

CHAPTER 8 *bis***STATE OWNED, STATE CONTROLLED ENTERPRISES AND
ENTERPRISES WITH SPECIAL OR EXCLUSIVE PRIVILEGES****ARTICLE 8 *bis*.1****Scope**

This Chapter shall apply only between the Russian Federation and Viet Nam.

ARTICLE 8 *bis*.2**State-Owned, State-Controlled Enterprises and Enterprises with
Special or Exclusive Privileges**

The Russian Federation and Viet Nam shall ensure that their state-owned or state-controlled enterprises and enterprises with special or exclusive privileges shall operate in a manner consistent with their respective WTO commitments in the Protocols on accession to the WTO of the Russian Federation and Viet Nam, respectively.

CHAPTER 9**INTELLECTUAL PROPERTY****ARTICLE 9.1****Objectives**

The Parties confirm their commitment to reducing impediments to trade and investment by promoting deeper economic integration through the creation of intellectual property and effective and adequate utilisation, protection and

enforcement of intellectual property rights, taking into account the differences in their respective laws and regulations and in levels of economic development and capacity and the need to maintain an appropriate balance between the rights of intellectual property owners and the legitimate interests of users in subject matter protected by intellectual property rights.

ARTICLE 9.2

Definitions

For the purposes of this Chapter:

- a) **“intellectual property”** means copyright and related rights, trademarks, geographical indications (including appellations of origin of goods), inventions (including utility solutions), utility models, industrial designs, layout designs (topographies) of integrated circuits, plant varieties and undisclosed information;
- b) **“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 good is essentially attributable to its geographical origin, as defined in Article 22 of the TRIPS Agreement;
- c) **“appellation of origin of goods”** means a geographical denomination that constitutes or contains contemporary or historical, official or unofficial, full or abbreviated name of a country, region or locality or other geographical area, which became known through its

use in the country of origin in relation to the goods, the quality and characteristics of which are exclusively or essentially determined by the geographical environment, including natural and human factors;

- d) **“counterfeit trademark goods”** means goods, including packaging, bearing without authorisation a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the laws and regulations of the country of importation. The definition of counterfeit trademark goods above shall apply, *mutatis mutandis*, to counterfeit geographical indication and appellation of origin goods; and
- e) **“pirated copyright goods”** means goods which are copies made without the consent of the right holder or person duly authorised by the right holder in the country of production and which 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 laws and regulations of the country of importation.

ARTICLE 9.3

International Agreements

1. The Parties which are party to the TRIPS Agreement reaffirm their obligations set out therein. The Parties which are not party to the TRIPS Agreement shall follow the principles of

the TRIPS Agreement. The Parties reaffirm their obligations set out in the international agreements on intellectual property to which they are party, in particular:

- a) the Paris Convention for the Protection of Industrial Property of 20 March 1883 (hereinafter referred to as “the Paris Convention”);
- b) the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886;
- c) the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations of 26 October 1961 (the Rome Convention);
- d) the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms of 29 October 1971;
- e) the Madrid Agreement Concerning the International Registration of Marks of 14 April 1891 and the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of 27 June 1989; and
- f) the Patent Cooperation Treaty of 19 June 1970.

2. The Parties which are not party to one or more of the international agreements listed below shall endeavour to join:

- a) the WIPO Performances and Phonograms Treaty of 20 December 1996;
- b) the WIPO Copyright Treaty of 20 December 1996;
- c) the Act of International Convention for the Protection of New Varieties of Plants of 19 March 1991; and
- d) the Singapore Treaty on the Law of Trademarks of 27 March 2006.

3. The Parties shall endeavour to apply the provisions of the following international agreements:

- a) the Strasbourg Agreement Concerning the International Patent Classification of 24 March 1971;
- b) the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957; and
- c) the Locarno Agreement Establishing an International Classification for Industrial Designs of 8 October 1968.

ARTICLE 9.4**National Treatment**

Each Party shall accord to the nationals of the other Party treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property set out in Articles 3 and 5 of the TRIPS Agreement.

ARTICLE 9.5**Most-Favoured-Nation Treatment**

Each Party shall accord to the nationals of the other Party treatment no less favourable than that it accords to the nationals of any other country with regard to the protection of intellectual property set out in Articles 4 and 5 of the TRIPS Agreement.

ARTICLE 9.6**Copyright and Related Rights**

1. Without prejudice to the obligations set out in international agreements to which the Parties are party, each Party shall, in accordance with its respective laws and regulations, guarantee and provide effective protection of the interests of authors, performers, producers of phonograms and broadcasting organisations for their works, performances, phonograms and broadcasts, respectively.

2. Each Party shall aim to ensure that its respective laws and regulations guarantee the effective protection and provide enforcement of copyright and related rights in the digital environment.

ARTICLE 9.7

Trademarks

Each Party shall provide adequate and effective protection of trademarks for goods and services in accordance with its respective laws and regulations, the international agreements to which it is party and the TRIPS Agreement, in particular Articles 15 through 21.

ARTICLE 9.8

Geographical Indications/Appellations of Origin of Goods

1. Each Party shall ensure in its territory adequate and effective legal protection of geographical indications and/or appellations of origin of goods in accordance with its respective laws and regulations, the international agreements to which it is a party and the TRIPS Agreement, in particular Articles 22 through 24.
2. The provisions of appellations of origin of goods in this Chapter shall apply to a denomination which allows to identify a good as originating in the territory of a particular geographical area and although it does not contain the name of the area, which became known as a result of using this denomination in respect of the goods, the quality and characteristics

of which meet the requirements provided for in subparagraph c) of Article 9.2 of this Agreement.

3. The Parties recognise that each Party may protect geographical indications via a *sui generis* system of protection of appellations of origin of goods in accordance with its respective laws and regulations. A Party that provides such system of protection shall not be obliged to provide a separate system of protection for geographical indications. The Parties shall provide other legal means in their respective laws and regulations to protect geographical indications other than appellations of origin of goods, such as those of collective marks and/or certification marks. The definition of appellation of origin of goods in subparagraph c) of Article 9.2 of this Agreement and paragraph 2 of this Article shall only apply to a Party which provides a *sui generis* system of protection of appellations of origin of goods at the time of entry into force of this Agreement.
4. In respect of geographical indications and/or appellations of origin of goods, the Parties shall provide the legal means for an interested person of the other Party to prevent:
 - a) 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;
 - b) any use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.

5. Nothing in this Chapter shall require a Party to apply its provisions in respect of geographical indications and/or appellations of origin of goods of the other Party 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 such Party.
6. In order to protect the interests of their producers, the Parties shall exchange lists of geographical indications and/or appellations of origin of goods registered by them in respect of goods produced in their territories. The Parties may also agree to exchange the lists of geographical indications protected by other legal means. The relevant procedures for such exchange shall be determined by the competent authorities of the Parties by means provided for in Article 9.17 of this Agreement. The Parties may agree to enter into negotiations on mutual protection of geographical indications and/or appellations of origin of goods subject to their respective laws and regulations and policy, availability of resources and willingness of each Party.
7. Each Party shall, *ex officio* if its laws and regulations so permit or at the request of an interested person of the other Party, refuse or invalidate the registration of a trademark which contains or consists of a geographical indication and/or appellation of origin of goods with respect to goods not originating in the territory indicated, if use of the indication in the trademark for such goods in the former Party is of such a nature as to mislead the public as to the true place of origin.

ARTICLE 9.9**Inventions and Utility Models**

1. Each Party shall provide adequate and effective protection of inventions in accordance with its respective laws and regulations, the international agreements to which it is party and the TRIPS Agreement, in particular Articles 27 through 34.
2. Utility models shall be protected in accordance with the respective laws and regulations of the Parties and the Paris Convention.

ARTICLE 9.10**Industrial Designs**

Each Party shall provide adequate and effective protection of industrial designs in accordance with its respective laws and regulations, the international agreements to which it is party and the TRIPS Agreement, in particular Articles 25 and 26.

ARTICLE 9.11**Layout Designs (Topographies) of Integrated Circuits**

Each Party shall provide adequate and effective protection of layout designs (topographies) of integrated circuits in accordance with its respective laws and regulations, the international agreements to which it is party and the TRIPS Agreement, in particular Articles 35 through 38.

ARTICLE 9.12**New Varieties of Plants**

Each Party recognises the importance of providing in its respective laws and regulations a system of protection of new varieties of plants and shall endeavour to provide for the protection of all plant genera and species in accordance with the Act of International Convention for the Protection of New Varieties of Plants of 19 March 1991 and the TRIPS Agreement.

ARTICLE 9.13**Undisclosed Information**

Each Party shall ensure adequate and effective protection of undisclosed information in its respective laws and regulations in accordance with the TRIPS Agreement, in particular Article 39.

ARTICLE 9.14**Protection against Unfair Competition**

Each Party shall ensure effective protection against unfair competition in accordance with its respective laws and regulations and Article 10*bis* of the Paris Convention.

ARTICLE 9.15**Enforcement of Intellectual Property Rights**

The Parties shall ensure in their respective laws and regulations provisions for enforcement of intellectual property rights at the same level as provided for in the TRIPS Agreement, in particular Articles 41 through 50.

ARTICLE 9.16**Border Measures**

1. Each Party shall ensure effective enforcement of border measures in accordance with Articles 51 through 57, 59 and 60 of the TRIPS Agreement and that the complementary measures, procedures and remedies, covered by its respective laws and regulations related to customs procedures, are available to permit effective action against counterfeit trademark goods, counterfeit geographical indication and appellation of origin goods, pirated copyright goods.
2. Each Party shall, unless otherwise provided for in this Agreement, adopt procedures to enable a right holder, who has valid grounds for suspecting that importation or exportation is carried out with counterfeit trademark goods, counterfeit geographical indication and appellation of origin goods, pirated copyright goods, to lodge an application to customs authorities claiming to apply measures of intellectual property rights protection provided that importation or exportation in question infringes an intellectual property right under the laws and regulations of the country where the goods are found.

3. Without prejudice to the protection of confidential information, customs authorities shall have the authority to provide the right holder with sufficient opportunity to have any good detained by the customs authorities inspected in order to substantiate the right holder's claims. The customs authorities shall also have the authority to give the importer an equivalent opportunity to have any such good inspected. Customs authorities shall provide the right holder with the information on the names and addresses of the consignor, the importer and the consignee and of the quantity of the goods in question. Customs authorities shall provide at least the owner of the detained goods with the information on the name and address of the right holder.
4. The Parties are encouraged to exclude from the application of the above provisions small quantities of goods of a non-commercial nature contained in travellers' personal luggage.

ARTICLE 9.17

Competent Authorities, Contact Points and Information Exchange

1. The Parties shall notify each other of the competent authorities responsible for carrying out the procedures provided for in this Chapter, and the contact points designated by each Party to facilitate communications between the Parties on any matter relating to this Chapter.
2. The Parties shall promptly inform each other of any change in the contact points or any significant change in the structure or competence of their competent authorities.

3. The Parties through their contact points shall provide each other with a timely written notification of any significant issue or any change in the legal framework of intellectual property and, if necessary, request consultations to resolve any concern about the issue.
4. With a view to strengthening their cooperation links, the Parties agree to communicate in writing and/or promptly hold expert meetings, upon request of either Party and taking into account the financial capacity of the Parties, on matters related to the international agreements referred to in this Chapter or to future international agreements in the field of intellectual property, to membership in international organisations, such as the World Trade Organization and the World Intellectual Property Organization, as well as to relations of the Parties with third countries on matters concerning intellectual property and to other issues relating to the implementation of this Chapter.

CHAPTER 10

GOVERNMENT PROCUREMENT