

## **CHAPTER 15 INTELLECTUAL PROPERTY RIGHTS**

### **Section A: General Provisions**

#### **Article 15.1: Objectives**

1. The objectives of this Chapter are:
  - (a) to facilitate international trade and economic, social and cultural development through the dissemination of ideas, technology and creative works;
  - (b) to provide certainty for right holders and users of intellectual property over the protection and enforcement of intellectual property rights; and
  - (c) to facilitate the enforcement of intellectual property rights with a view, *inter alia*, to eliminating trade in goods infringing intellectual property rights and incentivizing research.
  
2. The Parties recognize that the protection and enforcement of intellectual property rights should strike a balance between the legitimate interest of the right holders and the public at large.

#### **Article 15.2: General Principles**

1. The Parties shall grant and ensure adequate, effective, transparent and non-discriminatory protection of intellectual property rights, and provide for measures for the enforcement of such rights against infringement thereof, counterfeiting and piracy, in accordance with the provisions of this Chapter and the international agreements acceded to by both Parties.
  
2. In respect of all categories<sup>1</sup> of intellectual property covered in this Chapter, the Parties shall accord to nationals<sup>2</sup> of the other Party treatment no less favorable than it accords to its own nationals with regard to the protection<sup>3</sup>. Exemptions from this obligation must be

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<sup>1</sup> For the purposes of this Chapter, "intellectual property" comprises in particular copyright and related rights, trademarks for goods and services, industrial designs, patents, utility model, plant varieties, and undisclosed information.

<sup>2</sup> For the purposes of paragraph 2, a national of a Party shall include, in respect of the relevant right, any person, natural or legal, of that Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 15.3.

<sup>3</sup> For the purposes of paragraph 2, protection includes: (i) matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter, (ii) the prohibition on circumvention of effective

in accordance with the substantive provisions of Articles 3 and 5 of the TRIPS Agreement and Article 4(2) of the *World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty* (hereinafter referred to as the “WPPT”).

3. The Parties may take appropriate measures, provided that they are consistent with the provisions of this Agreement and their international obligations, 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.

### **Article 15.3: International Agreements**

The Parties affirm their commitments established in existing international agreements in the field of intellectual property rights to which both Parties are party, including the following:

- (a) the TRIPS Agreement;
- (b) the *Paris Convention for the Protection of Industrial Property* (1967) (the Paris Convention);
- (c) the *Berne Convention for the Protection of Literary and Artistic Works* (1971) (the Berne Convention);
- (d) the *Patent Cooperation Treaty* (1970), as amended in 1979, and modified in 1984 and 2001;
- (e) the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* (1977), as amended in 1980;
- (f) the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks* (1957), as amended in 1979;
- (g) the *Protocol relating to the Madrid Agreement concerning the International Registration of Marks* (1989);
- (h) the *World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty* (1996);
- (i) the *WIPO Copyright Treaty* (1996) (hereinafter referred to as the “WCT”);
- (j) the *Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms* (1971);

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technological measures set out in Article 15.8, and (iii) the rights and obligations concerning rights management information set out in Article 15.9.

- (k) the *International Convention for the Protection of New Varieties of Plants 1978* (hereinafter referred to as “1978 UPOV Convention”); and
- (l) the *Convention Establishing the World Intellectual Property Organization*.

#### **Article 15.4: More Extensive Protection**

Each Party may, but shall not be obliged to, provide more extensive protection for, and enforcement of, intellectual property rights under its law than this Chapter requires, provided that the more extensive protection does not contravene this Chapter.

#### **Article 15.5: Intellectual Property and Public Health**

1. The Parties recognize the principles established in the *Declaration on the TRIPS Agreement and Public Health* (WT/MIN(01)/DEC/2), adopted on 14 November 2001 by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to this Declaration. In interpreting and implementing the rights and obligations under this Chapter, the Parties are entitled to rely upon the *Declaration on the TRIPS Agreement and Public Health*.

2. The Parties reaffirm their commitment to contribute to the international efforts to implement the Decision of the WTO General Council of 30 August 2003 on the *Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health*, as well as the Protocol Amending the TRIPS Agreement, done at Geneva on 6 December 2005.

### **Section B: Copyright and Related Rights**

#### **Article 15.6: Protection of Copyright and Related Rights**

1. Without prejudice to the obligations set out in the international agreements to which both Parties are party, each Party shall, in accordance with its laws and regulations and this Chapter<sup>4</sup> grant and ensure adequate and effective protection to the authors of works and to performers, producers of phonograms and broadcasting organizations for their works, performances, phonograms and broadcasts, respectively.

2. Each Party shall provide that authors, performers, producers of phonograms, and broadcasting organizations have the right to authorize or prohibit reproductions of their works, performances, phonograms and broadcasts, in any manner or form.

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<sup>4</sup> For the purpose of this Article, this Chapter refers to Articles on copyright and related rights in this Chapter.

3. Each Party shall provide that the term of protection of broadcast shall not be less than 50 years after the taking place of a broadcasting, whether this broadcasting is transmitted by wire or over the air, including by cable or satellite.

### **Article 15.7: Broadcasting and Communication to the Public**

1. Performers and producers of phonograms shall enjoy the right to remuneration for the direct or indirect use of phonograms published for commercial purposes for broadcasting or for any communication to the public.<sup>5</sup>

2. Each Party shall provide broadcasting organizations with the exclusive right to authorize or prohibit:

- (a) the re-broadcasting of their broadcasts;
- (b) the fixation of their broadcasts; and
- (c) the reproduction of fixations, made without their consent, of their broadcasts.<sup>6</sup>

### **Article 15.8: Protection of Technological Measures**

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of any effective technological measures, which the person concerned carries out in the knowledge, or with reasonable grounds to know, that such person is pursuing that objective.

2. For the purposes of this Chapter, **technological measure** 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 performance or phonogram, which are not authorised by the right holder of any copyright or any right related to copyright as provided for by each Party's legislation, including access control measures that prevent or restrict access to works made available in the network.

3. Each Party may provide for exceptions and limitations to measures implementing paragraphs 1 and 2 in accordance with its legislation and the relevant international agreements referred to in Article 15.3.

### **Article 15.9: Protection of Rights Management Information**

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<sup>5</sup> It is understood that this paragraph is subject to the obligation of each Party to give such right under international agreements.

<sup>6</sup> The exercise of the above-mentioned right shall not prejudice the protected rights in works, performances, and phonograms embodied in the broadcast.

1. Each Party shall provide adequate and effective legal protection against any person knowingly performing any of the following acts, knowing, or having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of any right covered by this Chapter or the Berne Convention, WCT and WPPT:

- (a) to remove or alter any electronic rights management information without authority; or
- (b) to communicate to the public, without authority, works, copies of works, performance, copies of fixed performance or phonograms knowing that electronic rights management information has been removed or altered without authority.

2. For the purposes of this Chapter, **rights management information** means any information provided by right holders which identifies the work or performance or phonogram referred to in this Chapter, the author or any other right holder, or information about the terms and conditions of use of the work or performance or phonogram, and 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 performance or phonogram referred to in this Chapter.

#### **Article 15.10: Limitations and Exceptions**

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

### **Section C: Trademarks**

#### **Article 15.11: Trademarks Protection**

1. The Parties shall grant adequate and effective protection to trademark right holders of goods and services.

2. Neither Party may require, as a condition of registration, that signs be visually perceptible, nor may either Party deny registration of a trademark solely on the grounds that the sign of which it is composed is a sound.

3. Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services that are identical or similar to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign, for

identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Parties making rights available on the basis of use.

4. Each Party shall provide that the signs having the nature of deception shall not be used as trademarks and shall not be registered as trademarks.

#### **Article 15.12: Exceptions to Trademarks Rights**

Each Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.

#### **Article 15.13: Well-Known Trademarks**

1. No Party may require as a condition for determining that a trademark is well-known that the trademark has been registered in the Party or in another jurisdiction, included on a list of well-known trademarks, or given prior recognition as a well-known trademark.

2. The protection according to this Article shall not be limited to identical or similar goods or services where the registered trade mark is well known in the respective Party and provided that use of a trademark which is a reproduction, an imitation or a translation, of the well-known trademark above in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.

3. Each Party shall provide for appropriate measures to refuse or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark, for related goods or services, if the use of that trademark is likely to cause confusion, or to be misleading, and the interests of the owner of the well-known mark are likely to be damaged by such use.

#### **Article 15.14: Registration and Applications of Trademarks**

1. Each Party shall provide a system for the registration of trademarks, which shall include:

- (a) a requirement to provide to the applicant a communication in writing, which may be provided electronically, of the reasons for a refusal to register a trademark;
- (b) an opportunity for the applicant to respond to communications from the trademark authorities, to contest an initial refusal, and to appeal judicially a final refusal to register;

- (c) an opportunity for interested parties to oppose a trademark application before registration and to seek cancellation or invalidation of a trademark after it has been registered; and
  - (d) a requirement that decisions in opposition and cancellation proceedings be reasoned and in writing. Written decisions may be provided electronically.
2. Each Party shall provide a:
- (a) system for the electronic application for, and electronic processing, registering, and maintenance of trademarks; and
  - (b) publicly available electronic database, including an online database, of trademark applications and registrations.

## **Section D: Patents and Utility Model**

### **Article 15.15: Patents Protection**

1. Subject to the provisions of paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, provided that they are new, involve an inventive step, and are capable of industrial application.
2. Each Party may exclude from patentability inventions, the prevention within its territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law.
3. Each Party may also exclude from patentability:
- (a) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals; and
  - (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.
4. Each Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

5. Each Party may provide an applicant with accelerated examination for the patent application in accordance with domestic laws and regulations, on which topic the Parties agree to enhance cooperation.

#### **Article 15.16: Utility Model**

1. Considering that both Parties have established utility model system, in order to facilitate the understanding and utilizing of utility model system by right holders and the public from both Parties and keep the balance of interests between right holders and the public, the Parties agree to enhance the cooperation on utility model legal framework of the Parties by exchanging information and experience on laws and regulations concerning utility model.

2. In any dispute over utility model infringement, the court may require the complainant to furnish an evaluation report made by the competent authority based on a result of prior art searches, as evidence for hearing the utility model infringement, where the Party does not provide a substantive examination.

### **Section E: Genetic Resources, Traditional Knowledge and Folklore**

#### **Article 15.17: Genetic Resources, Traditional Knowledge and Folklore**

1. The Parties recognize the contribution made by genetic resources, traditional knowledge and folklore to scientific, cultural and economic development.

2. The Parties acknowledge and reaffirm the principles established in the *Convention on Biological Diversity* adopted on 5 June 1992 (hereinafter referred to in this Article as the “Convention”) and respect the requirements in *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*, especially those on prior informed consent and fair and equitable sharing of benefits. The Parties encourage the effort to enhance a mutually supportive relationship between the TRIPS Agreement and the Convention, regarding genetic resources and traditional knowledge.

3. Subject to each Party’s international rights and obligations and domestic laws, the Parties may adopt or maintain measures to promote the conservation of biological diversity and the equitable sharing of benefits arising from the use of genetic resources and traditional knowledge.

4. Subject to future developments of multilateral agreements or their respective domestic legislations, the Parties agree to further discuss relevant issues on genetic resources.

5. The Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of the Convention, shall cooperate in this regard subject



to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to the objectives of the Convention.

## **Section F: Plant Variety Protection**

### **Article 15.18: Plant Variety Protection**

1. The Parties shall respect regulations on new plant varieties protection of the other Party and grant adequate and effective protection to breeders of new plant varieties.
2. The Parties will enhance cooperation on testing of new plant varieties to increase the efficiency therein.
3. At least the following acts in respect of the propagating material of the protected variety shall require the authorization of the breeder:
  - (a) production or reproduction (multiplication) for the purposes of commercial marketing;
  - (b) conditioning for the purpose of commercial propagation;
  - (c) offering for sale;
  - (d) selling or other marketing; and
  - (e) importing or exporting.

## **Section G: Undisclosed Information**

### **Article 15.19: Undisclosed Information**

The Parties shall protect undisclosed information in accordance with Article 39 of the TRIPS Agreement.

## **Section H: Industrial Designs**

### **Article 15.20: Industrial Designs**

1. The Parties shall ensure in their national laws adequate and effective protection of industrial designs by providing a period of protection of at least 10 years.

2. The owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent, at least from making, offering for sale, selling, importing articles bearing or embodying the protected design when such acts are undertaken for commercial purposes.

3. Each Party may provide limited exceptions to the protection of industrial designs, provided that such exceptions do not unreasonably conflict with the normal exploitation of protected designs and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

## **Section I: Acquisition and Maintenance of Intellectual Property Rights**

### **Article 15.21: Acquisition and Maintenance of Intellectual Property Rights**

Where the acquisition of an intellectual property right is subject to the right being granted or registered, the Parties shall ensure that the procedures for grant or registration are of the same level as that provided in the TRIPS Agreement, in particular Article 62.

## **Section J: Enforcement of Intellectual Property Rights**

### **Article 15.22: General Obligation**

1. Each Party shall provide that final judicial decisions and administrative rulings of general application pertaining to the enforcement of intellectual property rights shall be published or, where publication is not practicable made available to the public, in its national language in such a manner as to enable governments and right holders to become acquainted with them. Each Party may provide exceptions in accordance with laws and regulations, for example, that information in those decisions concerning business secrets or personal privacy shall not be published.

2. Each Party publicizes information on its efforts to provide effective enforcement of intellectual property rights in its civil, administrative, and criminal systems, including any statistical information that the Party may collect for such purposes.<sup>7</sup>

### **Article 15.23: Presumption of Authorship or Ownership**

In civil, administrative, and criminal proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person

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<sup>7</sup> For greater certainty, nothing in paragraph 2 is intended to prescribe the type, format, and method of publication of the information a Party publicizes.

whose name is indicated in the usual manner is the right holder in such work, performance, phonogram, or broadcast as designated.

#### **Article 15.24: Civil and Administrative Procedures and Remedies**

1. Each Party shall make available to right holders<sup>8</sup> civil judicial procedures concerning the enforcement of any intellectual property right.
2. Each Party shall provide that:
  - (a) in civil judicial proceedings, its judicial authorities shall have the authority to order the infringer to pay the right holder:
    - (i) damages adequate to compensate for the injury the right holder has suffered as a result of the infringement<sup>9</sup>; or
    - (ii) the profits of the infringer that are attributable to the infringement which may be presumed to be the amount of damages referred to in subparagraph (a)(i); and
  - (b) in determining damages for infringement of intellectual property rights, its judicial authorities may consider, *inter alia*, the value of the infringed goods or services, measured by the market price, the suggested retail price, or other legitimate measure of value submitted by the right holder.
3. In civil judicial proceedings, each Party shall, at least with respect to works, phonograms, and performances protected by copyright or related rights, and in case of trademark counterfeiting, establish or maintain pre-established damages, which shall be available on the election of the right holder. Such pre-established damages shall be in an amount sufficient to constitute a deterrent to future infringements and to compensate fully the right holder for the harm caused by the infringement.<sup>10</sup>
4. Each Party shall provide that its judicial authorities, except in exceptional circumstances, shall have the authority to order, at the conclusion of civil judicial proceedings concerning copyright or related rights infringement, patent infringement, or trademark infringement, that the prevailing party shall be awarded payment by the losing party of court costs or fees and reasonable attorneys' fees.

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<sup>8</sup> For the purposes of this Article, "right holder" includes a federation or an association having the legal standing and authority to assert such rights, and also includes a person that exclusively has any one or more of the intellectual property rights encompassed in a given intellectual property.

<sup>9</sup> In the case of patent infringement, damages adequate to compensate for the infringement shall not be less than a reasonable royalty.

<sup>10</sup> Neither Party is required to apply paragraph 3 to actions for infringement against a Party or a third party acting with the authorization or consent of a Party.

5. In civil judicial proceedings concerning copyright or related rights infringement and trademark counterfeiting, each Party shall provide that its judicial authorities shall have the authority, to order the seizure of allegedly infringing goods and of any materials and implements the predominant use of which has been in the creation of infringing good and, at least for trademark counterfeiting, documentary evidence relevant to the infringement.

6. Each Party shall provide that:

- (a) in civil judicial proceedings, at the right holder's request, goods that have been found to be pirated or counterfeit shall be destroyed, under appropriate circumstances;
- (b) its judicial authorities shall have the authority to order that materials and implements that have been predominantly used in the manufacture or creation of such pirated or counterfeit goods be, without compensation of any sort, promptly destroyed or, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements; and
- (c) in regard to counterfeit trademarked goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit the release of goods into the channels of commerce.

7. Each Party shall provide that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities shall have the authority, when it deems appropriate, for the purpose of collecting evidence, to order the infringer to provide any information relevant with the infringement activities, to the judicial authorities, and when necessary and without prejudicing trade secrets, to the right holder.

8. Each Party shall provide that its judicial authorities have the authority to impose sanctions on parties to a civil judicial proceeding, their counsel, experts, or other persons subject to the court's jurisdiction, for violation of judicial orders regarding the protection of confidential information produced or exchanged in a proceeding.

9. Each Party may permit use of alternative dispute resolution procedures to resolve civil disputes concerning intellectual property rights.

#### **Article 15.25: Provisional Measures**

1. Each Party shall provide that its judicial authorities have the authority, where appropriate, to act on requests for provisional measures *inaudita altera parte* expeditiously.

2. Each Party shall provide that its judicial authorities have the authority to require the applicant, with respect to provisional measures, to provide any reasonably available evidence in order to satisfy themselves with a sufficient degree of certainty that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a

reasonable security or equivalent assurance set at a level sufficient to protect the defendant and to prevent abuse, and so as not to unreasonably deter recourse to such procedures.

### **Article 15.26: Special Requirements Related to Border Measures**

1. Each Party shall, subject to the provisions of domestic legislation, adopt procedures to enable a right holder, who has valid grounds for suspecting that the importation, exportation, transshipment, placement under a free zone and placement under a bonded warehouse of goods infringing an intellectual property right<sup>11</sup> may take place, to lodge an application in writing with competent authorities, administrative or judicial, for the suspension by the customs authorities of the release into free circulation or the detention of such goods.

2. Each party shall, subject to the provisions of domestic legislation, provide in advance that a right holder may request to the customs authorities for protecting their rights in the course of their action in respect of importation, exportation, transshipment and carry-in into the bonded area including into free trade zone, with submission of sufficient information such as suspected infringing importer or exporter, identification method of the suspected infringing goods. Customs authorities may inform the details including name of exporter and importer, address of the importer, product description, quantity and declared price etc. to the right holder when they found suspected infringing goods relevant to such protection requesting rights in the course of their action and provide the right holder an opportunity to submit an application for initiating procedures to suspend the release of the goods.

3. Each Party shall provide that its competent authorities shall have the authority to require a right holder initiating procedures to suspend the release of suspected infringing goods, to provide a reasonable security or equivalent assurance sufficient to protect the defendant and the competent authorities and to prevent abuse. Each Party shall provide that the security or equivalent assurance shall not unreasonably deter recourse to these procedures.

4. Each Party shall provide that its competent authorities may act *ex officio* to suspend the release of the goods, in case where there is clear evidence that the goods are infringing an

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<sup>11</sup> For the purposes of this article, **goods infringing an intellectual property right** means;

- (a) **counterfeit trademark goods** means any goods, including packaging, bearing without authorization a trademark that is identical to the trademark validly registered in respect of such goods, or that cannot be distinguished in its essential aspects from such a trademark, and that thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;
- (b) **pirated copyright goods** means any goods that are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and that are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation; and
- (c) goods which, according to the legislation of the Party in which the application for customs action is made, infringe a patent, a plant variety right, a registered design, or a geographical indication.

intellectual property right stipulated in paragraph 1 without formal complaint from the private person or the right holder.

5. Each Party may provide that goods that have been suspended from release by its customs authorities, and that have been confiscated under infringement of an intellectual property right stipulated in paragraph 1 shall be destroyed, except in exceptional circumstances. In regard to counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient to permit the release of the goods into the channels of commerce.

6. Where an application fee, merchandise storage fee or disposal expense is assessed in connection with border measures to enforce an intellectual property right, each Party shall provide that the fee shall not be set at an amount that unreasonably deters recourse to these measures.

### **Article 15.27: Criminal Procedures and Remedies**

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale.

2. Each Party shall provide for criminal procedures and penalties to be applied in accordance with its laws and regulations for the willful unauthorized copy of a cinematographic work, or any part thereof, from a performance in a movie theater on a commercial scale.

3. Each Party shall provide:

- (a) penalties that include sentences of imprisonment as well as monetary fines sufficient to provide a deterrent to future infringements, consistent with a policy of removing the infringer's monetary incentive;
- (b) that its judicial authorities shall have the authority to order the seizure of suspected counterfeit or pirated goods, any related materials and implements used in the commission of the offense, any documentary evidence relevant to the offense, and any assets traceable to the infringing activity;
- (c) that its judicial authorities shall, have the authority to order:
  - (i) the forfeiture or destruction of all counterfeit or pirated goods; and
  - (ii) the forfeiture or destruction of materials and implements that have been predominately used in the creation of pirated or counterfeit goods.

Each Party shall provide that forfeiture and destruction under this subparagraph shall occur without compensation of any kind to the defendant.

### **Article 15.28: Measures against Repetitive Copyright Infringements on the Internet**

Each Party shall take effective measures to curtail repetitive infringement of copyright and related rights on the Internet or other digital network.

### **Article 15.29: Request for Information on the Alleged Infringer**

Each Party may establish an administrative or judicial procedure enabling relevant authorities or copyright owners who have given effective notification of claimed infringement to obtain expeditiously from a service provider information in its possession identifying the alleged infringer.

## **Section K: Other Provisions**

### **Article 15.30: Cooperation**

Under the established structure of this Agreement, each Party shall, upon request of the other Party, and in addition to the already existing forms of cooperation:

- (a) exchange information relating to intellectual property policies in their respective administrations;
- (b) provide technical assistance and training courses;
- (c) inform the other Party of changes to, and developments in, the implementation of their national intellectual property systems;
- (d) strengthen partnership in areas such as:
  - (i) offering necessary collaboration upon request from the other Party on evidence collection, technical assistance and information sharing when fighting against cross-border intellectual property crimes;
  - (ii) exchanges and cooperation on online copyright enforcement;
  - (iii) technology transfer on energy-saving and green technologies;
  - (iv) other areas that the Parties have consensus on.
- (e) consider issues on intellectual property rights raised by businesses and industries.

### **Article 15.31: Committee on Intellectual Property Rights**

1. The Parties hereby establish the Committee on Intellectual Property Rights (hereinafter referred to in this Article as the “Committee”) as specified in Article 19.4 (Committees and Other Bodies).

2. For the purposes of the effective implementation and operation of this Chapter, the functions of the Committee shall include, but are not limited to:

- (a) reviewing and monitoring the implementation and operation of this Chapter;
- (b) discussing ways to facilitate cooperation between the Parties;
- (c) exchange of information on laws, systems and other issues of mutual interest concerning intellectual property rights;
- (d) carrying out other functions as may be delegated by the Joint Commission; and
- (e) seeking to resolve disputes that may arise regarding the interpretation or application of this Chapter.

3. The Committee shall meet within one year after the date this Agreement enters into force and annually thereafter unless the Parties otherwise agree. The Committee shall inform the Joint Commission of the results of each meeting.