

APPENDIX 11

Agreement between WIPO and WTO 1994

(of December 22, 1995)

Preamble

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO),

Desiring to establish a mutually supportive relationship between them, and with a view to establishing appropriate arrangements for cooperation between them,

Agree as follows:

Article 1

[Abbreviated Expressions]

For the purposes of this Agreement:

- (i) 'WIPO' means the World Intellectual Property Organization;
- (ii) 'WTO' means the World Trade Organization;
- (iii) 'International Bureau' means the International Bureau of WIPO;
- (iv) 'WTO Member' means a party to the Agreement Establishing the World Trade Organization;
- (v) 'the TRIPS Agreement' means the Agreement on Trade-Related Aspects of Intellectual Property Rights, *Annex 1C to the Agreement Establishing the World Trade Organization*
- (vi) 'Paris Convention' means the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised;
- (vii) 'Paris Convention (1967)' means the Paris Convention for the Protection of Industrial Property of March 20,

1883, as revised at Stockholm on July 14, 1967;

- (viii) 'emblem' means, in the case of a WTO Member, any armorial bearing, flag and other State emblem of that WTO Member, or any official sign or hallmark indicating control and warranty adopted by it, and, in the case of an international intergovernmental organization, any armorial bearing, flag, other emblem, abbreviation or name of that organization.

Article 2

[Laws and Regulations]

(1) [*Accessibility of Laws and Regulations in the WIPO Collection by WTO Members and Their Nationals*] The International Bureau shall, on request, furnish to WTO Members and to nationals of WTO Members copies of laws and regulations, and copies of translations thereof, that exist in its collection, on the same terms as apply to the Member States of WIPO and to nationals of the Member States of WIPO, respectively.

(2) [*Accessibility of the Computerized Database*] WTO Members and nationals of WTO Members shall have access, on the same terms as apply to the Member States of WIPO and to nationals of the Member States of WIPO, respectively, to any computerized database of the International Bureau containing laws and regulations. The WTO Secretariat shall have access, free of any charge by WIPO, to any such database.

- (3) [*Accessibility of Laws and Regulations in the WIPO Collection by the WTO Secretariat and the Council for TRIPS*]
- (a) Where, on the date of its initial notification of a law or regulation under *Article 63.2 of the TRIPS Agreement*, a WTO Member has already communicated that law or regulation, or a translation thereof, to the International Bureau and that WTO Member has sent to the WTO Secretariat a statement to that effect, and that law, regulation or translation actually exists in the collection of the International Bureau, the International Bureau shall, on request of the WTO Secretariat, give, free of charge, a copy of the said law, regulation or translation to the WTO Secretariat.
- (b) Furthermore, if, for the purposes of carrying out its obligations under *Article 68 of the TRIPS Agreement*, such as monitoring the operation of the TRIPS Agreement or providing assistance in the context of dispute settlement procedures, the Council for TRIPS of the WTO requires a copy of a law or regulation, or a copy of a translation thereof, which had not previously been given to the WTO Secretariat under *subparagraph (a)*, and which exists in the collection of the International Bureau, the International Bureau shall, upon request of either the Council for TRIPS or the WTO Secretariat, give to the WTO Secretariat, free of charge, the requested copy.
- (c) The International Bureau shall, on request, furnish to the WTO Secretariat on the same terms as apply to Member States of WIPO any additional copies of the laws, regulations and translations given under *subparagraph (a)* or *(b)*, as well as copies of any other laws and regulations, and copies of translations thereof, which exist in the collection of the International Bureau.
- (d) The International Bureau shall not put any restriction on the use that the WTO Secretariat may make of the copies of laws, regulations and translations transmitted under *subparagraph (a)*, *(b)* or *(c)*.
- (4) [*Laws and Regulations Received by the WTO Secretariat from WTO Members*]
- (a) The WTO Secretariat shall transmit to the International Bureau, free of charge, a copy of the laws and regulations received by the WTO Secretariat from WTO Members under *Article 63.2 of the TRIPS Agreement* in the language or languages and in the form or forms in which they were received, and the International Bureau shall place such copies in its collection.
- (b) The WTO Secretariat shall not put any restriction on the further use that the International Bureau may make of the copies of the laws and regulations transmitted under *subparagraph (a)*.
- (5) [*Translation of Laws and Regulations*] The International Bureau shall make available to developing country WTO Members which are not Member States of WIPO the same assistance for translation of laws and regulations for the purposes of *Article 63.2 of the TRIPS Agreement* as it makes available to Members of WIPO which are developing countries.

Article 3

[Implementation of *Article 6ter* of the *Paris Convention* for the Purposes of the TRIPS Agreement]

- (1) [*General*]
- (a) The procedures relating to communication of emblems and transmittal of objections under the TRIPS Agreement shall be administered by the International Bureau in accordance with the procedures applicable under *Article 6ter of the Paris Convention* (1967).
- (b) The International Bureau shall not recommunicate to a State party to the Paris Convention which is a WTO Member an emblem which had already been communicated to it by the International Bureau under *Article 6ter of the Paris Convention* prior to January 1, 1996, or, where that State became a WTO Member after January 1, 1996, prior to the date on which it became a WTO Member, and the International Bureau

shall not transmit any objection received from the said WTO Member concerning the said emblem if the objection is received by the International Bureau more than 12 months after receipt of the communication of the said emblem under *Article 6ter of the Paris Convention* by the said State.

(2) [*Objections*] Notwithstanding *paragraph (1)(a)*, any objection received by the International Bureau from a WTO Member which concerns an emblem that had been communicated to the International Bureau by another WTO Member where at least one of the said WTO Members is not party to the Paris Convention, and any objection which concerns an emblem of an international intergovernmental organization and which is received by the International Bureau from a WTO Member not party to the Paris Convention or not bound under the Paris Convention to protect emblems of international intergovernmental organizations, shall be transmitted by the International Bureau to the WTO Member or international intergovernmental organization concerned regardless of the date on which the objection had been received by the International Bureau. The provisions of the preceding sentence shall not affect the time limit of 12 months for the lodging of an objection.

(3) [*Information to Be Provided to the WTO Secretariat*] The International Bureau shall provide to the WTO Secretariat information relating to any emblem communicated by a WTO Member to the International Bureau or communicated by the International Bureau to a WTO Member.

Article 4

[Legal-Technical Assistance and
Technical Cooperation]

(1) [*Availability of Legal-Technical Assistance and Technical Cooperation*] The International Bureau shall make available to developing country WTO Members which are not Member States of WIPO the same legal-

technical assistance relating to the TRIPS Agreement as it makes available to Member States of WIPO which are developing countries. The WTO Secretariat shall make available to Member States of WIPO which are developing countries and are not WTO Members the same technical cooperation relating to the TRIPS Agreement as it makes available to developing country WTO Members.

(2) [*Cooperation Between the International Bureau and the WTO Secretariat*] The International Bureau and the WTO Secretariat shall enhance cooperation in their legal-technical assistance and technical cooperation activities relating to the TRIPS Agreement for developing countries, so as to maximize the usefulness of those activities and ensure their mutually supportive nature.

(3) [*Exchange of Information*] For the purposes of *paragraphs (1) and (2)*, the International Bureau and the WTO Secretariat shall keep in regular contact and exchange non-confidential information.

Article 5

[Final Clauses]

(1) [*Entry into Force of this Agreement*] This Agreement shall enter into force on January 1, 1996.

(2) [*Amendment of this Agreement*] This Agreement may be amended by common agreement of the parties to this Agreement.

(3) [*Termination of this Agreement*] If one of the parties to this Agreement gives the other party written notice to terminate this Agreement, this Agreement shall terminate one year after receipt of the notice by the other party, unless a longer period is specified in the notice or unless both parties agree on a longer or a shorter period.

[Entry into force: 1 January 1996. Source: Communication from the International Bureau of WIPO and the WTO Secretariat.]