

ANNEX 8

on protection of intellectual, industrial and commercial property

Article 1

1. The Parties confirm the importance they attach to the obligations arising from the Agreement on Trade-related aspects of intellectual property rights concluded in the Uruguay Round of Multilateral Trade Negotiations.

In that respect, Turkey undertakes to implement the TRIPS Agreement no later than three years after the entry into force of this Decision.

2. As regards the scope, level of protection and the enforcement of intellectual, industrial and commercial property rights between the two Parties, the provisions of the TRIPS Agreement will apply after its entry into force for both Parties to the extent to which there are no rules laid down in this Decision.

Article 2

Turkey shall continue to improve the effective protection of intellectual, industrial and commercial property rights in order to secure a level of protection equivalent to that existing in the European Community and shall take appropriate measures to ensure that these rights are respected. To this end the following Articles shall apply.

Article 3

Before the entry into force of this decision, Turkey shall accede to the following multilateral Conventions on intellectual, industrial and commercial property rights:

- Paris Act (1971) of the Bern Convention for the protection of literary and artistic works,
- Rome Convention (1961) for the protection of performers, producers of phonograms and broadcasting organizations,
- Stockholm Act (1967) of the Paris Convention for the protection of industrial property (as amended in 1979),
- Nice Agreement concerning the international classification of goods and services for the purposes of the registration of marks (Geneva Act, 1977, as amended in 1979), and
- Patent Cooperation Treaty (PCT, 1970, as amended in 1979 and modified in 1984).

Article 4

Before the entry into force of this Decision, Turkey shall adopt domestic legislation in the following areas which is equivalent to the legislation adopted in the Community or its Member States:

1. Copyright and neighbouring rights legislation which provides for:
 - the terms of protection in line with Council Directive 93/98/EEC (OJ No L 290 of 24 November 1993),
 - protection of neighbouring rights in line with Council Directive 92/100/EEC (OJ No L 346 of 27 November 1992),
 - rental and lending rights in line with Council Directive 92/100/EEC (OJ No L 346 of 27 November 1992),
 - the protection of computer programmes as literary works in line with Council Directive 91/250/EEC (OJ No L 122 of 17 May 1991).
2. Patent legislation which notably provides for:
 - rules on compulsory licensing meeting at least the TRIPS standards,

- patentability of all inventions, other than pharmaceutical products and processes for human and animal health but including agrochemical products and processes ⁽¹⁾,
 - a patent term of 20 years from the filing date.
3. Trade and service marks legislation in line with Council Directive 89/104/EEC (OJ No L 40 of 11 February 1989).
 4. Industrial designs legislations, notably including the protection of designs in textile products ⁽²⁾.
 5. Protection of geographical indications, including appellations of origin in line with EC legislation ⁽³⁾.
 6. Legislation on border enforcement against IPR infringements (including at least trademarks, copyrights and neighbouring rights and design rights) in line with Council Regulation (EEC) No 3842/86 (OJ No L 357 of 18 December 1986) ⁽⁴⁾.

Article 5

Notwithstanding Article 1 (1) second indent, for the effective administration and enforcement of intellectual property rights, Turkey undertakes before the entry into force of this decision to take all necessary measures for the fulfilment of its obligations under Part III of the TRIPS Agreement.

Notwithstanding Article 1 (1) second indent, Turkey also undertakes before the entry into force of this decision to take all necessary measures for the fulfilment of its obligations under Part II, Section 4 (Articles 25 and 26) of the TRIPS Agreement.

Article 6

No later than two years after the entry into force of this Decision, Turkey will adopt a legislation, or revise the existing one, in order to secure before 1 January 1999 the patentability of pharmaceutical products and processes.

Article 7

Not later than three years after the entry into force of this Decision Turkey shall:

1. accede to the following conventions on intellectual, industrial and commercial property, provided that the EC or all its Member States are Parties to them:
 - Protocol to the Madrid Agreement concerning the international registration of marks (1989),
 - Budapest Treaty on the international recognition of the deposit of micro-organisms for the purposes of patent procedure (1977, and amended in 1980), and
 - International Convention for the protection of new varieties of plants (UPOV, Geneva 1991 Act);
2. adopt domestic legislation in the following areas, in order to reach alignment with legislation in the EC:
 - In the copyright and neighbouring rights area:
 - legislation on copyright and neighbouring rights applicable to works transmitted by cable or satellite in line with Council Directive 93/83/EEC (OJ No L 248 of 6 October 1993),
 - protection of databases ⁽⁵⁾,

⁽¹⁾ For the record also: proposal for a Council Directive on the preprotection of biotechnological inventions (OJ No C 44, 16. 2. 1993).

⁽²⁾ For the record: proposal for a Council Directive on the Community design.

⁽³⁾ The list of Regulations in question will be transmitted by the Commission.

⁽⁴⁾ For the record: proposal for Regulation amending the abovementioned Regulation (OJ No C 238, 29. 9. 1993).

⁽⁵⁾ See proposal for a Council Directive on the legal protection of databases (OJ No C 156, 23. 6. 1992).

- In the industrial property area:
 - protection of topographies of semiconductors in line with Council Directive 87/54/EEC (OJ No L 24 of 27 January 1987),
 - protection of know-how information and trade secrets legislation in line with Member States' legislation,
 - protection of plant variety rights ⁽¹⁾.

Article 8

The Association Council may decide that Articles 3 to 7 may also apply to other multilateral conventions or areas of IPR legislation.

Article 9

The Joint Customs Union Committee shall monitor the implementation and application of the IPR provisions of this Decision and perform other tasks which the Association Council may assign to it. The Committee shall make recommendations to the Association Council which may include the establishment of a subcommittee on IPR.

Article 10

1. The Parties agree that for the purpose of this Decision, intellectual, industrial and commercial property includes in particular copyright, including the copyright in computer programmes, and neighbouring rights, patents, industrial designs, geographical indications including appellations of origin, trade marks and service marks, topographies of integrated circuits as well as protection against unfair competition as referred to in Article 10a of the Paris Convention for the protection of industrial property and protection of undisclosed information on know-how.

2. This decision does not imply exhaustion of intellectual, industrial and commercial property rights applied in the trade relations between the two Parties under this Decision.

⁽¹⁾ See amended proposal for a Council Regulation (EEC) on Community plant variety rights (OJ No C 113, 23. 4. 1993).