUB-SECTION 4

Geographical Indications

Article X.29

International Agreements

The Parties reaffirm their commitment as regards the protection of geographical indications in their territory in accordance with Articles 22 through 24 of the TRIPS Agreement.

The Parties shall make all reasonable efforts to adhere to the Geneva Act of the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

Article X.30

Definitions

For the purposes of this Section:

geographical indication means an indication which identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation or other characteristic of the product is essentially attributable to its geographical origin; and

product class means the list of classes taking into consideration the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

Article X.31

Scope

1. This Section applies to geographical indications identifying products falling within the relevant product class.
2. The Parties agree to consider extending the scope of geographical indications covered by this Agreement after its entry into force to other product classes of geographical indications. For that reason, Parties have included in Annex III names identifying a product originating and protected in their territory that, provided the scope of protection of this Agreement is enlarged, will be considered to be included under the scope of protection of this Agreement in accordance with the procedures set for in this Section.¹⁹

Article X.32

Listed geographical indications

For the purposes of this Section:

- (a) the indications listed in Part A of Annex II are geographical indications which identify a product as originating in the territory of the European Union or a region or locality in that territory; and
- (b) the indications listed in Part B of Annex II are geographical indications which identify a product as originating in the territory of Mexico or a region or locality in that territory.

Article X.33

Established geographical indications

Having considered the names listed in Parts A and B of Annex II, and having completed an opposition procedure in accordance with the criteria set out in Parts A and B of Annex I, Parties undertake to protect those geographical indications according to the level of protection laid down in this Section.

Article X.34

Protection for geographical indications listed in Annex II

1. Each Party shall provide the legal means for interested parties to prevent:

¹⁹ The Parties recognize that, for purposes of assessment of trademark applications, insofar as this is relevant under the domestic legislation, those names are protected in the country of origin.

- (a) the use of a geographical indication of the other Party listed in Annex II for a product that falls within the product class as defined in Article X.30 for that geographical indication and that either:
 - (i) does not originate in the place of origin specified in Annex II for that geographical indication; or
 - (ii) does originate in the place of origin specified in Annex II for that geographical indication but was not produced or manufactured in accordance with the laws and regulations of the other Party that would apply if the product were for consumption in the other Party;
 - (b) the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin in a manner which misleads the public as to the geographical origin of the good; and
 - (c) any other use which constitutes an act of unfair competition within the meaning of Article 10bis of the *Paris Convention for the Protection of Industrial Property* (1967) done at Stockholm on 14 July 1967.
2. The protection referred to in sub-paragraph 1(a) shall be provided even where the true origin of the product is indicated or the geographical indication is used in translation or accompanied by expressions such as “kind”, “type”, “style”, “imitation” or the like.
 3. Each Party shall provide for enforcement, by administrative action, in the form provided for by its law against: (i) any direct or indirect commercial use of a protected name; (ii) any imitation, variation or deceiving use of a protected name; (iii) against any false or misleading indication to a protected name; or (iv) against any practice liable to mislead the consumer as to the true origin, provenance and nature of the product.
 4. Protected geographical indications shall not become generic in the territories of the Parties.
 5. Nothing in this Section shall oblige a Party to protect a geographical indication of the other Party which is not or ceases to be protected in the territory of the originating Party.²⁰
 6. Nothing in this Agreement shall prejudice the right of any person to use, in the course of trade, that person's name or the name of that person's predecessor in business, except where such name is used in such a manner to mislead the public.
 7. The provisions of this Article shall apply *mutatis mutandis* to the list of names in Annex I and Annex II to the Agreement between the European Community and the United Mexican States on the mutual recognition and protection for spirits drinks, done at Brussels on 27 May 1997, as

²⁰ The Parties shall notify each other if a geographical indication ceases to be protected in the territory of the Party concerned. Such notification shall take place within three months after the competent authority issues its final determination that the geographical indication has ceased to be protected.

amended on 1 May 2004 and 29 October 2004.

Article X.35

Amendment of the list of geographical indications

1. The Sub-Committee on Intellectual Property, mentioned in Article X.42, acting by consensus, may decide to amend Annex II by adding geographical indications or by removing geographical indications which have ceased to be protected or have fallen into disuse in their place of origin.
2. New geographical indications shall be added after having considered the names submitted and having completed the opposition procedure as referred to in Article X.33, by a decision of the Sub-Committee.

Article X.36

Right of use of geographical indications

1. A name protected under this Agreement may be used by any operator marketing a product which conforms to the corresponding specification.
2. Once a geographical indication is protected under this Agreement, the use of such protected name shall not be subject to any registration of users, or other requirements.
3. Indications, abbreviations, symbols and technical specifications referring to the geographical indications may only be used in relation to the product protected or registered in the respective territories and produced in conformity with the corresponding product specification or regulation.

Article X.37

Relationship between trademarks and geographical indications

1. The provisions of this Section shall not prejudice a prior trademark applied for or registered in good faith, or acquired through use in good faith, in a Party. As a limited exception to the rights conferred by a trademark, a prior trademark in certain circumstances may not entitle its owner to prevent a registered geographical indication from being granted protection or used in that Party; protection of the registered geographical indication shall not limit the rights conferred by that trademark in any other way, including a possibility to request further renewals or variations of a distinctive sign provided that the variation does not constitute an act of unfair competition.

2. A Party shall not be required to protect a name as a geographical indication under Article X.34 if, in light of a trademark's reputation and renown and the length of time it has been used, that name is liable to mislead the consumer as to the true identity of the product.
3. Subject to Article X.39 (*General Rules*), and building upon Article 22.3 of the TRIPS Agreement, in respect of geographical indications listed in Annex II and remaining protected as geographical indications by the Party of origin, the registration of a trademark for goods which would contravene Article X.34 and which relates to the same or similar good shall be refused or invalidated *ex officio* if that Party's domestic law so permits, or at the request of an interested party, with respect to goods not having the origin of the geographical indication concerned, provided the application to register the trademark is submitted after the date of submission of application for registration of the geographical indication in the territory concerned.
4. For geographical indications referred to in Article X.32, the date of submission of the application for protection referred to in paragraph 2 shall be the date of the signing of this Agreement.
5. For geographical indications referred to in Article X.35, the date of submission of the application for protection shall be the date of the signing of the decision of the amendment by the Joint Committee of the Agreement in accordance with Article XX.
6. Protection provided to the geographical indications established in Annex II shall commence no earlier than the date on which this Agreement enters into force.

Article X.38

Enforcement of Protection

The Parties shall enforce the protection provided for in Articles X.34 to X.37 by appropriate administrative procedures and via judicial steps, in accordance to their own legal system and practice. In this regard, the competent authorities shall enforce such protection in any of the following ways: (a) at their own initiative, (b) at the request of an interested party, or (c) both.

Article X.39

General Rules

1. A Party shall not be required to protect a name as a geographical indication under this Agreement if that name conflicts with the name of a plant variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product.
2. A homonymous name which misleads the consumer into believing that products come from

another territory shall not be registered as a geographical indication even if the name is accurate as far as the actual territory, region or place of origin of the product in question is concerned. Without prejudice to Article 23 of the TRIPS Agreement, the Parties shall mutually decide the practical conditions of use under which wholly or partially homonymous geographical indications will be differentiated from each other, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

3. Where a Party, in the context of bilateral negotiations with a third party, proposes to protect a geographical indication of that third party which is wholly or partially homonymous with a geographical indication of the other Party, the latter shall be informed and be given the opportunity to comment before that name is protected.
4. Any matter arising from product specifications of protected geographical indications shall be dealt with in the Sub-Committee on Intellectual Property.
5. A product specification referred to in this Article shall be approved, including any amendments, by the authorities of the Party in the territory from which the product originates.

Article 40

Exceptions

1. Nothing in this Section shall require a Party to apply its provisions in respect of a geographical indication, or an individual name contained in a multi-compound geographical indication, of the other Party with respect to goods or services for which the relevant indication is identical with the term customary in common language as the common name for such goods or services in the territory of that Party.
2. If a translation of a geographical indication is identical with or contains within it a term customary in common language as the common name for a product in the territory of a Party, or if a geographical indication is not identical with but contains within it such a term, the provisions of this Section shall not prejudice the right of any person to use that term in association with that product in the territory of that Party.
3. In determining whether a term is the term customary in common language as the common name for the relevant good in the territory of a Party, that Party's authorities shall have the authority to take into account how consumers understand the term in the territory of that Party. Factors relevant to such consumer understanding may include:
 - (a) whether the term is used to refer to the type of good in question, as indicated by competent sources such as dictionaries, newspapers and relevant websites; and

(b) how the good referenced by the term is marketed and used in trade in the territory of that Party.²¹

4. Nothing shall prevent the use in the territory of a Party, with respect to any product, of a customary name of a plant variety or an animal breed, existing in the territory of that Party as of the date of entry into force of this Agreement.

Article X.41

Incorporation of existing agreement

The Agreement between the European Community and the United Mexican States on the mutual recognition and protection for spirits drinks, done at Brussels on 27 May 1997, as amended on 1 May 2004 and 29 October 2004 is incorporated, *mutatis mutandis*, into and made part of this Agreement.

Article X.42

Cooperation

1. The Sub-Committee on Intellectual Property established in accordance with Article X.67 shall be the appropriate forum for the administration and monitoring the implementation of this Section.
2. Parties shall notify each other if a geographical indication listed in Annex II ceases to be protected in the territory of the Party concerned. Following such notification, the Sub-Committee on Intellectual Property will propose the Joint Committee of the Agreement the modification of the Annex II in accordance with the procedures set forth under this Agreement (institutional provisions).
3. Any Party may, either directly or through the Sub-Committee on Intellectual Property, request the other Party information relating to product specifications and their amendments.
4. Each Party may make publicly available the product specifications corresponding to the geographical indications of the other Party protected pursuant to this Section, in Spanish or English.

²¹ For the purposes of this subparagraph, a Party's authorities may take into account, as appropriate, whether the term is used in relevant international standards recognized by the Parties to refer to a type or class of good in the territory of the Party.

Article X.43

Other Protection

The provisions of this Section are without prejudice to the right to seek recognition and protection of a geographical indication under the relevant law of a Party.

ANNEX I

Part A

***Criteria to be included by the EU in the opposition procedure
[as referred to in Article X.33]***

- a. List of name(s) with the corresponding transcription into Latin characters;
- b. The product type;
- c. An invitation, to any natural or legal persons except those established or resident in Mexico, having a legitimate interest, to submit oppositions to such protection by lodging a duly substantiated statement;
- d. Statements of opposition must reach the European Commission no later than 2 months from the date of publication of the information notice;
- e. Statements of opposition shall be admissible only if they are received within the time-limit set out above and if they show that the protection of the name proposed would:
 - conflict with the name of a plant variety, including a wine grape variety or an animal breed and as a result is likely to mislead the consumer as to the true origin of the product;
 - be a homonymous name which misleads the consumer into believing that products come from another territory;
 - in the light of a trademark's reputation and renown and the length of time it has been used, be liable to mislead the consumer as to the true identity of the product;
 - jeopardise the existence of an entirely or partly identical name or of a trademark or the existence of products which have been legally on the market for at least five years preceding the date of the publication of this notice;
 - or if they can give details which indicate that the name, for which protection and registration is considered, is generic.
- f. The criteria referred to above shall be evaluated in relation to the territory of the European Union, which in the case of intellectual property rights refers only to the territory or territories where the said rights are protected.

Part B

***Criteria to be included by Mexico in the opposition procedure
[as referred to in Article X.33]***

Legitimate interested persons shall have the right to file oppositions to a name in accordance with the domestic law that provides the following criteria that will be published in a public notice:

- a. The name is identical or similar in degree of confusion to a protected appellation of origin or geographical indication for the same or similar products;
- b. The name is identical or similar in degree of confusion to a name that is subject to a pre-existing good faith pending application for recognition as appellation of origin or geographical indication for the same or similar products;
- c. The name is generic or is commonly used in the territory of the Party for the product that is intended to protect, as well as in the case of a name which, in ordinary or commercial language, has become a usual or generic element thereof;
- d. The term which considering all its characteristics, constitutes a description of the products that seeks to protect. This shall include descriptive or indicative words which usually serve to designate species, quality, quantity, composition, destination or value of a product in the course of trade;
- e. The name is identical or similar in degree of confusion to a registered trademark or commercial name registered in the territory of the Party, applicable for the same or similar products;
- f. The name is identical or similar in degree of confusion to a pre-existing pending good faith application for trademarks or commercial names;
- g. The name is a translation or transliteration of an appellation of origin or geographical indication which cannot be protected;
- h. The name conflicts with the name of a plant variety, including a wine grape variety, or an animal breed.

ANNEX II²²

Part A

Geographical indications of the European Union as referred to in Article X.32(a)

Designation name	Transliteration	Product type	Origin
Steirischer Kren		Horseradish	Austria
Steirisches Kürbiskernöl		Other edible oils	Austria
Tiroler Almkäse ; Tiroler Alpkäse		Hard cow cheese	Austria
Tiroler Bergkäse		Hard cow cheese	Austria
Tiroler Graukäse		Hard cow cheese	Austria
Tiroler Speck		Pork Ham	Austria
Vorarlberger Alpkäse		Cheeses	Austria
Vorarlberger Bergkäse		Hard cow cheese	Austria
Beurre d'Ardenne		Butter	Belgium
Fromage de Herve		Soft cow cheese	Belgium
Jambon d'Ardenne		Pork Ham	Belgium
Pâté Gaumais		Other cooked meats	Belgium
Plate de Florenville		Potato	Belgium
Vin mousseux de qualité de Wallonie		Wine	Belgium
Vin de pays des jardins de Wallonie		Wine	Belgium
Crémant de Wallonie		Wine	Belgium
Côtes de Sambre et Meuse		Wine	Belgium
Българско розово масло	Bulgarsko rozovo maslo	Essential oil	Bulgaria
Дунавска равнина	Dunavska ravnina	Wine	Bulgaria
Тракийска низина	Trakiiska nizina	Wine	Bulgaria
Γλυκό Τριαντάφυλλο Αγρού	Glyko Triantafyllo Agrou	Confectionery	Cyprus
Λουκούμι Γεροσκήπου	Loukoumi Geroskipou	Confectionery	Cyprus
Κουμανδάρια	Coumandaria	Wine	Cyprus
Λεμεσός	Lemesos	Wine	Cyprus
Πάφος	Pafos	Wine	Cyprus
České pivo		Beers	Czech Republic
Českobudějovické pivo ²³		Beers	Czech Republic
Žatecký chmel		Hops	Czech Republic
Bayerisches Bier		Beers	Germany
Bremer Bier		Beers	Germany
Dortmunder Bier		Beers	Germany

²² The Appendix is applicable to Annex II, parts A and B.

²³ The term is protected only in the original language. The use of the term in Mexico shall be subject to the private arrangements between GI users and the trademark holder.

Hopfen aus der Hallertau		Hops	Germany
Kölsch ²⁴		Beers	Germany
Kulmbacher Bier		Beers	Germany
Lübecker Marzipan		Confectionery	Germany
Münchener Bier ²⁵		Beers	Germany
Nürnberger Bratwürste ; Nürnberger Rostbratwürste		Preparations from pork (100%)	Germany
Nürnberger Lebkuchen		Biscuits	Germany
Schwarzwälder Schinken ²⁶		Pork ham	Germany
Tettnanger Hopfen		Hops	Germany
Baden		Wine	Germany
Franken		Wine	Germany
Mosel		Wine	Germany
Pfalz		Wine	Germany
Rheingau		Wine	Germany
Rheinhessen		Wine	Germany
Württemberg		Wine	Germany
Danablu		Blue cow cheese	Denmark
Esrom		Hard cow cheese	Denmark
Γραβιέρα Κρήτης	Graviera Kritis	Olive oil	Greece
Ελιά Καλαμάτας	Elia Kalamatas	Table olives	Greece
Καλαμάτα	Kalamata	Olive oil	Greece
Κασέρι	Kasseri	Semi-hard sheep milk cheese or sheep and goat milk cheese	Greece
Κεφαλογραβιέρα	Kefalograviera	Hard sheep milk cheese or sheep and goat milk cheese	Greece
Κολυμβάρι Χανίων Κρήτης	Kolymvari Chanion Kritis	Olive oil	Greece

²⁴ The protection of the geographical indication “Kölsch” shall not prevent prior users having used the term “tipo Kölsch” or “estilo Kölsch” in good faith and in a continuous manner before the conclusion in principle of this Agreement, to continue using the term, provided it is displayed in a font character substantially smaller, while readable, than the brand name and in a non-ambiguous manner as regards to the origin of the product. In the case of enforcement procedures as provided in this Section, the prior users will have the burden to prove that they were users in Mexican territory in accordance with this footnote.

²⁵ The protection of the geographical indication “Münchener Bier” shall not prevent prior users having used the term “tipo Munich” or “estilo Munich” in good faith and in a continuous manner before the conclusion in principle of this Agreement, to continue using the term, provided it is displayed in a font character substantially smaller, while readable, than the brand name and in a non-ambiguous manner as regards to the origin of the product. In the case of enforcement procedures as provided in this Section, the prior users will have the burden to prove that they were users in Mexican territory in accordance with this footnote.

²⁶ The protection of the geographical indication “Schwarzwälder Schinken” does not prevent the use in good faith of the term “selva negra”, provided that is only used for cooked ham, and provided these products are not commercialized using references (graphics, names, pictures, flags) to the genuine origin of the geographical indication “Schwarzwälder Schinken”, and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and in a non-ambiguous manner as regards to the origin of the product.

Κορινθιακή Σταφίδα Βοστίτσα	Korinthiaki Stafida Vostitsa	Raisins	Greece
Κρόκος Κοζάνης	Krokos Kozanis	Saffron	Greece
Λακωνία	Lakonia	Olive oil	Greece
Λέσβος / Μυτιλήνη	Lesvos / Mytilini	Olive oil	Greece
Λυγουριό Ασκληπιείου	Lygourio Asklepiou	Olive Oil	Greece
Μανούρι	Manouri	Soft lactoserum	Greece
Μαστίχα Χίου	Masticha Chiou	Natural gums and resins	Greece
Πεζά Ηρακλείου Κρήτης	Peza Irakliou Kritis	Olive oil	Greece
Πράσινες Ελιές Χαλκιδικής	Prasines Elies Chalkidikis	Table olives	Greece
Σητεία Λασιθίου Κρήτης	Sitia Lasithiou Kritis	Olive oil	Greece
Φέτα ²⁷	Feta	White sheep milk cheese or sheep and goat milk cheese	Greece
Χανιά Κρήτης	Chania Kritis	Olive oil	Greece
Μαντινεία	Mantineia	Wine	Greece
Νεμέα	Nemea	Wine	Greece
Ρετσίνα Αττικής	Retsina of Attiki	Wine	Greece
Σάμος	Samos	Wine	Greece
Σαντορίνη	Santorini	Wine	Greece
Aceite del Baix Ebre-Montsià ; Oli del Baix Ebre-Montsià		Olive oil	Spain
Aceite del Bajo Aragón		Olive oil	Spain
Antequera		Olive oil	Spain
Azafrán de la Mancha		Saffron	Spain
Baena		Olive oil	Spain
Cabrales		Cheese	Spain
Cecina de León		Other cured meats	Spain
Cítricos Valencianos ; Cítrics Valencians ²⁸		Oranges, Clementines, Lemons	Spain
Dehesa de Extremadura		Pork ham	Spain
Estepa		Olive oil	Spain
Guijuelo		Pork ham	Spain
Idiazabal		Hard sheep cheese	Spain
Jabugo		Pork ham	Spain
Jamón de Teruel / Paleta de Teruel		Pork ham	Spain
Jijona		Confectionery	Spain

²⁷ The protection of the geographical indication “Φέτα (Feta)” shall not prevent the continued and similar use of the term “feta” by any persons, including their successors and assignees, for a maximum of 8 years from the entry into force of this Agreement, provided that at the entry into force of this Agreement they have used that geographical indication in a continuous manner with regard to the same or similar goods in the territory of Mexico. During those years, the use of the term “feta” must be accompanied with a legible and visible indication of the geographical origin of the product concerned.

²⁸ Varietal names containing or consisting of “Valencia” may continue to be used on similar products, provided that the consumer is not misled on the nature of such term or the precise origin of the product.

Les Garrigues		Olive oil	Spain
Los Pedroches		Pork ham	Spain
Mahón-Menorca		Hard mixed milk cheese	Spain
Pimentón de la Vera		Paprika	Spain
Pimentón de Murcia		Paprika	Spain
Polvorones de Estepa		Biscuits	Spain
Priego de Córdoba		Olive oil	Spain
Queso Manchego ²⁹		Hard sheep cheese	Spain
Queso Tetilla / Queixo Tetilla		Cheese	Spain
Salchichón de Vic ; Llonganissa de Vic		Other cured meats	Spain
Sierra de Cádiz		Olive oil	Spain
Sierra de Cazorla		Olive oil	Spain
Sierra de Segura		Olive oil	Spain
Sierra Mágina		Olive oil	Spain
Siurana		Olive oil	Spain
Sobrasada de Mallorca		Other cured meats	Spain
Tenera Gallega		Bovines	Spain
Turrón de Alicante		Confectionery	Spain
Alicante ³⁰		Wine	Spain
Bierzo		Wine	Spain
Calatayud		Wine	Spain
Campo de Borja		Wine	Spain
Cariñena		Wine	Spain
Castilla ³¹		Wine	Spain
Castilla y León		Wine	Spain
Cataluña		Wine	Spain
Cava ³²		Wine	Spain
Cigales		Wine	Spain
Empordà		Wine	Spain
Jerez-Xérès-Sherry		Wine	Spain
Jumilla		Wine	Spain
La Mancha		Wine	Spain
Málaga		Wine	Spain

²⁹ The protection of the geographical indication "Queso Manchego" for cheeses elaborated in Spain, in accordance with its technical specifications, using sheep's milk, shall not prevent the use of the terms "manchego" and "queso manchego", which are traditional names in Mexico when related to cheeses elaborated with cow's milk, provided these products are not commercialized using references (graphics, names, picture, flags) to the protected European geographical indication and are differentiated from it in a non-ambiguous manner as regards the origin and the composition of the product.

³⁰ The exception provided in article X.40.4 (plant variety) is applicable to the use of the term Alicante Bouschet

³¹ The protection of the geographical indication "Castilla" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

³² The protection of the geographical indication "Cava" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

Manzanilla-Sanlúcar de Barrameda		Wine	Spain
Navarra		Wine	Spain
Penedès		Wine	Spain
Priorat		Wine	Spain
Rías Baixas		Wine	Spain
Ribeiro		Wine	Spain
Ribera del Duero		Wine	Spain
Rioja		Wine	Spain
Rueda ³³		Wine	Spain
Somontano		Wine	Spain
Toro ³⁴		Wine	Spain
Utiel-Requena		Wine	Spain
Valdepeñas		Wine	Spain
Valencia		Wine	Spain
Yecla		Wine	Spain
Abondance		Cheese	France
Ail blanc de Lomagne		Garlic	France
Ail de la Drôme		Garlic	France
Ail rose de Lautrec		Garlic	France
Beaufort		Cheese	France
Bleu d'Auvergne		Blue cow cheese	France
Brie de Meaux		Soft cow cheese	France
Camembert de Normandie		Soft cow cheese	France
Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)		Other cooked meats and fresh liver	France
Cantal / fourme de Cantal / cantalet		Hard cow cheese	France
Chabichou du Poitou		Cheese	France
Comté		Hard cow cheese	France
Crottin de Chavignol / Chavignol		Cheese	France
Emmental de Savoie		Hard cow cheese	France
Époisses		Cheese	France
Fourme d'Ambert		Cheese	France
Gruyère ³⁵		Hard cow cheese	France

³³ The protection of the geographical indication "Rueda" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

³⁴ The protection of the geographical indication "Toro" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

³⁵ The protection of the geographical indication "Gruyère" shall not prevent prior users having used the term in good faith and in a continuous manner for five years before the conclusion in principle of this Agreement to continue using the term, provided these products are not commercialized using references (graphics, names, pictures, flags) to the genuine origin of the geographical indication "Gruyère", and the term is displayed in a font character substantially smaller, while readable, than the brand name and in a non-ambiguous manner as regards to the origin of the product. In the case of enforcement procedures as provided in this Section, the prior users will have the burden to prove that they were users in Mexican

Huile d'olive de Haute-Provence		Olive oil	France
Huile essentielle de lavande de Haute-Provence / Essence de lavande de Haute-Provence		Essential oil	France
Huîtres Marennes Oléron		Non processed molluscs	France
Jambon de Bayonne		Pork ham	France
Lentille verte du Puy		Lentils	France
Maroilles / Marolles		Cheese	France
Morbier ³⁶		Cheese	France
Munster ; Munster-Géromé		Soft cow cheese	France
Neufchâtel		Cheese	France
Noix de Grenoble		Walnuts	France
Piment d'Espelette ; Piment d'Espelette - Ezpeletako Biperra		Pepper	France
Pomme du Limousin		Apple	France
Pont-l'Évêque		Cheese	France
Pruneaux d'Agen ; Pruneaux d'Agen mi-cuits		Plums (dried or candied)	France
Reblochon ; Reblochon de Savoie		Hard cow cheese	France
Roquefort		Blue sheep cheese	France
Saint-Nectaire		Cheese	France
Tomme de Savoie		Cheese	France
Volailles de Loué		Poultry	France
Alsace		Wine	France
Anjou		Wine	France
Beaujolais		Wine	France
Bergerac		Wine	France
Bordeaux		Wine	France
Bourgogne		Wine	France
Cahors		Wine	France
Chablis		Wine	France
Champagne		Wine	France
Châteauneuf-du-Pape		Wine	France
Cheverny		Wine	France
Côtes de Blaye		Wine	France
Côtes de Gascogne		Wine	France

territory in accordance with this footnote. The designation "Gruyère" refers, within the EU territory, to two homonymous geographical indications, respectively in respect of a Swiss and a French cheese. Mexico takes note that the EU will not oppose a possible application aiming at the protection of the said Swiss homonymous geographical indication in Mexico.

³⁶ The protection of the geographical indication "Morbier" shall not prevent prior users having used the term in good faith and in a continuous manner for five years before the conclusion in principle of this Agreement, to continue using the term, provided these products are not commercialized using references (graphics, names, pictures, flags) to the genuine origin of the geographical indication "Morbier", and provided the term is displayed in a font character substantially smaller, while readable, than the brand name and in a non-ambiguous manner as regards to the origin of the product. In the case of enforcement procedures as provided in this Section, the prior users will have the burden to prove that they were users in Mexican territory in accordance with this footnote.

Côtes de Provence		Wine	France
Côtes du Rhône		Wine	France
Côtes du Roussillon		Wine	France
Floc de Gascogne		Wine	France
Graves		Wine	France
Haut-Médoc		Wine	France
Languedoc		Wine	France
Mâcon		Wine	France
Margaux		Wine	France
Médoc		Wine	France
Moulis/Moulis-en-Médoc		Wine	France
Pauillac		Wine	France
Pays d'Hérault		Wine	France
Pays d'Oc		Wine	France
Pessac-Léognan		Wine	France
Pomerol		Wine	France
Pommard		Wine	France
Premières Côtes de Bordeaux		Wine	France
Romanée-Conti		Wine	France
Saint-Emilion		Wine	France
Saint-Estèphe		Wine	France
Saint-Julien		Wine	France
Sancerre		Wine	France
Sauternes		Wine	France
Touraine		Wine	France
Val de Loire		Wine	France
Ventoux		Wine	France
Istarski pršut / Istrski pršut		Pork ham	Croatia Slovenia
Baranjski kulen		Pork ham	Croatia
Dalmatinski pršut		Pork ham	Croatia
Drniški pršut		Pork ham	Croatia
Krčki pršut		Pork ham	Croatia
Dingač		Wine	Croatia
Szegedi szalámi ; Szegedi téliszalámi		Other cured meats	Hungary
Tokaj / Tokaji		Wine	Hungary
Aceto Balsamico di Modena		Vinegar	Italy
Aceto balsamico tradizionale di Modena		Vinegar	Italy
Aprutino Pescarese		Olive oil	Italy
Asiago		Hard cow cheese	Italy
Bresaola della Valtellina		Other cured meats	Italy
Capocollo di Calabria		Cured meat	Italy
Coppa di Parma		Cured meat	Italy
Cotechino Modena		Preparations from pork (100%)	Italy
Culatello di Zibello		Other cured meats	Italy

Fontina		Hard cow cheese	Italy
Gorgonzola		Blue cow cheese	Italy
Grana Padano ³⁷		Hard cow cheese	Italy
Mela Alto Adige ; Südtiroler Apfel		Apples	Italy
Mortadella Bologna ³⁸		Preparations from pork (100%)	Italy
Mozzarella di Bufala Campana		Soft bufflone cheese	Italy
Pancetta di Calabria		Cured meat	Italy
Parmigiano Reggiano ³⁹		Hard cow cheese	Italy
Pecorino Romano ⁴⁰		Hard sheep cheese	Italy
Piadina Romagnola / Piada Romagnola		Other bread	Italy
Pomodoro S. Marzano dell'Agro Sarnese-Nocerino		Tomatoes	Italy
Prosciutto di Parma		Pork ham	Italy
Prosciutto di San Daniele		Pork ham	Italy
Prosciutto Toscano		Pork ham	Italy
Provolone Valpadana		Soft cow cheese	Italy
Riso del Delta del Po		Rice	Italy
Salamini italiani alla cacciatora		Other cured meats	Italy
Salsiccia di Calabria		Cured meat	Italy
Soppresata di Calabria		Other cured meats	Italy
Speck Alto Adige / Südtiroler Markenspeck / Südtiroler Speck		Pork ham	Italy
Taleggio		Soft cow cheese	Italy
Toscano		Olive oil	Italy
Zampone Modena		Preparations from pork (100%)	Italy
Alto Adige / Südtirol / Südtiroler / dell'Alto Adige		Wine	Italy
Asti		Wine	Italy
Barbaresco		Wine	Italy
Barbera d'Alba ⁴¹		Wine	Italy
Barbera d'Asti ⁴²		Wine	Italy

³⁷ The protection of the term "Grana" in the multicomponent geographical indication "Grana Padano" is not sought.

³⁸ The protection of the geographical indication "Mortadella Bologna" under this Agreement is sought in respect of the compound geographical indication and not in respect to individual terms.

³⁹ The protection of the geographical indication "Parmigiano Reggiano" shall not prevent users having used the term "parmesano" in good faith before the conclusion in principle of this agreement, to continue using that term, provided these products are not commercialized using references (graphic, names, pictures, flags) to the genuine origin of "Parmigiano Reggiano" and are differentiated from "Parmigiano Reggiano" in a non-ambiguous manner as regards the origin.

⁴⁰ The protection of the term "Pecorino" in the multicomponent geographical indication "Pecorino Romano" is not sought.

⁴¹ The exception provided in article X.40.4 (plant variety) is applicable to the use of the term "Barbera"

⁴² The exception provided in article X.40.4 (plant variety) is applicable to the use of the term "Barbera"

Bardolino		Wine	Italy
Barolo		Wine	Italy
Brachetto d'Acqui / Acqui		Wine	Italy
Brunello di Montalcino		Wine	Italy
Chianti		Wine	Italy
Chianti Classico		Wine	Italy
Conegliano – Prosecco / Conegliano Valdobbiadene – Prosecco / Valdobbiadene - Prosecco		Wine	Italy
Dolcetto d'Alba ⁴³		Wine	Italy
Emilia / dell'Emilia ⁴⁴		Wine	Italy
Franciacorta		Wine	Italy
Lambrusco di Sorbara		Wine	Italy
Lambrusco Grasparossa di Castelvetro		Wine	Italy
Marca Trevigiana		Wine	Italy
Marsala		Wine	Italy
Montepulciano d'Abruzzo ⁴⁵		Wine	Italy
Oltrepò Pavese		Wine	Italy
Prosecco		Wine	Italy
Rubicone		Wine	Italy
Salento		Wine	Italy
Sicilia		Wine	Italy
Soave		Wine	Italy
Toscana / Toscano ⁴⁶		Wine	Italy
Trento		Wine	Italy
Valpolicella		Wine	Italy
Veneto		Wine	Italy
Vernaccia di San Gimignano		Wine	Italy
Vino Nobile di Montepulciano		Wine	Italy
Edam Holland		Hard cow cheese	Netherlands
Gouda Holland		Hard cow cheese	Netherlands
Hollandse Geitenkaas		Soft sheep cheese	Netherlands
Azeite de Moura		Olive oil	Portugal
Azeite do Alentejo Interior		Olive oil	Portugal
Azeites da Beira Interior (Azeite da Beira Alta, Azeite da Beira Baixa)		Olive oil	Portugal

⁴³ The exception provided in article X.40.4 (plant variety) is applicable to the use of the term "Dolcetto"

⁴⁴ The protection of the geographical indication "Emilia" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

⁴⁵ The exception provided in article X.40.4 (plant variety) is applicable to the use of the term "Montepulciano"

⁴⁶ The protection of the geographical indication "Toscana/Toscano" shall not prejudice the right of any person to use, or to register in Mexico a trademark containing this term, its translation or transliteration, provided that it does not mislead the public as to the geographical origin of the good or infringe the geographical indication as protected in other ways.

Azeite de Tras-os-Montes		Olive oil	Portugal
Azeites do Norte Alentejano		Olive oil	Portugal
Azeites do Ribatejo		Olive oil	Portugal
Chouriça de Carne de Vinhais ; Linguiça de Vinhais		Other cured meats	Portugal
Chouriço de Portalegre		Other cured meats	Portugal
Maçã de Alcobaça		Apple	Portugal
Mel dos Açores		Honey	Portugal
Ovos Moles de Aveiro		Pastry	Portugal
Pêra Rocha do Oeste		Pears	Portugal
Presunto de Barrancos / Paleta de Barrancos		Pork ham	Portugal
Queijo S. Jorge		Hard cow cheese	Portugal
Queijo Serra da Estrela		Hard sheep cheese	Portugal
Queijos da Beira Baixa (Queijo de Castelo Branco, Queijo Amarelo da Beira Baixa, Queijo Picante da Beira Baixa)		Hard cow cheese	Portugal
Alentejano		Wine	Portugal
Alentejo		Wine	Portugal
Algarve		Wine	Portugal
Bairrada		Wine	Portugal
Dão		Wine	Portugal
Douro		Wine	Portugal
Duriense		Wine	Portugal
Lisboa		Wine	Portugal
Oporto / Port / Port Wine / Porto / Portvin / Portwein / Portwijn / vin du Porto / vinho do Porto		Wine	Portugal
Palmela		Wine	Portugal
Península de Setúbal		Wine	Portugal
Pico		Wine	Portugal
Tejo		Wine	Portugal
Trás-os-montes		Wine	Portugal
Vinho da Madeira / Madère / Vin de Madère / Madera / Madeira Wein / Madeira Wine / Vino di Madera / Madeira Wijn / Madeira		Wine	Portugal
Vinho Verde		Wine	Portugal
Magiun de prune Topoloveni		Plums (dried or candied)	Romania
Salam de Sibiu		Other cured meats	Romania
Telemea de Ibănești		Hard cow cheese	Romania
Cotești		Wine	Romania
Cotnari		Wine	Romania
Dealu Mare		Wine	Romania
Murfatlar		Wine	Romania
Odobesti		Wine	Romania

Panciu		Wine	Romania
Recaș		Wine	Romania
Târnave		Wine	Romania
Kranjska klobasa		Meat products	Slovenia
Kraška panceta		Meat products	Slovenia
Kraški pršut		Pork ham	Slovenia
Kraški zašink		Meat products	Slovenia
Slovenski med		Honey	Slovenia
Štajersko prekmursko bučno olje		Pumpkin seed oil	Slovenia
Vinohradnícka oblasť Tokaj		Wine	Slovakia
Scotch Beef		Bovines	United Kingdom
Scottish Farmed Salmon		Non processed fishes	United Kingdom
Welsh lamb		Lambs	United Kingdom
White Stilton cheese ; Blue Stilton cheese		Cheeses	United Kingdom

Part B**Geographical indications of Mexico as referred to in Article X.32(b)**

Designation name	Product type	Place of origin
Arroz del Estado de Morelos	Rice	Morelos, México.
Ate de Morelia, Región de Origen	Fresh cooked and gelled fruit	Michoacán de Ocampo, México
Banamich.	Bananas	Michoacán de Ocampo, México
Berries de México	Blueberries, strawberries, raspberries and blackberries	México
Cacao Grijalva	Cocoa	Tabasco, México
Café Chiapas	Coffee	Chiapas, México.
Café Veracruz	Coffee	Veracruz, México.
Cajeta de Celaya, Región de Origen	Goat milk caramel spread	Guanajuato, México
Chile Habanero de la Península de Yucatán	Chilli	Campeche, Yucatán y Quintana Roo, México.
Chipotle Mexicano ⁴⁷	Chilli	México
Fresana, Fresa Michoacan, Región de Origen	Strawberry	Michoacán de Ocampo, México
Jalapeño Mexicano ⁴⁸	Chilli	México
Limón Michoacano, Región de Origen	Lime	Michoacán de Ocampo, México
Mango Ataúlfo del Soconusco Chiapas	Mango	Chiapas, México.
Michin.	Trout	Estado de México; México. Michoacán, México
Nopal Villa Valtierra, Región de Origen	Cactus	Guanajuato, México
Pan de Tingüindín, Región de Origen	Bread	Michoacán de Ocampo, México
Pan Grande de Acámbaro, Región de Origen	Bread	Guanajuato, México
Queso Cotija, Región de Origen	Cheese	Jalisco, México Michoacán de Ocampo, México
Vainilla de Papantla	Vanilla	Veracruz de la Llave, México. Puebla de Zaragoza, México.

⁴⁷ The protection of the term "Chipotle" in the multicomponent geographical indication "Chipotle Mexicano" is not sought.

⁴⁸ The protection of the term "Jalapeño" in the multicomponent geographical indication "Jalapeño Mexicano" is not sought.

APPENDIX TO ANNEX II

As regards the list of geographical indications of the European Union set out in Part A of Annex II of XXX, the protection provided in accordance with Article X.34 of the Agreement is not sought in respect of the following individual terms which are part of a compound geographical indication name:

“aceite”, “ail”, “ail blanc”, “ail rose”, “almkäse”, “alpkäse”, “apfel”, “azafrán”, “azeite”, “azeites”, “beef”, “bergkäse”, “beurre”, “bier”, “biperra”, “bleu”, “blue cheese”, “bratwürste”, “bresaola”, “brie”, “bučno olje”, “camembert”, “canard à foie gras”, “capocollo”, “cecina”, “chmel”, “chouriça”, “chouriço”, “cítricos”, “cítrics”, “coppa”, “cotechino”, “culatello”, “dehesa”, “edam”, “emmental”, “essence de lavande”, “farmed salmon”, “fourme”, “fromage”, “geitenkaas”, “gouda”, “graukäse”, “hopfen”, “huile d’olive”, “huile essentielle de lavande”, “huîtres”, “jambon”, “jamón”, “klobasa”, “kren”, “kulen”, “kürbiskernöl”, “lamb”, “lebkuchen”, “lentille verte”, “linguiça”, “llonganissa”, “maçã”, “magiun de prune”, “markenspeck”, “marzipan”, “med”, “mel”, “mela”, “mozzarella”, “noix”, “oli”, “ovos moles”, “paleta”, “pancetta”, “pancetta”, “pâté”, “pêra”, “piada”, “piadina”, “piment”, “pimentón”, “pivo”, “plate”, “polvorones”, “pomme”, “pomodoro”, “presunto”, “prosciutto”, “provolone”, “pršut”, “pruneaux”, “queijo”, “queijo amarelo”, “queijo picante”, “queijos”, “queixo”, “queso”, “riso”, “rostbratwürste”, “salam”, “salamini”, “salchichón”, “salsiccia”, “schinken”, “sierra”, “sobrasada”, “soppressata”, “speck”, “szalámi”, “telemea”, “téliszalámi”, “ternera”, “tomme”, “turrón”, “volailles”, “white” “cheese”, “zampone”, “zašink”, “γλυκό τριαντάφυλλο (glyko triantafyllo)”, “γραβιέρα (graviera)”, “ελιά (elia)”, “κορινθιακή σταφίδα (korinthiaki stafida)”, “κρόκος (krokos)”, “λουκούμι (loukoumi)”, “πράσινες ελιές (prasines elies)” and “розово масло (rozovo maslo)”.

As regards the list of geographical indications of Mexico set out in Part B of Annex II of XXX, the protection provided in accordance with Article X.34 of the Agreement is not sought in respect of the following individual terms which are part of a compound geographical indication name:

“Café”, “mango”, “vainilla”, “chile”, “habanero”, “arroz”, “cacao”, “fresa”, “limón”, “queso”, “pan”, “grande”, “ate”, “cajeta”, “nopal”, “berries”.

As regards the list of geographical indications of Mexico set out in Part B of Annex II of XXX, the protection provided in accordance with Article X.34 of the Agreement is not sought in respect of the following terms which are added to some geographical indications name:

“Región de Origen”.

ANNEX III

Geographical Indications identifying a product originating and protected in Mexico.

Name	Product type	Place of Origin
Alfareria de Tzintzuntzan Uricha Region De Origen	Pottery (handicrafts)	Michoacán de Ocampo, México
Alfarería Dolorense	Pottery	Guanajuato, México
Alfarería Punteada de Capula Región De Origen.	Pottery (handicrafts)	Michoacán de Ocampo, México
Alfarería Tradicional de Capula Región De Origen.	Pottery (handicrafts)	Michoacán de Ocampo, México
Ámbar de Chiapas	Handicraft Natural Resin	Chiapas, México
Bordados de Santa Cruz Tzintzuntzan Region de Origen	Embroidery	Michoacán de Ocampo, México
Cantera de Morelia Region De Origen	Quarry	Michoacán de Ocampo, México
Catrinas de Barro De Capula. Región de Origen	Pottery in clay (handicrafts)	Michoacán de Ocampo, México
Cobre Martillado De Santa Clara Del Cobre Region De Origen.	Cooper	Michoacán de Ocampo, México
Esfera de Tlalpujahuá Otjo Region De Origen	Spheres (Handicrafts)	Michoacán de Ocampo, México
Guitarras de Paracho Región de Origen.	Handicrafts (guitars)	Michoacán de Ocampo, México
Juguete Artesanal de Michoacan Sapichu Región de Origen	Handicrafts (toys)	Michoacán de Ocampo, México
Laca Perfilada de Patzcuaro En Oro 23 Qts. Región De Origen	Handicrafts	Michoacán de Ocampo, México

Mayolica de Dolores Hidalgo y Guanajuato	Glazed Pottery	Guanajuato, México
Olinalá	Handicraft	Guerrero, México
Pasta de Caña de Maíz J'Atzingueni	Handicraft	Michoacán de Ocampo, México
Piñas De Barro de San Jose De Gracia Region de Origen	Handicrafts (Clay)	Michoacán de Ocampo, México
Sombreros San Pancho, pueblos del Rincón	Hats	Guanajuato, México
Talavera	Handicraft	Puebla de Zaragoza, México Tlaxcala, México

SUB-SECTION 5

Patents

Article X.44

International Agreements

Each Party shall adhere to the Patent Cooperation Treaty, done at Washington on 19 June 1970, as amended on 28 September 1979 and last modified on 3 October 2001, and recognise the importance of adopting or maintaining procedural standards consistent with the Patent Law Treaty, adopted in Geneva on 1 June 2000.

Article X.45

Patents and Public Health

1. The rights and obligations of this Chapter do not and shall not prevent a Party from taking measures to protect public health. The Parties recognise the importance and affirm their commitment to the Declaration on the TRIPS Agreement and Public Health, adopted in Doha on 14 November 2001 by the Ministerial Conference of the WTO (hereinafter referred to as “Doha Declaration”). In interpreting and implementing the rights and obligations under this Sub-Section, the Parties shall ensure consistency with the Doha Declaration.
2. The Parties shall contribute to the implementation and respect the decision of the WTO General Council of 30 August 2003 on implementation of paragraph 6 of the Doha Declaration as well as the Protocol of 6 December 2005 amending the TRIPS Agreement.

Article X.46

Supplementary protection in case of delays in marketing approval for pharmaceutical including biologic products^{49,50}

1. The Parties recognise that pharmaceutical products, including biologic products, protected by a patent in their respective territory may be subject to an administrative approval⁵¹ procedure

⁴⁹ Each Party shall determine which products fall under the terms “pharmaceutical products” and “biologic products” in accordance with its relevant legislation in place at the time of the conclusion of this Agreement.

⁵⁰ Mexico will implement this obligation no later than 2 years after the entry into force of this Agreement.

⁵¹ For greater certainty, the term “marketing approval” is equivalent to the term “marketing authorisation”.

before being put on the market. They recognise that the period that elapses between the filing of the application for a patent and the approval to place the product on their respective market, as defined for that purpose by the relevant legislation, may shorten the period of effective protection under the patent.

2. Each Party shall provide for an adequate and effective mechanism to compensate the patent owner for the reduction in the effective patent life resulting from unreasonable delays⁵² in the granting of the first marketing approval in its respective territory. Such compensation shall be in the form of an additional *sui generis* protection, equal to the time by which the period referred to in the footnote to this paragraph is exceeded. The maximum term of this additional protection shall not exceed five years.⁵³
3. As an alternative to paragraph 2, a Party may make available an extension, not exceeding five years⁵⁴, of the duration of the rights conferred by the patent protection to compensate the patent owner for the reduction in the effective patent life as a result of the marketing approval procedure. The duration of this extension shall take effect at the end of the lawful term of the patent for a period equal to the period which elapses between the date on which the application for a patent was filed and the date of the first approval to place the product on the market in the Party, reduced by a period of five years.
4. For greater certainty, in implementing the obligations of this Article, each Party may provide for conditions and limitations, provided that the Party continues to give effect to this Article.
5. Each Party shall make best efforts to process applications for marketing approval of pharmaceutical products in an efficient and timely manner, with a view to avoiding unreasonable or unnecessary delays. With the objective of avoiding unreasonable delay, a Party may adopt or maintain procedures that expedite the processing of marketing approval application.

SUB-SECTION 6

Plant Varieties

⁵² For the purposes of this Article, an unreasonable delay shall include at least a delay of more than two years in the first response to the applicant following the date of filing of the application for marketing approval. Any delays that occur in the granting of a marketing approval due to periods attributable to the applicant or any period that is out of control of the marketing approval authority need not be included in the determination of such delay.

⁵³ To the extent a Party complies with this paragraph, that Party is not obliged to comply with the alternative provided in paragraph 3.

⁵⁴ This period can be extended for further six months in the case of pharmaceutical products for which paediatric studies have been carried out, and the results of those studies are reflected in the product information.

Article X.47

International Agreements

Each Party shall protect plant varieties rights, in accordance with the International Convention for the Protection of New Varieties of Plants adopted in Paris on 2 December 1961, as lastly revised in Geneva on March 19, 1991 (1991 UPOV ACT), including the exceptions to the breeder's right as referred to in Article 15 of the said Convention, and co-operate to promote and enforce these rights⁵⁵.

SUB-SECTION 7

Protection of Undisclosed Information

Article X.48

Scope of protection of trade secrets

1. In the course of ensuring effective protection against unfair competition as provided in Article 10bis of the Paris Convention, each Party shall provide the legal means, including administrative or civil judicial proceedings⁵⁶, for any person to prevent trade secrets from being disclosed to, acquired by, or used by others without the consent of the person lawfully in control of the information in a manner contrary to honest commercial practices.⁵⁷ As used in this Sub-section, trade secrets encompass undisclosed information as provided for in Article 39.2 of the TRIPS Agreement.
2. For the purpose of this subsection, a Party shall at least consider the following conducts contrary to honest commercial practices:
 - (a) the acquisition of a trade secret without the consent of the trade secret holder, whenever carried out by unauthorised access to, appropriation of, or copying of any documents, objects, materials or electronic files, lawfully under the control of the trade secret holder, containing the trade secret or from which the trade secret can be deduced; or

⁵⁵ Mexico shall implement this provision not later than four years after the date of entry into force of this Agreement.

⁵⁶ For greater certainty, a Party may provide those legal means through criminal procedures in accordance with its domestic laws.

⁵⁷ The Parties may consider not to apply these procedures when the conduct contrary to honest commercial practices is carried out, in accordance with their relevant domestic law, to reveal misconduct, wrongdoing or illegal activity or for the purpose of protecting a legitimate interest recognised by law.

- (b) the use or disclosure of a trade secret whenever carried out, without the consent of the trade secret holder, by a person who acquired the trade secret unlawfully or being in breach of confidentiality agreement or of any other duty not to disclose the trade secret or to limit its use.^{58, 59}

Article X.49

Administrative or civil judicial procedures of trade secrets

1. Each Party shall ensure that the any person participating in the proceedings referred to in Article X.48.1 (scope of protection of trade secrets) or who has access to documents which form part of those legal proceedings, is not permitted to use or disclose any trade secret or alleged trade secret which the competent authorities have, in response to a duly reasoned application by an interested party, identified as confidential and of which they have become aware as a result of such participation or access.
2. In the proceedings referred to in Article X.48.1 (scope of protection of trade secrets), each Party shall provide that its authorities have the competence at least to take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in the proceedings. Such specific measures may include, in accordance with their respective domestic law, the possibility of restricting access to certain documents in whole or in part, of restricting access to hearings and their corresponding records or transcript, and of making available a non-confidential version of judicial decision in which the passages containing trade secrets have been removed or redacted.

Article X.50

Protection of undisclosed data related to pharmaceutical including biologics products⁶⁰

⁵⁸ For greater certainty, the Parties understand that the criteria provided in the domestic laws and regulations of each Party contain the breach of a duty to limit the use of a trade secret.

⁵⁹ The EU considers that the following situations do not fall under paragraph 2:

- (a) independent discovery or creation by a person of the relevant information;
- (b) reverse engineering of a product by a person who is lawfully in possession of it and who is free from any legally valid duty to limit the acquisition of the relevant information;
- (c) acquisition, use or disclosure of information required or allowed by the relevant domestic law;
- (d) use by employees of their experience and skills honestly acquired in the normal course of their employment.
- (e) disclosure of information in the exercise of the right to freedom of expression and information.

⁶⁰ Mexico will implement this obligation no later than 2 years after the entry into force of this Agreement.

1. If a Party requires, as a condition for a marketing approval of new⁶¹ pharmaceutical products, including biologic products⁶², the submission of undisclosed test or other data of pre-clinical tests or clinical trials necessary to determine whether the use of those products is safe and effective, the Party shall protect such data against disclosure to third parties, if the origination of such data involves considerable effort, except where the disclosure is necessary for an overriding public interest or unless steps are taken to ensure that the data are protected against unfair commercial use.
2. For pharmaceutical, including biologic products, the Party shall not grant a marketing approval to third persons permitting them, without the consent of the person that previously submitted the data subject to paragraph 1, to market the product⁶³ on the basis of that data or the marketing approval granted to the person that submitted such data⁶⁴, for at least six years from the date⁶⁵ of the marketing approval of the new product in the territory of the Party.⁶⁶
3. There shall be no limitation on either Party to implement abbreviated authorisation procedures for such products on the basis of bioequivalence and bioavailability studies.

Article X.51

Protection of undisclosed data related to plant protection products⁶⁷

1. If a Party requires, as a condition for a marketing approval⁶⁸ of a new⁶⁹ plant protection product the submission of undisclosed test or other data concerning the safety and

⁶¹ For purposes of this article, the term “new” implies that the products contain a new chemical entity that has not been previously approved in the territory of the Party or refers to a new biologic or biotechnological product that has not been previously approved in the territory of the Party.

⁶² Each Party shall determine which products fall under the terms “pharmaceutical products” and “biologic products” in accordance with its relevant legislation in place at the time of the conclusion of this Agreement.

⁶³ For purposes of this paragraph, a Party may provide that the term “product” refers to a same or similar product.

⁶⁴ For greater certainty, this includes data submitted for authorisations granted to the person that submitted such information in the territories of the Parties and of non-Parties.

⁶⁵ For greater certainty, a Party may limit the period of protection under this paragraph to 6 years.

⁶⁶ A Party may provide that, for biologics, the protection of undisclosed data referred to in this article applies only to the first marketing approval of the new biologic product.

⁶⁷ Mexico will implement this obligation no later than 2 years after the entry into force of this Agreement.

⁶⁸ For purposes of this article, the term “marketing approval” is synonymous with “sanitary approval” under the domestic law of a Party.

efficacy of the product⁷⁰, the Party shall protect such data against disclosure to third parties, except where the disclosure is necessary for an overriding public interest or unless steps are taken to ensure that the data are protected against unfair commercial use.

2. For plant protection products, a Party shall not grant a marketing approval to third persons permitting them, without the consent of the person that previously submitted the data subject to paragraph 1, to market the product on the basis of that data or the marketing approval granted to the person that submitted such data, for at least 10 years⁷¹ from the date of the marketing approval of the new product in the territory of the Party.
3. Each Party shall establish rules to avoid duplicative testing on vertebrate animals.
4. There shall be no limitation on either Party to implement abbreviated authorisation procedures for such products on the basis of equivalence studies.

SECTION C

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

SUB-SECTION 1

General Provisions

Article X.52

General Obligations

1. The Parties affirm their commitments under the TRIPS Agreement and in particular of Part III thereof, and shall provide for the complementary measures, procedures and remedies under this Section, which are necessary to ensure the enforcement of intellectual property rights. These measures, procedures and remedies shall be fair and equitable, and shall not

⁶⁹ For purposes of this article, the term “new” imply that the products contain a new chemical entity that has not been previously approved in the territory of the Party.

⁷⁰ Each Party confirms that the obligations of this Article apply to cases in which the Party requires the submission of undisclosed test or other data concerning: (a) only the safety of the product, (b) only the efficacy of the product or (c) both.

⁷¹ For greater certainty, a Party may limit the period of protection under this Article to 10 years.

be unnecessarily complicated or costly, or entail unreasonable time limits or unwarranted delays.

2. The measures, procedures and remedies referred to in paragraph 1 shall also be effective, proportionate and dissuasive and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.
3. It is understood that this Sub-Section does not create any obligation to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of the Parties to enforce their law in general. Nothing in the Sub-Section creates any obligations with respect to the distribution of resources as between enforcement of intellectual property right and the enforcement of law in general.

Article X.53

Persons Entitled to Apply for the Application of the Measures, Procedures and Remedies

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Part III of the TRIPS Agreement:

- (a) the holders of intellectual property rights in accordance with the provisions of the applicable law;
- (b) all other persons authorised to use those intellectual property rights, in particular licensees, in so far as permitted by and in accordance with the provisions of the applicable law;
- (c) intellectual property collective rights management bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law; and
- (d) professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights, in so far as permitted by and in accordance with the provisions of the applicable law.

SUB-SECTION 2

Civil and Administrative Enforcement

Article X.54

Evidence

1. Each Party shall ensure that, even before the commencement of proceedings on the merits of the case, the competent judicial authorities may, on application by a party which has presented reasonably available evidence to support his claims that his intellectual property right has been infringed or is about to be infringed, order prompt and effective provisional measures to preserve relevant evidence in respect of the alleged infringement, subject to the protection of confidential information.
2. Such measures may include the detailed description, with or without the taking of samples, or the physical seizure of the alleged infringing goods, and, in appropriate cases, the materials and implements used in the production and/or distribution of these goods and the documents relating thereto.
3. Each Party shall take the measure necessary, in cases of infringement of an intellectual property right committed on a commercial scale, to provide the competent judicial authority with the competence to order, where appropriate, by request of a party in the proceeding, the communication of banking, financial or commercial documents under the control of the opposing party, subject to the protection of confidential information.⁷²

Article X.55

Right of Information

1. Each Party shall ensure that, in the context of proceedings concerning an infringement of an intellectual property right and in response to a justified and proportionate request of the claimant, the competent judicial authorities may order the infringer and/or any other person which is party to a litigation or a witness therein to provide information on the origin and distribution networks of the goods or services which infringe an intellectual property right⁷³.

⁷² In the case of Mexico, in accordance with its domestic law, an equivalent competence may only be provided for criminal procedures.

⁷³ The EU may decide that:

- (a) “Any other person” in this paragraph means a person who was:
 - (i) found in possession of the infringing goods on a commercial scale;
 - (ii) found to be using the infringing services on a commercial scale;
 - (iii) found to be providing on a commercial scale services used in infringing activities; or
 - (iv) indicated by the person referred to in subparagraph (i) to (iii) as being involved in the production, manufacture or distribution of the infringing goods or the provision of the infringing services.
- (b) Information shall, as appropriate, comprise:
 - (i) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers; or
 - (ii) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.

2. This Article shall apply without prejudice to other statutory provisions which:
 - (a) grant the right holder rights to receive fuller information;
 - (b) govern the use in civil or criminal proceedings of the information communicated pursuant to this Article;
 - (c) govern responsibility for misuse of the right of information;
 - (d) afford an opportunity for refusing to provide information which would force the person referred to in paragraph 1 to admit his own participation or that of his close relatives in an infringement of an intellectual property right; or
 - (e) govern the protection of confidentiality of information sources or the processing of personal data.

Article X.56

Provisional and Precautionary Measures

1. Each Party shall ensure that the judicial authorities may, at the request of the applicant, issue against the alleged infringer an interlocutory injunction intended to prevent any imminent infringement of an intellectual property right, or to forbid, on a provisional basis and subject, where appropriate, to a recurring penalty payment where provided for by domestic law, the continuation of the alleged infringements of that right, or to make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. An interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe an intellectual property right. For the purposes of this Article, “intermediaries” include internet service providers.
2. An interlocutory injunction may also be issued to order the seizure or delivery up of goods suspected of infringing an intellectual property right, so as to prevent their entry into or movement within the channels of commerce.
3. In the case of an alleged infringement, the Parties shall provide the judicial authorities with the competence to order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of his bank accounts and other assets. To that end, the competent authorities may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.⁷⁴

⁷⁴ In the case of Mexico, equivalent competence to order the communication of bank, financial or commercial documents may only be provided for criminal procedures in accordance with the relevant domestic law. The

Article X.57

Remedies

1. Each Party shall ensure that the competent judicial authorities may order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the destruction or at least the definitive removal from the channels of commerce, of goods that they have found to infringe an intellectual property right. If appropriate, the competent judicial authorities may also order destruction of materials and implements predominantly used in the creation or manufacture of those goods.
2. In considering a request for remedies the need for proportionality between the seriousness of the infringement and the remedies ordered as well as the interests of third parties shall be taken into account.

Article X.58

Injunctions

Each Party shall ensure that, when a judicial decision finds an infringement of an intellectual property right, the competent judicial authorities may issue against the infringer as well as against an intermediary whose services are being used by a third party to infringe an intellectual property right an injunction aimed at prohibiting the continuation of the infringement.

Article X.59

Damages

1. Each Party shall provide that its judicial authorities have the authority at least to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of an infringement of that person's intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in infringing activity.⁷⁵
2. In determining the amount of damages under paragraph 1, each Party's judicial authorities shall take into account all appropriate aspects, and have the authority to consider, among

Parties may limit this competence to infringements committed on a commercial scale and situations where the applicant demonstrates circumstances likely to endanger the recovery of damages.

⁷⁵ A Party may provide that the initiation of procedure to claim for damages is not subject to a final declaration of violation of intellectual property rights.

other things, any legitimate measure of value the right holder submits, which may include lost profits, the value of the infringed goods or services measured by the market price, or the suggested retail price.

3. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that its judicial authorities have the authority to order the infringer, at least in cases described in paragraph 1, to pay the right holder the infringer's profits that are attributable to the infringement. A Party may comply with this paragraph through presuming those profits to be the damages referred to in paragraph 1.
4. Each Party may provide that the judicial authorities may order in favour of the injured party the recovery of profits or the payment of damages which may be pre-established, where the infringer did not knowingly, or without reasonable grounds to know, engage in infringing activity.

Article X.60

Legal Costs

Each Party shall ensure that reasonable and proportionate legal costs and other expenses incurred by the successful party shall as a general rule be borne by the unsuccessful party, unless equity does not allow this.

Article X.61

Publication of Judicial Decisions

Without prejudice to its law governing, the protection of confidentiality of information source or the protection of personal data, each Party shall ensure that, in legal proceedings instituted for infringement of an intellectual property right, the competent judicial authorities may order, the request of the applicant, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part.

Article X.62

Presumption of Authorship or Ownership

The Parties shall recognise that, for the purposes of applying the measures, procedures and remedies provided for in this Section:

- (a) for the author of a literary or artistic work, in the absence of proof to the contrary, to be regarded as such, and consequently to be entitled to institute infringement proceedings, it shall be sufficient for his/her name to appear on the work in the usual manner;

- (b) the provision under (a) shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter.

Article X.63

Administrative Procedures

To the extent that any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those set forth in the relevant provisions of this Section.

Article X.64

Voluntary Stakeholder Initiatives

Each Party shall endeavour to facilitate voluntary stakeholder initiatives to reduce intellectual property rights infringement, including over the Internet and in other marketplaces, focusing on concrete problems and seeking practical solutions that are realistic, balanced, proportionate and fair for all concerned stakeholders.

SECTION D

BORDER ENFORCEMENT

Article X.65

Consistency with GATT and TRIPS Agreement

In implementing border measures for the enforcement of intellectual property rights by customs, whether or not covered by this Agreement, each Party shall ensure consistency with its obligations under the General Agreement on Tariffs and Trade (GATT) and TRIPS Agreement and, in particular, with Article 41 and Section 4 of the Part III of TRIPS Agreement.

Article X.66

Border Enforcement Measures Related to Intellectual Property Rights

1. Each Party shall have in place procedures allowing for the destruction of goods infringing intellectual property rights, in accordance with TRIPS Articles 46 and 59.

2. With respect to goods under customs control, the customs authorities of each Party shall be active, in accordance with the domestic law and regulations and in coordination with other relevant authorities, in targeting and identifying shipments containing goods suspected of counterfeit trademarks or pirated copyright goods or other infringements of intellectual property rights. At least with regard to import goods, these activities are carried out on the basis of risk analysis.
3. Each Party shall adopt and maintain a centrally managed electronic data-base relating at least to trademarks and industrial designs, which will serve as a relevant tool for cooperation with right holders, free of charge, and for allowing the provision of information for risk analysis. Each Party shall endeavour to extend the electronic data-base for risk analysis to other intellectual property rights.
4. Each Party shall permit the right-holder to have information automatically included in the electronic database provided that it complies with the relevant requirements in accordance with its domestic laws and regulations. The validation of the information provided by a right-holder will be automatic or done within a reasonable period of time by the competent authorities of each Party.
5. Parties recognize the benefits of maintaining and improving an electronic data base, since Parties share the view that its purpose includes, *inter alia*, to contribute to the detection of infringements in intellectual property rights and to provide elements to initiate the procedure of the suspension or detention of goods under customs control.
6. The Parties shall provide that its customs authorities may act upon their own initiative to suspend the release of or detain suspect goods, or to inform the right-holder or the relevant authorities in order that they assess the need to initiate a procedure leading to the suspension or detention of those goods.
7. Each Party may have in place procedures allowing for the swift destruction of counterfeit trademark and pirated goods sent through postal or express couriers' consignments.
8. The customs authorities of each Party shall maintain a regular dialogue and promote cooperation with the stakeholders and with other authorities involved in the enforcement of the intellectual property rights referred in this Article.
9. The Parties agree to cooperate with respect to international trade in suspect goods and, in particular, to share information on such trade, in accordance with domestic law and regulations.
10. The Parties shall have a regular exchange on the proper implementation and administration of this Article.

SECTION E

FINAL PROVISIONS

Article X.67

Cooperation and Transparency

1. The Parties agree to cooperate with a view to supporting implementation of the commitments and obligations undertaken under this Chapter.
2. The Parties shall draw on the following areas, among others, with respect to cooperation on intellectual property rights matters. The areas of cooperation include the following activities, but are not limited to:
 - (a) The exchange of information on developments in the domestic and international intellectual property rights policy;
 - (b) The exchange of information on intellectual property laws and regulations of the Parties, including initiatives or amendments;
 - (c) The exchange of experience between the Parties on the enforcement of intellectual property rights;
 - (d) Coordination to prevent trade of counterfeit goods, including with other countries;
 - (e) Technical assistance, capacity building; exchange and training of personnel;
 - (f) The protection and defence of intellectual property rights and the dissemination of information in this regard in, inter alia, business circles and civil society;
 - (g) Education and raising awareness relating to intellectual property including the impact of intellectual property infringements on the economy and the safety of consumers;
 - (h) Enhancement of institutional cooperation, particularly between the intellectual property offices;
 - (i) Collaboration engaging with SMEs, including at SME-focused events or gatherings, regarding protecting and enforcing intellectual property rights and reducing infringement;
 - (j) Exchange information with each other regarding efforts to facilitate voluntary stakeholder initiatives in their respective territories.
3. The Parties agree to establish a Sub-Committee on Intellectual Property to follow up on the implementation of the provisions of this Chapter and any other relevant issue. This Sub-

Committee shall be co-chaired by officials of both Parties and will meet at least once per year, except if the Parties agree otherwise. These meetings shall be carried out through any agreed means, including by video conference.

4. Each Party shall designate a central contact point for the purpose of cooperation under this Chapter.