

CHAPTER 14

第14章

INTELLECTUAL PROPERTY

知识产权

SECTION A

A部分

General provisions

一般规定

ARTICLE 14.1

第14.1条

Initial provisions

初始规定

1. In order to facilitate the production and commercialisation of innovative and creative products and the provision of services between the Parties and to increase the benefits from trade and investment, the Parties shall grant and ensure adequate, effective and non-discriminatory protection of intellectual property and provide for measures for the enforcement of intellectual property rights against infringement thereof, including counterfeiting and piracy, in accordance with the provisions of this Chapter and of the international agreements to which both Parties are party.

1. 为了促进创新和创意产品的生产与商业化，以及缔约方之间服务提供，以增加贸易和投资的收益，缔约方应授予并确保充分的、有效的、非歧视性的知识产权保护，并根据本章的规定以及缔约双方均为成员的国际协议的规定，提供措施以执行知识产权，防止其受到侵权，包括假冒和盗版。

2. 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.

2. 一方可以，但并非有义务，在其法律规定的范围内提供更广泛的知识产权保护或执行，前提是该保护或执行不违反本章的规定。

3. For the purposes of this Chapter, "intellectual property" means all categories of intellectual property that are covered by Articles 14.8 to 14.44 of this Chapter or Sections 1 to 7 of Part II of the TRIPS Agreement. The protection of intellectual property includes protection against unfair competition as referred to in Article 10*bis* of the Paris Convention for the Protection of Industrial Property, done at Paris on 20 March 1883 (hereinafter referred to as "the Paris Convention")¹.

4. The objectives and principles set out in Part I of the TRIPS Agreement, in particular in Articles 7 and 8, shall apply to this Chapter, *mutatis mutandis*.

ARTICLE 14.2

Agreed principles

Having regard to 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, *inter alia*, transparency and non-discrimination, and taking into account the interests of relevant stakeholders including right holders and users.

¹ For greater certainty, the Paris Convention shall be understood to be the Paris Convention for the Protection of Industrial Property of 20 March 1883, as revised at Brussels on 14 December 1900, at Washington on 2 June 1911, at The Hague on 6 November 1925, at London on 2 June 1934, at Lisbon on 31 October 1958, and at Stockholm on 14 July 1967 and as amended on 28 September 1979.

3. 就本章而言，“知识产权”是指本章第14.8条至第14.44条或《与贸易有关的知识产权协定》第二部分第1条至第7条所涵盖的所有知识产权类别。知识产权保护包括根据1883年3月20日在巴黎签订的《保护工业产权巴黎公约》第10*bis*条所述的不正当竞争保护¹。

4. 与贸易有关的知识产权协定第一部分所规定的目标和原则，特别是在第7条和第8条中，应适用于本章，作相应修改。

ARTICLE 14.2

Agreed principles

考虑到国内制度的根本公共政策目标，缔约方认识到需要：

- (a) 促进创新和创造力；
- (b) 促进信息、知识、技术、文化和艺术的传播；和
- (c) 促进竞争和开放高效的市场，

通过其各自的知识产权制度，同时尊重诸如透明度`<code id='1'>诸如</code>`和非歧视的原则，并考虑相关利益相关者的利益，包括权利持有人和用户。

¹ 为更明确起见，《保护工业产权巴黎公约》应被理解为1883年3月20日签订的《保护工业产权巴黎公约》，该公约于1900年12月14日在布鲁塞尔修订，1911年6月2日在华盛顿修订，1925年11月6日在海牙修订，1934年6月2日在伦敦修订，1958年10月31日在里斯本修订，1967年7月14日在斯德哥尔摩修订，并于1979年9月28日修订。

International agreements

1. The provisions of this Chapter shall complement the rights and obligations of the Parties under other international agreements in the field of intellectual property to which both Parties are party.
2. The Parties affirm their commitment to comply with the obligations set out in the international agreements relating to intellectual property to which both Parties are party at the date of entry into force of this Agreement, including the following:
- (a) the TRIPS Agreement;
 - (b) the Paris Convention;
 - (c) 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 "the Rome Convention");
 - (d) the Berne Convention for the Protection of Literary and Artistic Works, done at Berne on 9 September 1886 (hereinafter referred to as "the Berne Convention")¹;
 - (e) the WIPO Copyright Treaty, adopted at Geneva on 20 December 1996;
 - (f) the WIPO Performances and Phonograms Treaty, adopted at Geneva on 20 December 1996;

¹ For greater certainty, the Berne Convention shall be understood to be the Berne Convention for the Protection of Literary and Artistic Works of 9 September 1886, completed at Paris on 4 May 1896, revised at Berlin on 13 November 1908, completed at Berne on 20 March 1914, revised at Rome on 2 June 1928, at Brussels on 26 June 1948, at Stockholm on 14 July 1967 and at Paris on 24 July 1971 and amended on 28 September 1979.

国际协议

1. 本章的规定应补充缔约方在知识产权领域其他国际协议项下的权利和义务。
2. 各方确认其致力于遵守本协定生效日期时，双方均为缔约方的与知识产权相关的国际协议中规定的义务，包括以下内容：
- (a) 与贸易有关的知识产权协定； (b) 巴黎公约；
 - (c) 1961年10月26日在罗马签订的保护表演者、音像制品制作者和广播组织的国际公约（以下简称“罗马公约”）；
 - (d) 1886年9月9日在伯尔尼签订的保护文学和艺术作品公约（以下简称“伯尔尼公约”）¹；
 - (e) 世界知识产权组织版权条约，于1996年12月20日在日内瓦通过；
 - (f) 世界知识产权组织表演和录音制品条约，于1996年12月20日在日内瓦通过；

¹ 为更明确起见，伯尔尼公约应理解为1886年9月9日通过的《保护文学和艺术作品伯尔尼公约》，于1896年5月4日在巴黎完成，1908年11月13日在柏林修订，1914年3月20日在伯尔尼完成，1928年6月2日在罗马修订，1948年6月26日在布鲁塞尔，1967年7月14日在斯德哥尔摩，1971年7月24日在巴黎，并于1979年9月28日修正。

- (g) the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, done at Budapest on 28 April 1977;
- (h) the International Convention for the Protection of New Varieties of Plants, done at Paris on 2 December 1961 (hereinafter referred to as "the 1991 UPOV Convention")¹;
- (i) the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on 27 June 1989;
- (j) the Patent Cooperation Treaty, done at Washington on 19 June 1970;
- (k) the Patent Law Treaty, adopted at Geneva on 1 June 2000;
- (l) the Trademark Law Treaty, adopted at Geneva on 27 October 1994;
- (m) the Singapore Treaty on the Law of Trademarks, adopted at Singapore on 27 March 2006;
- (n) the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on 2 July 1999;
- (o) the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, adopted at Marrakesh on 27 June 2013;
- (p) the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on 8 October 1968; and
- (q) 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.

¹ For greater certainty, the 1991 UPOV Convention shall be understood to be the International Convention for the Protection of New Varieties of Plants of 2 December 1961 as revised at Geneva on 19 March 1991.

(g) 布达佩斯条约，关于微生物国际保存用于专利程序的承认，于1977年4月28日在布达佩斯缔结；(h) 国际植物新品种保护公约，于1961年12月2日在巴黎缔结（以下简称“1991《植物新品种保护国际公约》”）¹；(i) 关于马德里协定国际注册的议定书 f
 标记，于1989年6月27日在马德里通过；(j) 专利合作条约，于1970年6月19日在华盛顿制定；(k) 专利法条约，于2000年6月1日在日内瓦通过；(l) 商标法条约，于1994年10月27日在日内瓦通过；(m) 新加坡商标法条约，于2006年3月27日在新加坡通过；(n) 海牙协定关于工业品外观设计国际注册的日内瓦 Act，于1999年7月2日在日内瓦通过；(o) 马拉喀什条约，旨在便利视障人士获取已出版作品，于2013年6月27日在马拉喀什通过；(p) 洛迦诺协定，旨在建立工业品外观设计国际分类，于1968年10月8日在洛迦诺签署；以及(q) 关于为商标注册目的确定商品和服务国际分类的尼斯协定，于1957年6月15日在尼斯制定。

¹ 为更明确起见，1991《植物新品种保护国际公约》应理解为1961年12月2日签订的《国际植物新品种保护公约》的修订版本，该修订版本于1991年3月19日在日内瓦通过。

3. Each Party shall make all reasonable efforts to ratify or accede to the Beijing Treaty on Audiovisual Performances, adopted at Beijing on 24 June 2012, if, by the date of entry into force of this Agreement, it is not already party to it.

ARTICLE 14.4

National treatment

1. In respect of all categories of intellectual property covered by this Chapter, each Party shall accord to nationals¹ of the other Party treatment no less favourable than the treatment it accords to its own nationals with regard to the protection² of intellectual property subject to the exceptions already provided for in, respectively, the Paris Convention, the Berne Convention, the Rome Convention and the Treaty on Intellectual Property in Respect of Integrated Circuits, adopted at Washington on 26 May 1989. In respect of performers, producers of phonograms and broadcasting organisations, this obligation only applies in respect of the rights provided for under this Agreement.

2. The obligation pursuant to paragraph 1 shall also be subject to the exceptions provided for in Article 5 of the TRIPS Agreement.

¹ For the purposes of this Article and Article 14.5, "nationals" has the same meaning as in the TRIPS Agreement.

² For the purposes of this Article and Article 14.5, "protection" includes 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 this Chapter.

3. 每一方应尽一切合理努力批准或加入视听表演北京条约，该条约于2012年6月24日在北京通过，如果在本协定生效日期，其尚未成为该条约的缔约方。

ARTICLE 14.4

国民待遇

1. 就本章涵盖的所有知识产权类别而言，每一方应给予另一方国民¹ 不低于其给予本国国民的知识产权保护² 待遇，但前提是，该待遇应符合巴黎公约、伯尔尼公约、罗马公约和1989年5月26日在华盛顿通过的集成电路知识产权条约中分别规定的例外情况。就表演者、音像制品制作者和广播组织而言，此项义务仅适用于本协定规定的权利。

2. 该 根据第1段的规定，该义务也应当遵守与贸易有关的知识产权协定第5条规定的例外情况。

¹ 就本条和第14.5条而言，“国民”的含义与《与贸易有关的知识产权协定》中的含义相同。² 就本条和第14.5条而言，“保护”包括影响知识产权的可用性、获得、范围、维持和执行的事项，以及影响本章中特别规定的知识产权使用的那些事项。

ARTICLE 14.5

Most-favoured-nation treatment

Each Party shall immediately and unconditionally accord to nationals of the other Party treatment no less favourable than the treatment it accords to the nationals of a third country with regard to the protection of intellectual property, subject to the exceptions provided for in Articles 4 and 5 of the TRIPS Agreement.

ARTICLE 14.6

Procedural matters and transparency

1. Each Party shall make all reasonable efforts to promote efficiency and transparency in the administration of its intellectual property system.
2. For the purpose of providing an efficient administration of its intellectual property system, each Party shall take appropriate measures to enhance the efficiency of its administrative procedures concerning intellectual property rights in line with international standards.
3. For the purpose of further promoting transparency in the administration of its intellectual property system, each Party shall make all reasonable efforts to take appropriate available measures to:
 - (a) publish information on, and make available to the public information contained in the files on:
 - (i) applications for and grant of patents;
 - (ii) registrations of industrial designs;
 - (iii) registrations of trademarks and applications therefor;

ARTICLE 14.5

最惠国待遇

每一方应当立即无条件地给予另一方国民不低于其给予第三国民的知识产权保护待遇，但前提是遵守与贸易有关的知识产权协定第4条和第5条规定的例外情况。

ARTICLE 14.6

程序事项和透明度

1. 每一方应当尽一切合理努力促进其知识产权制度的行政效率和透明度。
2. 为促进其知识产权制度的有效行政，每一方应当采取适当措施，根据国际标准提高其涉及知识产权的程序效率。
3. 为了进一步促进其知识产权制度的行政管理透明度，每一方应尽合理努力采取适当的可用措施：
 - (a) 在 上公布，并使公众能够获取文件中包含的关于的信息：
 - (i) 专利申请与授予；(ii) 工业设计注册；(iii) 商标注册及其申请；

- (iv) registrations of new varieties of plants; and
- (v) registrations of geographical indications;
- (b) make available to the public information on measures taken by the competent authorities for the suspension of the release of goods infringing intellectual property rights as a border measure set out in Article 14.57;
- (c) make available to the public information on its efforts to ensure effective enforcement of intellectual property rights and other information with regard to its intellectual property system; and
- (d) make available to the public information on relevant laws and regulations, final judicial decisions, and administrative rulings of general application pertaining to the enforcement of intellectual property rights.

ARTICLE 14.7

Promotion of public awareness concerning protection of intellectual property

Each Party shall take necessary measures to continue promoting public awareness of protection of intellectual property including educational and dissemination projects on the use of intellectual property as well as on the enforcement of intellectual property rights.

- (iv) 新植物品种注册； 以及
- (v) 地理标志注册；
- (b) 向公众提供主管当局为暂停发布侵犯知识产权商品作为第14.57条规定的边境措施所采取的措施的信息；
- (c) 向公众提供其确保知识产权有效执行的努力以及其他与其知识产权制度相关信息的努力； 和
- (d) 向公众提供与知识产权执行相关的法律法规、 最终司法判决以及具有普遍适用性的行政裁决的信息。

ARTICLE 14.7

促进公众对知识产权保护的意识

每一方应采取必要措施， 继续促进公众对知识产权保护的意识， 包括关于知识产权使用的教育和传播项目， 以及关于知识产权执行的措施。

SECTION B

Standards concerning intellectual property

SUB-SECTION 1

Copyright and related rights

ARTICLE 14.8

Authors

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

- (a) direct or indirect 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; each Party may determine the conditions under which the exhaustion of the right set out in this provision applies after the first sale or other transfer of ownership of the original or a copy of the work with the authorisation of the author; and
- (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.

B部分

与知识产权有关的标准

分节1

版权和相关权利

ARTICLE 14.8

作者

每一方应当为作者提供专有权利，以授权或禁止：

- (a) 任何方式、任何形式的直接或间接复制其作品，全部或部分地；
- (b) 以销售或其他方式向公众发行其作品的原始版本或副本的任何形式；每一方可以确定在本条规定中规定的权利穷竭适用的条件，在原始版本或作品副本的第一次销售或其他所有权转让后，经作者授权；以及
- (c) 任何通过有线或无线方式向公众传播其作品的行为，包括以公众可以自行选择地点和时间访问其作品的方式向公众提供其作品。

Performers

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

- (a) the fixation of their performances;
- (b) direct or indirect 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 fixations of their performances in phonograms; each Party may determine the conditions under which the exhaustion of the right set out in this provision applies after the first sale or other transfer of ownership of the original or a copy of the fixed performance with the authorisation of the performer;
- (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; and
- (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.

表演者

每一方向表演者提供专有权利，以授权或禁止：

- (a) 其表演的固定；
- (b) 以任何手段和任何形式，全部或部分地对其表演的固定进行直接或间接复制；
- (c) 通过销售或其他方式向公众发行其表演的固定在音像制品中；每一方可以确定在本规定中规定的权利穷竭适用的条件，即在首次销售或原始件或副本的所有权第一次转让后，经表演者授权，对固定表演的固定；
- (d) 通过有线或无线方式向公众提供其表演的固定，以便公众可以从他们各自选择的地方和时间访问它们；以及
- (e) 通过无线方式进行的广播和向公众传播其表演，但除表演本身已为广播表演或从固定中制作的情况外。

ARTICLE 14.10

Producers of phonograms

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

- (a) direct or indirect 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; each Party may determine the conditions under which the exhaustion of the right set out in this provision applies after the first sale or other transfer of ownership of the original or a copy of the phonogram with the authorisation of the producer of the phonogram; and
- (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.

ARTICLE 14.11

Broadcasting organisations

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

- (a) the fixation of their broadcasts;
- (b) the reproduction of fixations of their broadcasts;

ARTICLE 14.10

音像制品制作者

每一方应向音像制品生产者提供专有权利，以授权或禁止：

- (a) 以任何方式、任何形式，全部或部分地直接或间接复制其音像制品；
- (b) 通过销售或其他方式向公众发行其音像制品，包括副本；每一方可以确定在本条规定中规定的权利穷竭适用的条件，该权利穷竭是在首次销售或原作或副本的所有权转让后，经音像制品制作者授权进行的；和
- (c) 以有线或无线方式向公众提供其音像制品，以便公众可以从他们各自选择的时间和地点访问这些音像制品。

ARTICLE 14.11

广播组织

每一方应当向广播组织提供专有权利，授权或禁止：

- (a) 其广播的固定；
- (b) 其广播固定件的复制；

- (c) the making available to the public¹ of their broadcasts, by wire or wireless means, which is made in response to a request from a member of the public;²
- (d) the rebroadcasting of their broadcasts by wireless means; and
- (e) 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; each Party may determine the conditions under which that exclusive right may be exercised.

ARTICLE 14.12

Use of phonograms

The Parties agree to discuss measures to ensure adequate remuneration for performers and producers of phonograms when phonograms published for commercial purposes are used for broadcasting or for any communication to the public.

¹ For greater certainty, for the United Kingdom, this right is limited to situations where the request is made from a place and at a time individually chosen by a member of the public.
² For greater certainty, for Japan, this subparagraph shall be applied to the form of public transmission which occurs automatically in response to a request from the public, except for those which occur manually.

- (c) 通过有线或无线方式向公众提供¹ 其广播，该广播是根据公众成员请求而提供的；²
- (d) 通过无线方式对其广播的重新广播；以及
- (e) 如果其广播是在向公众收取入场费的情况下在公众可进入的场所进行的，则向公众传播其广播；每一方可以确定行使该专有权利的条件。

ARTICLE 14.12

音像制品的使用

缔约方同意讨论采取措施，以确保当为商业目的发布的音像制品用于广播或向公众传播时，表演者和音像制品制作者能够获得充分的报酬。

¹ 为更明确起见，对于英国，此权利仅限于从公众单独选择的地点和时间提出的请求。² 为更明确起见，对于日本，本段应适用于在响应公众请求时自动发生的公共传输形式，但不适用于手动发生的情况。

Term of protection¹

- 1. The term of protection for rights of an author of a literary or artistic work within the meaning of Article 2 of the Berne Convention shall run for the life of the author and for 70 years after the author's death, irrespective of the date when the work is lawfully made available to the public. If the term of protection for those rights is counted on a basis other than the life of a natural person, such term shall be no less than 70 years after the work is lawfully made available to the public. Failing such making available within 70 years after the creation of the work, the term of protection shall be no less than 70 years from the work's creation.
- 2. The term of protection for rights of performers shall be no less than 50 years after the performance.
- 3. The term of protection for rights of producers of phonograms shall be no less than 70 years after the phonogram was published. Failing such publication within at least 50 years from the fixation of the phonogram, the term of protection shall be no less than 50 years after the fixation was made².
- 4. The term of protection for rights in broadcasts shall be no less than 50 years after the first transmission of the broadcast.
- 5. The terms set out in this Article shall be counted from the first of January of the year following the year of the event which gives rise to them.

¹ Nothing in this Article shall prevent a Party from providing longer terms of protection than those specified in the Article.

² Each Party may adopt effective measures in order to ensure that the profit generated during the 20 years of protection beyond 50 years is shared fairly between the performers and producers of phonograms.

保护期¹

- 1. 根据伯尔尼公约第2条所定义的文学或艺术作品的作者的权利的保护期，应持续到作者的有生之年，并在作者去世后持续70年，无论作品何时合法地向公众提供。如果这些权利的保护期不以自然人的生命为计算基础，则该期限在作品合法向公众提供之日起不得少于70年。如果作品在创作后70年内未能合法提供，则保护期应从作品的创作之日起不少于70年。
- 2. 表演者权利的保护期不得少于表演发生后的50年。
- 3. 音像制品制作者权利的保护期不得少于音像制品出版后的70年。若自音像制品固定之日起至少50年内未出版，则保护期不得少于固定之日起的50年²。
- 4. 广播权利的保护期不得少于广播首次传输后的50年。
- 5. 本条所述的术语应从事件发生年份的次年1月1日起计算。

¹ 本条任何规定均不得阻止一方提供比本条规定的更长的保护期。 ² 每一方可以采取有效措施，以确保在50年保护期之外产生的利润在表演者和音像制品制作者之间公平分配。

ARTICLE 14.14

Limitations and exceptions

Each Party may provide for limitations or exceptions to the rights set out in Articles 14.8 to 14.12 only in certain special cases which neither conflict with a normal exploitation of the subject matter nor unreasonably prejudice the legitimate interests of the right holders, in accordance with the conventions and international agreements to which it is party.

ARTICLE 14.15

Artist's resale right in works of art

The Parties agree to exchange views and information on issues related to a right to an interest in the resale of an original work of art and the situation in this regard in the United Kingdom and in Japan.

ARTICLE 14.16

Collective management

1. The Parties recognise the importance of fostering cooperation between their respective collective management organisations for the purposes of facilitating licensing of content between such collective management organisations, as well as encouraging¹ transfer of royalties for use of works or other copyright-protected subject matters of the nationals of the other Party.
2. Each Party shall ensure that its collective management organisations are encouraged to:
- (a) operate to collect and distribute revenues to the right holders they represent in a manner that is fair, efficient, transparent and accountable; and

¹ For greater certainty, "encouraging" does not require a Party to intercede in any contractual arrangements between collective management organisations.

第14.14条

限制和例外

每一方仅可在符合其加入的公约和国际协议的情况下，在既不与主题的正常利用相冲突，又不合理地损害权利持有人的合法利益的特殊情况下，为第14.8条至第14.12条所述的权利规定限制或例外。

第14.15条

艺术品的转售权

各方同意就与 原作艺术品转售权相关的

第14.16条

集体管理

1. 缔约方承认，为促进集体管理组织之间就内容许可进行合作，以及鼓励¹ 转让另一方国民的作品或其他受版权保护客体的版税，其重要性。
2. 每一方应确保其集体管理组织被鼓励：
- (a) 以公平、高效、透明和负责的方式运营，向其代表的权利持有人收集和分配收入；以及

¹ 为更明确起见，"鼓励"不要求一方干预集体管理组织之间的任何合同安排。

(b) adopt open and transparent record keeping of the collection and distribution of revenues.

3. The Parties endeavour to facilitate non-discriminating treatment by collective management organisations of right holders they represent either directly or via another collective management organisation.

ARTICLE 14.17

Protection of existing subject matter

1. Each Party shall apply Article 18 of the Berne Convention and paragraph 6 of Article 14 of the TRIPS Agreement, *mutatis mutandis*, to works, performances and phonograms, and the rights in and protections afforded to those subject matters as required by this Sub-Section.

2. A Party shall not be required to restore protection to subject matter that, on the date of entry into force of this Agreement, has fallen into the public domain in its territory.

ARTICLE 14.18

Technological protection measures

Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers or producers of phonograms in connection with the exercise of their rights under the laws and regulations of the Party and that restrict acts, in respect of their works, performances or phonograms, which are not authorised by the authors, performers or producers of phonograms concerned or permitted by the laws and regulations of the Party.

(b)采用开放和透明的收入收集和分配记录保存方式。

3. 各缔约方努力促进其代表的权利持有人通过集体管理组织进行的非歧视性待遇。

ARTICLE 14.17

现有客体的保护

1. 每一方应将伯尔尼公约第18条和与贸易有关的知识产权协定第14条第6款，作相应修改，适用于作品、表演和音像制品，以及本分节要求的这些客体中的权利和给予这些客体的保护。

2. 一方不应被要求恢复在其领土内，于本协定生效日期已进入公共领域的客体的保护。

ARTICLE 14.18

技术保护措施

每一方应当提供充分的法律保护和有效的法律救济，以防止规避由作者、音像制品表演者或音像制品制作者在使用与该方法律法规规定的其权利行使相关的有效技术措施时采取的行为，这些措施限制了对相关作者、表演者或制作者未经授权或未经该方法律法规允许的作品、表演或音像制品所进行的非授权行为。

Rights management information

1. Each Party shall provide adequate and effective legal remedies against any person knowingly performing any of the following acts knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate or conceal an infringement of copyright and related rights:
 - (a) to remove or alter any electronic rights management information without authority; and
 - (b) to distribute, import for distribution, broadcast, communicate or make available to the public, without authority, works, copies of works, performances, copies of fixed performances or phonograms knowing that electronic rights management information has been removed or altered without authority.
2. The term "rights management information" means information which identifies a work, performance or phonogram; the author of the work, the performer of the performance or the producer of the phonogram; the owner of any right in the work, performance or phonogram; or information about the terms and conditions of the use of the work, performance or phonogram; and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance or a phonogram or appears in connection with the communication or making available of a work, a fixed performance or a phonogram to the public.

权利管理信息

1. 每一方应当提供充分和有效的法律救济，以防止任何个人明知或就民事救济而言有合理理由知道其行为将诱使、使能、便利或掩盖版权及相关权利的侵犯，而进行下列任何行为：
 - (a) 未经授权删除或更改任何电子权利管理信息；以及
 - (b) 未经授权分发、为分发而进口、广播、传播或向公众提供作品、作品副本、表演、固定表演副本或音像制品，且明知电子权利管理信息已被未经授权地删除或更改。
2. “权利管理信息”一词是指 识别作品、表演或音像制品的信息；作品的作者、表演的表演者或音像制品的制作者；作品、表演或音像制品中任何权利的所有者；或关于作品、表演或音像制品使用条款和条件的信息；以及代表此类信息的任何数字或代码，当这些信息中的任何一项附着在作品、固定表演或音像制品的副本上，或在与向公众传播或提供作品、固定表演或音像制品相关时出现时。

SUB-SECTION 2

Trademarks

ARTICLE 14.20

Rights conferred by a trademark

Each Party shall ensure that the owner of a registered trademark has the exclusive right to prevent all third parties not having the owner's consent from using¹ in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the 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 a Party to make rights available on the basis of use.

ARTICLE 14.21

Exceptions

Each Party shall provide for limited exceptions to the rights conferred by a trademark such as the fair use of descriptive terms² and may provide for other limited exceptions, provided that those exceptions take account of the legitimate interest of the owner of the trademark and of third parties.

¹ For the purposes of this Article, "using" such sign includes, at least, importing and exporting goods or packages of goods to which the sign is affixed.

² The fair use of descriptive terms includes the use of a sign to indicate the geographic origin of the goods or services in accordance with honest practices in industrial or commercial matters.

分节 2

商标

第 14.20 条

商标授予的权利

每一方应确保注册商标的所有者拥有专有权利，以阻止所有未经所有者同意的第三方在贸易过程中使用¹ 相同或近似的标志用于商品或服务，这些商品或服务与注册商标所涉及的商品或服务相同或近似，且此种使用可能导致混淆。在使用相同标志用于相同商品或服务的情况下，应推定存在混淆的可能性。上述权利不应损害任何现有的在先权利，也不应影响一方基于使用而提供权利的可能性。

第 14.21 条

例外

每一方应当为商标所授予的权利提供有限例外，例如描述性词语的合理使用²，并且可以提供其他有限例外，但前提是这些例外应当考虑到商标所有者的合法利益和第三方的合法利益。

¹ 根据本条款的目的，“使用”此类标记至少包括进口和出口附有该标记的商品或商品包。² 合理使用描述性词语包括根据工业或商业事务中的诚实做法，使用标记来指示商品或服务的地理来源。

Preparatory acts deemed as infringement

With regard to labels and packaging, each Party shall provide that at least each of the following preparatory acts are deemed as an infringement of a registered trademark if the act has been performed without the consent of the registered trademark owner:

- (a) the manufacture;
- (b) the importation; and
- (c) the presentation¹

of labels or packaging bearing² a sign which is identical or similar to the registered trademark, for the purpose of using such sign or causing it to be used in the course of trade for goods or services which are identical or similar to those in respect of which the trademark is registered.

Well-known trademarks

1. For the purpose of giving effect to the protection of well-known trademarks, as referred to in Article 6*bis* of the Paris Convention and paragraphs 2 and 3 of Article 16 of the TRIPS Agreement, the Parties affirm the importance of 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 the WIPO in 1999.

¹ For the purposes of this Article, the United Kingdom considers "presentation" as offering or putting on the market and Japan considers "presentation" as assignment.
² For the purposes of this Article, for Japan, "bearing" means indicating.

准备行为被视为侵权

关于标签和包装，每一方应当规定，如果一项准备行为未经注册商标所有者的同意而实施，则至少以下每一项准备行为均被视为注册商标的侵权行为：

- (a) 制造； (b) 进口； 以
- 及 (c) 展示¹

标签或包装上带有² 一个与注册商标相同或近似的标记，目的是在贸易过程中使用该标记或使其被用于与注册商标所涉及的相同或近似的商品或服务。

驰名商标

1. 为了实施《巴黎公约》第6*bis*条和《与贸易有关的知识产权协定》第16条第2段及第3段中提到的驰名商标保护， 缔约方重申1999年世界知识产权组织成员国大会第三十四次会议系列中保护工业产权巴黎联盟大会和世界知识产权组织大会通过的《关于驰名商标保护规定的联合建议书》的重要性。

¹ 根据本条款的目的， 英国将“展示”视为提供或投放市场， 而日本将“展示”视为转让。² 根据本条款的目的， 对于日本，“带有”意味着指示。

2. Neither Party shall require as a condition for determining that a trademark is well-known that the trademark has been registered in the Party or in another country, included on a list of well-known trademarks, or given prior recognition as a well-known trademark.

ARTICLE 14.24

Bad faith trademarks

Each Party shall provide that its competent authority has the authority to refuse an application or cancel a registration where the application to register the trademark was made in bad faith, in accordance with its laws and regulations.^{1 2}

ARTICLE 14.25

Registration and renewal processes

To maintain a streamlined trademark registration system that can adapt to technological advances, the Parties recognise the importance of maintaining best practice for the efficient registration and renewal processes for trademarks.

¹ For the purposes of this Article, a Party may provide that the competent authority of a Party may take into consideration whether the trademark is identical or similar to a well-known trademark of another person.

² The Parties understand that an application to register a trademark, which is identical or similar to a trademark well-known in either Party or in a third country as indicating the goods or services of another person, may be considered as an application made in bad faith as determined in accordance with the applicable laws and regulations of each Party.

2. 任何一方不得将商标已在其领土内或另一国注册、被列入驰名商标名单或被认定为驰名商标作为认定该商标为驰名商标的条件。

ARTICLE 14.24

恶意商标

每一方应当规定，其主管当局有权拒绝商标注册申请或撤销注册，如果商标注册申请是在恶意下提出的，且符合其法律和法规。^{1 2}

ARTICLE 14.25

注册和续展程序

为维护一个能够适应技术进步的简化商标注册制度，缔约方认识到保持商标注册和续展流程高效的最佳实践的重要性。

¹ 根据本条的规定，一方可以规定，一方的主管当局可以考虑该商标是否与另一方的驰名商标相同或近似。

² 缔约方理解，如果商标注册申请与在缔约方或第三国作为另一方的商品或服务标志的商标相同或近似，则该商标注册申请可能被视为根据每一方的适用法律法规确定的恶意申请。

SUB-SECTION 3

Geographical indications

ARTICLE 14.26

Scope

1. This Sub-Section applies to the recognition and protection of geographical indications for wines, spirits and other alcoholic beverages¹ as well as agricultural products² which originate in the Parties.
2. For the purposes of this Chapter, "geographical indications" means indications which identify a good as originating in the territory of a Party, or a region or locality in that Party's territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin.
3. Geographical indications of a Party listed in Annex 14-B shall be protected by the other Party under this Agreement if they fall within the types of goods that the other Party protects in accordance with its laws and regulations as listed in Annex 14-A.

¹ For the purposes of this Sub-Section, with respect to the protection of geographical indications in Japan, "alcoholic beverages" means beverages containing one per cent of alcohol or more.

² For the purposes of this Sub-Section, with respect to the protection of geographical indications in Japan, "agricultural products" means agricultural, forestry and fishery products as well as foodstuffs excluding alcoholic beverages.

分节 3

地理标志

物品 14.26

范围

1. 本分节适用于葡萄酒、烈酒和其他酒精饮料¹ 以及源自缔约方的农产品² 的地理标志的承认和保护。
2. 就本章而言，“地理标志”是指将商品标示为源自一方领土，或一方领土内的某个地区或地点的标志，该商品的质量、声誉或其他特征基本上可归因于其地理来源。
3. 附件14-B中列明的一方地理标志，若属于附件14-A中列明的一方根据其法律和法规保护的货物类型，则另一方应在本协定项下予以保护。

¹ 就本章而言，“地理标志”是指将商品标示为源自一方领土，或一方领土内的某个地区或地点的标志，该商品的质量、声誉或其他特征基本上可归因于其地理来源。

System of protection of geographical indications

- 1. Each Party shall establish or maintain a system for the registration¹ and protection of geographical indications in its territory.
- 2. The system referred to in paragraph 1 shall contain at least the following elements:
 - (a) an official means to make available to the public the list of registered geographical indications;
 - (b) an administrative process to verify that a geographical indication to be registered as referred to in subparagraph (a) identifies a good as originating in the territory of a Party, or a region or locality in that Party's territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin;
 - (c) an opposition procedure that allows the legitimate interests of third parties to be taken into account; and
 - (d) a procedure for the cancellation² of the protection of a geographical indication, taking into account the legitimate interests of third parties and the users of the registered geographical indications in question.³

¹ For the purposes of this Sub-Section, with respect to the protection of geographical indications in Japan, "registration" and "register" respectively may be deemed to be synonymous with "designation" or "confirmation of protection" and "designate" or "confirm protection" under its relevant laws and regulations.

² For the purposes of this Sub-Section, with respect to the protection of geographical indications in Japan, "cancellation" may be deemed to be synonymous with "exemption from protection" under its relevant laws and regulations.

³ Without prejudice to its laws and regulations on the system referred to in paragraph 1, each Party shall provide for legal means for the invalidation of the registration of geographical indications.

地理标志保护制度

- 1. 每一方应在其领土内建立或维持地理标志注册和保护¹ 的制度。
- 2. 第1段所述制度应至少包含以下要素：
 - (a) 一种官方方式，向公众提供已注册的地理标志清单；
 - (b) 一种行政程序，以核实第(a)项所述的地理标志注册程序，确认该地理标志将商品指定源自一方领土，或一方领土内的某个地区或地点，其中商品给定的质量、声誉或其他特征本质上可归因于其地理来源；
 - (c) 一种异议程序，允许考虑第三方的合法利益；和
 - (d) 地理标志的保护² 注销程序，应考虑第三方和所涉已注册地理标志使用者的合法利益。³

¹ 根据本分节的目的，在保护日本地理标志方面，“注册”和“注册”分别可被视为与“指定”或“确认保护”以及“指定”或“确认保护”在相关法律法规下同义。² 根据本分节的目的，在保护日本地理标志方面，“注销”可被视为与“免于保护”在相关法律法规下同义。³ 在不损害第1段所述制度的相关法律法规的情况下，每一方应提供法律手段以使地理标志注册无效宣告。

ARTICLE 14.28

Lists of geographical indications

1. Following the completion of an opposition procedure and an examination of the geographical indications of the United Kingdom listed in Section A of Part 1 and Section A of Part 2 of Annex 14-B, Japan shall recognise that those indications are geographical indications within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement and that they have been registered by the United Kingdom under the system referred to in Article 14.27. Japan shall protect those geographical indications in accordance with this Sub-Section.
2. Following the completion of an opposition procedure and an examination of the geographical indications of Japan listed in Section B of Part 1 and Section B of Part 2 of Annex 14-B, the United Kingdom shall recognise that those indications are geographical indications within the meaning of paragraph 1 of Article 22 of the TRIPS Agreement and that they have been registered by Japan under the system referred to in Article 14.27. The United Kingdom shall protect those geographical indications in accordance with this Sub-Section.

ARTICLE 14.29

Scope of protection of geographical indications

1. Subject to Article 14.33 each Party shall, in respect of geographical indications of the other Party listed in Annex 14-B, provide the legal means for interested parties to prevent in its territory:¹

¹

For the purposes of this paragraph, and notwithstanding Sub-Section 2 of Section C, each Party may provide for enforcement by administrative action.

第14.28条

地理标志清单

1. 在完成异议程序以及对附件14-B第一部分A部分和第二部分A部分所列英国地理标志的审查后，日本应承认这些标志属于第22条第1段所定义的地理标志，并承认英国已根据第14.27条所述制度注册了这些标志。日本应根据本分节的规定保护这些地理标志。
2. 在完成异议程序以及对附件14-B第一部分B部分和第二部分B部分所列日本地理标志的审查之后，英国应承认这些标志是《与贸易有关的知识产权协定》第22条第1段所定义的地理标志，并承认日本已根据第14.27条所述制度注册这些标志。英国应根据本分节保护这些地理标志。

第14.29条

地理标志的保护范围

1. 根据第14.33条，每一方应就附件14-B中列明他方地理标志，为利害关系方在其领土上阻止下列行为提供法律手段：¹

¹

就本段而言，且不顾及第C节第2分节，每一方可以规定通过行政措施执行。

- (a) the use of a geographical indication identifying a good for a like good¹ not meeting the applicable requirement of specifications of the geographical indication even if:
 - (i) the true origin of the good is indicated;
 - (ii) the geographical indication is used² in translation or transliteration³; or
 - (iii) the geographical indication is accompanied by expressions such as "kind", "type", "style", "imitation", or the like;
- (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 or nature of the good; and
- (c) any other use which constitutes an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.

2. Each Party may determine the practical conditions under which the homonymous geographical indications will be differentiated from each other in its territory, taking into account the need to ensure equitable treatment of the producers concerned and that consumers are not misled.

¹ For the purposes of this paragraph, paragraph 4 of Article 14.31 and paragraphs 1 and 2 of Article 14.33, "like good", in relation to a good for which a geographical indication has been protected in a Party's system as referred to in paragraph 2 of Article 14.27, means a good that would fall within the same category of good as the good for which a geographical indication has been registered in that Party.

² For greater certainty, it is understood that this is assessed on a case-by-case basis. This provision does not apply where evidence is provided that there is no link between the protected name and the translated or transliterated term.

³ For the purposes of this Sub-Section, transliteration covers the conversion of characters following the phonetics of the original language or languages of the relevant geographical indication.

- (a) 将地理标志用于识别同类商品¹，即使该商品不符合地理标志的规范要求：
 - (i) 商品的真实原产地被标明；
 - (ii) 地理标志被² 翻译或转写³使用；或
 - (iii) 地理标志伴随着"种类"、"类型"、"风格"、"仿制"等类似表述；
- (b) 在商品的指定或展示中使用任何手段，表明该商品来源于真实原产地以外的地理区域，且以误导公众关于商品地理来源或性质的方式；和
- (c) 任何其他构成巴黎公约第10*bis*条所定义的不正当竞争行为的使用。

2. 每一方可以确定其实际条件，在其领土内将同名的地理标志相互区分，同时考虑到确保相关制作人获得公平待遇的需要，以及防止消费者被误导。

¹ 为本段之目的，第14.31条第4段及第14.33条第1、2段中的"同类商品"，对于在某一方的制度中根据第14.27条第2段所述获得地理标志保护的的商品，指与已注册地理标志的商品属于同一类别的商品 在该方。 ² 为更明确起见，理解为此评估应逐案进行。当提供证据表明受保护的名称与翻译或转写术语之间没有联系时，本规定不适用。 ³ 为本分节之目的，转写包括根据相关地理标志的原语言或语言的语音将字符进行转换。

3. If a Party intends to protect, pursuant to an international agreement, a geographical indication of a third country which is homonymous with a geographical indication of the other Party which is protected under this Agreement, the former Party shall inform no later than on the date of the publication for opposition, the other Party of the opportunity to comment, provided that such opposition procedure for the relevant geographical indication of the third country to be protected commences after the date of entry into force of this Agreement.

4. In the opposition procedure and examination referred to in Article 14.28, each Party may consider the following grounds on which that Party shall not be required to protect a name as a geographical indication in Annex 14-B:

- (a) 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 good; and
- (b) that name is the term customary in common language as the common name for the good concerned.

ARTICLE 14.30

Scope of the use of geographical indications

- 1. Any person may use any geographical indication protected under this Sub-Section provided that such use is related to the goods as identified by that geographical indication and in compliance with the scope of protection under this Agreement.
- 2. Once a geographical indication of a Party is protected under this Agreement in the other Party, the legitimate use of such protected name shall not be subject to any user registration or further charges in the other Party.

3. 如果一方根据一项国际协定，打算保护一个第三国的地理标志，该地理标志与另一方在本协定下受保护的地理标志同名，则前一方应在异议公告日期之前，通知另一方评论的机会，前提是该第三国相关地理标志的异议程序在本协定生效日期之后开始。

4. 在第14.28条所述的异议程序和审查中，每一方可以考虑以下理由，根据这些理由，该方无需将名称作为地理标志列入附件14-B予以保护：

- (a) 该名称与植物品种或动物品种的名称冲突，并因此可能导致消费者对商品的真实原产地产生误解；以及
- (b) 该名称是通用语言中作为相关商品通用名称的常用术语。

第14.30条

地理标志的使用范围

- 1. 任何个人均可使用根据本分节提供的保护的任何地理标志，但使用该地理标志与该地理标志所识别的商品相关，并符合本协定规定的保护范围。
- 2. 一方的一项地理标志根据本协定在另一方受到保护时，该受保护名称的合法使用不应在另一方受任何用户注册或进一步费用的约束。

Relationship with trademarks

1. If a geographical indication is protected under this Sub-Section, each Party shall refuse to register a trademark the use of which would be likely to mislead as to the quality of the good, provided that an application to register the trademark is submitted after the applicable date for protection of the geographical indication in the territory concerned¹ as referred to in paragraphs 2 and 3. Trademarks registered in breach of this paragraph shall be invalidated.
2. For geographical indications referred to in Article 14.28 and listed in Annex 14-B on the date of entry into force of this Agreement, the applicable date for protection shall be the date of entry into force of this Agreement.
3. For geographical indications referred to in Article 14.34 and not listed in Annex 14-B on the date of entry into force of this Agreement, the applicable date for protection shall be the date on which the amendment to Annex 14-B enters into force.
4. The Parties acknowledge that the existence of a prior conflicting trademark in a Party would not completely preclude the protection under this Agreement of a subsequent geographical indication for like goods in that Party.²
5. If a trademark has been applied for or registered in good faith, or if rights to a trademark have been acquired through use in good faith, in a Party, before a geographical indication is protected under this Agreement in that Party, measures adopted to implement this Sub-Section shall not prejudice the eligibility for or the validity of the registration of the trademark, or the right to use the trademark, on the basis that such a trademark is identical with, or similar to, the geographical indication.

¹ For the purposes of paragraph 1, the examination of the trademark application which is filed in a Party after 1 February 2019 or the date of publication for opposition of a geographical indication referred to in Article 14.28, whichever is later, shall take into account the publication for opposition of the geographical indication.

² The competent authorities may require certain conditions for the protection of a geographical indication which conflicts with a prior existing trademark.

与商标的关系

1. 如果一项地理标志根据本分节受到保护，每一方应当拒绝注册商标，其使用可能导致对商品质量产生误解，前提是该商标注册申请是在相关领土上地理标志的保护适用日期¹之后提交的，如第2段和第3段所述。违反本段注册的商标将被宣告无效。
2. 对于根据第14.28条所述并在本协定生效日期附件14-B中列出的地理标志，保护适用日期应为本协定生效日期。
3. 对于根据第14.34条所述且在本协定生效日期附件14-B中未列出的地理标志，保护适用日期应为附件14-B的修订生效日期。
4. 各方承认，在一方存在在先冲突商标的情况下，本协定对该方同类商品的后续地理标志的保护将不会完全被排除。²
5. 如果商标以善意提出申请或注册，或如果商标权通过善意使用而获得，在一方，在该一方根据本协定获得地理标志保护之前，为实施本分节而采取的措施不应损害该商标的资格或注册的有效性，或使用该商标的权利，理由是该商标与地理标志相同或相似。

¹ 根据第1段，对于2019年2月1日之后在一方提交的商标申请或第14.28条所述地理标志的异议公告日期（以较晚者为准）的商标申请的审查，应考虑该地理标志的异议公告。² 主管当局可以要求与在先现有商标冲突的地理标志保护的条件。

Enforcement of protection

Each Party shall authorise its competent authorities to take appropriate measures *ex officio* or on request of an interested party in accordance with its laws and regulations to protect geographical indications listed in Annex 14-B.

Exceptions

1. Notwithstanding paragraph 1 of Article 14.29, a Party shall prevent the continuation of a prior use in its territory, in connection with goods or services, of a particular geographical indication of the other Party listed in Annex 14-B, identifying an agricultural product for a like good, after a transitional period of a maximum of seven years from the date of the protection by the former Party of the said geographical indication. Goods produced in the former Party and concerned by such uses shall bear clear and visible indication of the true geographical origin.
2. Notwithstanding paragraph 1 of Article 14.29, except when paragraph 4 of Article 24 of the TRIPS Agreement is applicable, a Party shall prevent the continuation of a prior use in its territory, in connection with goods or services, of a particular geographical indication of the other Party listed in Annex 14-B, identifying wine, spirit or other alcoholic beverage for a like good, after a transitional period of a maximum of five years from the date of the protection by the former Party of the said geographical indication¹. Goods produced in the former Party and concerned by such uses shall bear clear and visible indication of the true geographical origin.

¹ Notwithstanding this paragraph, for geographical indications listed in Annex 14-B as of the date of entry into force of this Agreement identifying wine, spirits or other alcoholic beverages, the transitional period shall be a maximum of three years from the date of entry into force of this Agreement.

保护的实施

每一方应根据其法律和法规授权其主管当局主动地或应有关方的请求采取适当措施主动地，以保护附件14-B中列出的地理标志。

例外

1. 尽管本段如此，第14.29条第1款，一方应在其领土内，与商品或服务有关，防止在过渡期最多为七年（自前一方对所述地理标志提供保护的日期起算）后，继续使用另一方的附件14-B中列出的特定地理标志，用于识别同类农产品。前一方生产的、与该等使用有关的商品应标明真正的地理来源。
2. 不论第14.29条第1款如何规定，除非第24条第4款 của Hiệp định TRIPS 适用，一方应在其领土内，就与商品或服务有关的另一方的附件14-B中列出的特定地理标志，在识别同类商品所用的葡萄酒、烈酒或其他酒精饮料上，防止在过渡期（自前一方对该地理标志提供保护的日期起最多五年）后继续使用先前的使用¹。前一方生产的与该等使用有关的货物，应标明真正的地理来源的清晰和可见的指示。

¹ 尽管本段如此，自本协定生效之日起列入附件14-B的地理标志，用于识别葡萄酒、烈酒或其他酒精饮料的，过渡期为自本协定生效之日起最多三年。

3. Each Party may determine the practical conditions under which such use referred to in paragraphs 1 and 2 will be differentiated from the geographical indication in its territory, taking into account the need to ensure that consumers are not misled.

4. The transitional period referred to in paragraph 1 shall not apply if the use of the geographical indication for the good concerned which is produced in the territory of the other Party as referred to in paragraph 1 does not comply with the relevant laws and regulations as listed in Annex 14-A applicable in the territory of that Party.

5. Nothing in this Sub-Section 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 as to mislead the public.

ARTICLE 14.34

Amendment of the lists of geographical indications

1. The Parties agree on the possibility to amend the lists of geographical indications in Annex 14-B in accordance with paragraphs 3 and 4 of Article 14.61 after having completed the opposition procedure and after having examined the geographical indications as referred to in Article 14.28 to the satisfaction of both Parties.
2. Paragraph 4 of Article 14.29 applies as regards the addition of a name to be protected as a geographical indication in Annex 14-B.
3. Nothing in this Sub-Section shall oblige a Party to protect a geographical indication of the other Party which is not or ceases to be protected in accordance with the laws and regulations of the other Party. Each Party shall notify the other Party if a geographical indication ceases to be protected in the territory of the Party of origin.
4. On request of a Party, the Parties shall hold consultations for the amendment of Annex 14-B as regards any matter affecting the continuation of the protection of the geographical indications listed in that Annex with a view to reaching a mutually acceptable solution.

3. 每一方可以确定第1段和第2段所述的该等使用与其领土内的地理标志区分开来的实际条件，同时考虑到确保消费者不被误导的需要。

4. 第1段所述的过渡期不适用，如果根据第1段所述，在另一方领土上生产的与该商品相关的地理标志的使用不符合在该方领土上适用的附件14-A中列出的相关法律法规。

5. 本分节中的任何规定均不得损害任何个人在贸易过程中使用其姓名或其商业前人的姓名的权利，除非该姓名以误导公众的方式使用。

ARTICLE 14.34

地理标志清单的修订

1. 各方同意在完成异议程序并经双方满意地审查第14.28条所述的地理标志后，根据第14.61条第3段和第4段的规定，修改附件14-B中的地理标志清单。
2. 第14.29条第4段的规定适用于将名称添加到附件14-B中以作为地理标志进行保护。
3. 本款规定任何一方不得被强制保护在另一方领土上未受保护或不再受保护的地域标志。若一方领土上的地域标志不再受保护，该方应通知另一方。
4. 应一方请求，缔约方应就附件14-B中列出的地理标志的保护延续所涉任何事项举行磋商，以寻求双方均可接受之解决方案。

5. The Parties shall, as soon as practically possible after the entry into force of this Agreement, enter into consultations with a view to adding to the lists of geographical indications in Annex 14-B, existing geographical indications identifying a good as originating in the territory of a Party and protected in such territory in accordance with its laws and regulations, which are not yet listed in that Annex. Each Party shall provide to the other Party the list of geographical indications it seeks to add to Annex 14-B for protection in the territory of the other Party, as well as their specifications, and the transcriptions into Japanese (for geographical indications of the United Kingdom) or the Latin alphabet (for geographical indications of Japan) for both the geographical indications and their specifications. As soon as practically possible after receipt of such information and in accordance with its laws and regulations, each Party shall conduct an examination and opposition procedure for those geographical indications. As soon as practically possible after the completion of the examination and opposition procedure, the Committee on Intellectual Property shall make recommendations to the Joint Committee on amendments to Annex 14-B to add the names that are eligible for protection as geographical indications, in accordance with paragraph 3 of Article 14.61.

5. 各缔约方应在本协定生效后尽快进行磋商，以便将附件14-B中现有的、用于识别商品来源于一方领土并受其法律法规保护的地理标志增列入该附件。每一方应向另一方提供其希望增列入附件14-B以在另一方领土内获得保护的地理标志清单，以及这些地理标志及其规范的详细信息，并提供日文（用于英国地理标志）或拉丁字母（用于日本地理标志）的转录文本。在收到此类信息后尽快，并依据其法律法规，每一方应就这些地理标志进行审查和异议程序。在审查和异议程序完成后，知识产权委员会应就根据第14.61条第3款将符合作为地理标志保护条件的名称增列入附件14-B的建议，向联合委员会提出。

SUB-SECTION 4

Industrial designs¹

ARTICLE 14.35

Industrial designs

1. Each Party shall provide for the protection of independently created industrial designs that are new and original², including designs of a part of a product³, regardless of whether or not the part can be separated from the product. This protection shall be provided by registration and shall confer an exclusive right upon their holders in accordance with the provisions of this Article.

2. A design applied to or incorporated in a product which constitutes a component part of a complex product shall be considered to be new and original in the following circumstances⁴:

(a) if the component part, once it has been incorporated into the complex product, remains visible during normal use⁵ of the latter; and

(b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and originality.

¹ For the purposes of this Sub-Section, for the United Kingdom, "industrial designs" refers to registered designs.

² For the purposes of this Article, a Party may consider, in accordance with its laws and regulations, that a design "having individual character" is original.

³ For the purposes of this paragraph and paragraph 2, for Japan, "product" shall be interpreted as "article".

⁴ As an alternative to the circumstances provided for in subparagraphs (a) and (b), a Party may consider a design applied to or incorporated in a product which constitutes a component part of a complex product to be new and original in circumstances in accordance with its laws and regulations.

⁵ For the purposes of this paragraph, "normal use" shall mean use by the end user, excluding maintenance, servicing or repair work.

分节 4

工业设计¹

第14.35条

工业设计

1. 每一方应当为独立创作的、新颖的工业设计提供保护², , 包括产品部件的设计³, , 无论该部件是否可以与产品分离。这种保护应当通过注册提供, 并根据本条的规定, 授予其所有者专有权利。

2. 应用于或组合在复杂产品的部件中的设计, 在以下情况下⁴应当被认为新颖和原创:

(a) 如果部件在成为复杂产品的一部分后, 在后者正常使用⁵ 时仍然可见; 并且

(b) 在部件的可见特征本身满足新颖性和独创性要求的情况下。

¹ 根据本分节的规定, 对于英国, “工业设计”是指注册设计。 ² 根据本条款的规定, 一方可以根据其法律法规, 认为“具有个体特征”的设计是原创的。 ³ 根据本段和第2段的规定, 对于日本, “产品”应解释为“物品”。 ⁴ 作为(a)和(b)项所规定情况的一种替代, 一方可以根据其法律法规, 认为应用于或构成复杂产品部件的产品上的设计是新颖和原创的。 ⁵ 根据本段的规定, “正常使用”应指最终用户的使用, 不包括维护、服务或维修工作。

3. Each Party may provide limited exceptions to the protection of industrial designs in a manner consistent with paragraph 2 of Article 26 of the TRIPS Agreement.
4. The provisions of this Article shall be without prejudice to any provisions of this Chapter or of the laws and regulations of each Party relating to other intellectual property including unregistered appearances of products, copyright, trademarks or other distinctive signs and patents.
5. Each Party shall ensure that an owner of a protected industrial design has at least the right to prevent third parties not having the owner's consent from making, offering for sale, selling, importing or exporting articles bearing or embodying a design which is identical or similar to the protected design, when such act is undertaken for commercial purposes.
6. Each Party shall provide that an applicant for an industrial design registration may request the competent authority to maintain the design unpublished for a period designated by the applicant not exceeding the period provided for in its laws and regulations.
7. Each Party shall ensure that the total term of protection available for industrial designs does not end before the expiration of a period of 25 years from the date on which the application was made or is treated as having been made.

ARTICLE 14.36

Multiple design applications¹

Each Party shall provide a system for the registration of industrial designs which allows for two or more designs to be registered through the filing of one application.

¹ The Parties understand that Japan shall implement the obligations referred to in this Article only after the relevant laws and regulations of Japan have come into force and, in any event, within six months of the date of entry into force of this Agreement.

3. 每一方可以在与《与贸易有关的知识产权协定》第26条第2款一致的方式下，为工业设计的保护提供有限例外。
4. 本条的规定不影响本章或每一方的法律法规中关于其他知识产权的任何规定，包括未注册的产品外观、版权、商标或其他显著性标志和专利。
5. 每一方应确保受保护的工业设计所有人至少享有以下权利：防止第三方未经所有人同意，以商业目的制造、提供销售、销售、进口或出口带有或体现与受保护的设计相同或相似设计的物品。
6. 每一方应规定，工业设计注册申请人可以请求主管当局维持其设计未公开，期限由申请人指定，且不超过其法律法规规定的期限。
7. 每一方应确保工业设计的保护期限在申请作出或被视为作出之日起的25年期限届满前不终止。

ARTICLE 14.36

Multiple design applications¹

每一方应当提供一种工业设计注册制度，该制度允许通过一份申请注册两个或多个设计。

¹ 缔约方理解，日本应在本协定相关法律法规生效后，并在任何情况下在本协定生效日期之日起六个月内，履行本条所述的义务。

SUB-SECTION 5

Unregistered appearance of products

ARTICLE 14.37

Unregistered appearance of products

1. The Parties recognise that the appearance of products may be protected through industrial designs, copyright or unfair competition prevention legislation.
2. Each Party shall provide legal means to prevent the use of the unregistered appearance of a product, if such use results from copying the unregistered appearance of the product to the extent provided by its laws and regulations. Such use shall at least cover offering for sale, putting on the market, importing or exporting the product.¹
3. The duration of protection available for the unregistered appearance of a product shall amount to at least three years according to the respective laws and regulations of the Parties.

¹

For the purposes of this Article, "copying", "appearances", "offering", and "putting on the market" may be deemed by a Party to be synonymous with "imitating", "configuration", "displaying" and "selling", respectively.

分节 5

未注册的产品外观

第14.37条

未注册的产品外观

1. 各缔约方承认，产品的外观可以通过工业设计、版权或防止不正当竞争立法得到保护。
2. 每一方应提供法律手段，以防止未经注册的产品外观的使用，如果这种使用是由于根据其法律法规复制了未经注册的产品外观而导致的。这种使用至少应涵盖销售、投放市场、进口或出口产品¹。
3. 对于未注册的产品外观，其可获得的保护期限应至少为三年，具体依据缔约方的相关法律法规。

¹

就本条而言，“复制”、“外观”、“提供”和“投放市场”可以被一方视为与“模仿”、“配置”、“展示”和“销售”分别相同。

SUB-SECTION 6

Patents

ARTICLE 14.38

Patents

1. Each Party shall ensure that a patent confers on its owner exclusive rights:
- (a) where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from making, using, offering for sale, selling, importing for these purposes or exporting¹ that product; and

(b) where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from using the process, and from using, offering for sale, selling, importing for these purposes or exporting at least the product obtained directly by that process.
2. 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.
3. The Parties recognise the importance of providing a unitary patent protection system including a unitary judicial system in their respective territories.
4. The Parties shall continue to cooperate to enhance international substantive patent law harmonisation, *inter alia* on grace period, prior user rights and publication of pending patent applications.

¹ For the purposes of this paragraph, a Party may interpret "exporting" to fall within the scope of "offering for sale" and fulfil its obligation relating to "exporting" by complying with its obligation relating to "offering for sale".

分节 6

专利

第14.38条

专利

1. 每一方应确保专利授予其所有者专有权利:
- (a) 当专利主题是产品时, 防止未经专利所有者同意的第三方制造、使用、销售、进口或出口¹ 该产品; 以及

(b) 当专利主题是方法时, 防止未经专利所有者同意的第三方使用该方法, 以及使用、销售、进口或出口通过该方法直接获得的产品。
2. 每一方可以针对专利授予的独占权利提供有限例外, 前提是这样做的例外不与专利的正常利用产生不合理冲突, 并且不不合理地损害专利权人的合法利益, 同时考虑第三方的合法利益。
3. 缔约方承认在各自领土内提供统一的专利保护制度, 包括统一的司法系统的重要性。
4. 缔约方应当继续合作以加强国际实体专利法协调, 例如在宽限期、先用权和未决专利申请的公布方面。

¹ 就本段而言, 一方可以将“出口”解释为属于“销售”的范围, 并通过遵守其关于“销售”的义务来履行其关于“出口”的义务。

5. The Parties shall give due consideration to the cooperation for enhancing mutual utilisation of search and examination results, such as that based upon the Patent Cooperation Treaty and any other utilisation¹, so as to allow applicants to obtain patents in an efficient and expeditious manner, without prejudice to their respective substantive patent examination.

ARTICLE 14.39

Patents and public health

1. The Parties recognise the importance of the Doha Declaration on the TRIPS Agreement and Public Health, adopted at Doha on 14 November 2001 by the WTO Ministerial Conference. In interpreting and implementing the rights and obligations under this Chapter, the Parties shall ensure consistency with that Declaration.

2. Each Party shall respect Article 31*bis* of the TRIPS Agreement, as well as the Annex and Appendix to the Annex related thereto, which entered into force on 23 January 2017.

¹ Such utilisation may include that based upon the Patent Prosecution Highway.

5. 缔约方应当充分考虑合作以加强相互利用检索和审查结果，例如基于专利合作条约及任何其他利用¹，以便申请人能够以高效和迅速的方式获得专利，而不损害其各自实体专利审查的权利。

ARTICLE 14.39

专利与公共健康

1. 缔约方承认《与贸易有关的知识产权协定》和公共健康的《多哈宣言》的重要性，该宣言于2001年11月14日由世界贸易组织部长会议通过。在解释和实施本章下的权利和义务时，缔约方应确保与该宣言一致。。

2. 每一方应当尊重与贸易有关的知识产权协定第31*bis*条*bis*，以及与之相关的附件和附件附录，该附件和附件附录于2017年1月23日生效。

¹ 此种利用可能包括基于专利审查高速路的利用。

Extension of the period of protection conferred by a patent on pharmaceutical products¹
and agricultural chemical products²

With respect to the patents which are granted for inventions related to pharmaceutical products or agricultural chemical products, each Party shall, subject to the terms and conditions of its applicable laws and regulations, provide for a compensatory term of protection for a period during which a patented invention cannot be worked due to marketing approval process. As of the date of signing of this Agreement, the maximum compensatory term is stipulated as being five years³ by the relevant laws and regulations of each Party.

SUB-SECTION 7

Trade secrets and undisclosed test or other data

Scope of protection of trade secrets

1. Each Party shall ensure in its laws and regulations adequate and effective protection of trade secrets in accordance with paragraph 2 of Article 39 of the TRIPS Agreement.

¹ For the United Kingdom, "pharmaceutical products" refers in this Article to medicinal products as defined in Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products.

² For the United Kingdom, "agricultural chemical products" refers in this Article to plant protection products as defined in Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products.

³ For the United Kingdom, a further six months extension is possible in the case of medicinal products for which paediatric studies have been carried out, and the results of those studies are reflected in the product information.

专利药品的保护期限延长¹和农药产品²

对于与药品或农药产品相关的发明所授予的专利，每一方应根据其适用法律法规的规定，在因市场批准程序导致专利发明无法实施期间，提供补偿性保护期限。自本协议签署之日起，最大补偿期限由各方的相关法律法规规定为五年³。

第7分节

商业秘密和未公开的试验或其他数据

商业秘密的保护范围

1. 每一方应确保其法律法规对商业秘密提供充分有效的保护，符合与贸易有关的知识产权协定第39条第2款的规定。

¹ 对于英国而言，在本条文中，“药品”是指欧洲议会和理事会于2009年5月6日通过的关于药品补充保护证书的（EC）第469/2009号条例中定义的药品。² 对于英国而言，在本条文中，“农药产品”是指欧洲议会和理事会于1996年7月23日通过的关于植物保护产品补充保护证书创建的（EC）第1610/96号条例中定义的植物保护产品。³ 对于英国而言，对于已进行儿童研究的药品，可以进一步延长六个月，并且这些研究的结果反映在产品信息中。

2. For the purposes of this Article and Sub-Section 3 of Section C:
- (a) "trade secret" means information that:
- (i) is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
 - (ii) has commercial value because it is secret; and
 - (iii) has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret; and
- (b) "trade secret holder" means any person lawfully in control of a trade secret.
3. For the purposes of this Article and Sub-Section 3 of Section C, each Party shall provide, in accordance with its laws and regulations, that at least the following conduct shall be considered contrary to honest commercial practices:
- (a) the acquisition of a trade secret without the consent of the trade secret holder, whenever carried out by wrongful means, or, alternatively, unauthorised access to, appropriation of, or copying of any documents, objects, materials, substances 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;
- (b) the use or disclosure of a trade secret whenever carried out, without the consent of the trade secret holder, by a person who is found to meet any of the following conditions:
- (i) having acquired the trade secret in a manner referred to in subparagraph (a);
 - (ii) being in breach of a confidentiality agreement or any other duty not to disclose the trade secret, with an intention to gain unfair profit or to cause damage to the trade secret holder; or

2. 就本文和第C条第3款而言：
- (a) "商业秘密"是指：
- (i) 在意义上是秘密的，即作为一个整体或其组成部分的精确配置和组装，通常不为或不易为通常处理此类信息的圈子内的人员所知；
 - (ii) 因为其秘密性而具有商业价值；并且
 - (iii) 在当时情况下，由合法控制该信息的个人采取了合理的措施来保持其秘密；并且
- (b) "商业秘密持有人"是指合法控制商业秘密的任何个人。
3. 根据本条和第C条第3款的规定，每一方应根据其法律法规，规定至少以下行为应被视为违反诚实商业行为：
- (a) 未经商业秘密持有人同意而获取商业秘密，且该获取是通过不正当手段进行的，或者，或者，未经授权访问、侵占或复制任何在法律上由商业秘密持有人控制并包含商业秘密或可从中推知商业秘密的文件、物品、材料、物质或电子文件；
- (b) 无论何时，只要由未经商业秘密持有人同意而实施，且被认定为满足以下任一条件的人员使用或披露商业秘密：
- (i) 以第(a)款所述方式获取了商业秘密；
 - (ii) 违反保密协议或任何其他不披露商业秘密的义务，意图获取不公平利润或损害商业秘密持有人；或

- (iii) being in breach of a contractual or any other duty to limit the use of the trade secret, with an intention to gain unfair profit or to cause damage to the trade secret holder; and
- (c) the acquisition, use or disclosure of a trade secret whenever carried out by a person who, at the time of the acquisition, use or disclosure, knew or ought, under the circumstances, to have known¹ that the trade secret had been obtained directly or indirectly from another person who was disclosing the trade secret in a manner referred to in subparagraph (b), including when a person induced another person to carry out the actions referred to in subparagraph (b).

4. Nothing in this Sub-Section shall require a Party to consider any of the following conduct as contrary to honest commercial practices or subject those conducts to the measures, procedures, and remedies referred to in Sub-Section 3 of Section C:

- (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 its relevant laws and regulations;
- (d) use by employees of their experience and skills honestly acquired in the normal course of their employment; or
- (e) disclosure of information in the exercise of the right to freedom of expression and information.

¹ For the purposes of this Article, a Party may interpret "ought to have known" as "was grossly negligent in failing to know".

- (iii)违反限制商业秘密使用的合同或其他义务，意图获取不公平利润或损害商业秘密持有人；和
- (c) 一方获取、使用或披露商业秘密，且在获取、使用或披露该商业秘密时，知道或应当知道¹ 该商业秘密是从披露商业秘密的他人直接或间接获取的，且该他人是以第(b)项所述方式披露商业秘密的，包括当一方唆使他人实施第(b)项所述行为时。

4. 本款规定不得要求一方将下列行为视为违反诚实商业行为，或将这些行为提交给第C条第3款所述的措施、程序和救济措施：

- (a) 一方独立发现或创造相关信息；
- (b) 合法持有产品的一方进行逆向工程，且该方没有合法义务限制获取相关信息；
- (c) 获取、使用或披露由其相关法律法规规定或允许的信息；(d) 雇员在其正常工作范围内使用诚实获得的经验和技能；或
- (e) 在行使言论和信息自由的权利时披露信息。

¹ 根据本条款的目的，一方可以将“应当知道”解释为“严重过失未知”。

Treatment of test data in marketing approval procedure

1. Each Party shall, in accordance with its relevant laws and regulations, prevent applicants for marketing approval for pharmaceutical products¹ which utilise new active pharmaceutical ingredients from relying on or referring to undisclosed test or other data submitted to its competent authority by the first applicant for a certain period of time counted from the date of approval of that application. As of the date of entry into force of this Agreement, such period of time is stipulated as being no less than six years by the relevant laws and regulations of each Party.
2. If a Party requires as a condition for approving the marketing of agricultural chemical products² which utilise new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, that Party shall ensure that, in accordance with its relevant laws and regulations, applicants for marketing approval are either:
- (a) prevented from relying on or referring to such data submitted to its competent authority by the first applicant for a period of at least 10 years counted from the date of approval of that application; or
- (b) generally required to submit a full set of test data, even in cases where there was a prior application for the same product, for a period of at least 10 years, counted from the date of approval of a prior application.

¹ For the United Kingdom, "pharmaceutical products" refers in this Article to medicinal products as defined in Regulation (EC) No 469/2009 of the European Parliament and of the Council of 6 May 2009 concerning the supplementary protection certificate for medicinal products.

² For the United Kingdom, "agricultural chemical products" refers in this Article to plant protection products as defined in Regulation (EC) No 1610/96 of the European Parliament and of the Council of 23 July 1996 concerning the creation of a supplementary protection certificate for plant protection products.

上市批准程序中测试数据的处理

1. 每一方应根据其相关法律法规，防止利用新活性药物成分的药品¹ 的上市批准申请人依赖或参考首次申请人向其主管当局提交的未公开的试验或其他数据，该期限从该申请的批准之日起计算。自本协定生效之日起，相关法律法规规定该期限不少于六年。
2. 如果一方要求将未公开的试验或其他数据（其来源涉及相当大的努力）作为批准利用新化学实体的农药产品² 上市的条件，该方应确保根据其相关法律法规，上市批准申请人要
- 么：
- (a) 被防止在至少10年的期限内依赖或参考首次申请人向其主管当局提交的此类数据；或
- (b) 一般需要提交一套完整的测试数据，即使在先前已为同一产品提交过申请的情况下，也需要提交至少10年的数据，自先前申请批准之日起计算。

¹ 对于英国而言，在本条文中，“药品”是指欧洲议会和理事会于2009年5月6日通过的关于药品补充保护证书的（EC）第469/2009号条例中定义的药品。² 对于英国而言，在本条文中，“农药产品”是指欧洲议会和理事会于1996年7月23日通过的关于植物保护产品补充保护证书创建的（EC）第1610/96号条例中定义的植物保护产品。

SUB-SECTION 8

New varieties of plants

ARTICLE 14.43

New varieties of plants

Each Party shall provide for the protection of new varieties of all plant genera and species in accordance with its rights and obligations under the 1991 UPOV Convention.

SUB-SECTION 9

Unfair competition

ARTICLE 14.44

Unfair competition

1. Each Party shall provide for effective protection against acts of unfair competition in accordance with the Paris Convention¹.

¹ For greater certainty, it is understood by the Parties that Article 10*bis* of the Paris Convention covers acts of unfair competition in relation to the supply of services in accordance with their respective laws and regulations.

分节 8

植物新品种

ARTICLE 14.43

植物新品种

每一方应根据其在1991《植物新品种保护国际公约》下的权利和义务， 为所有植物属和种的新品种提供保护。

分节 9

不正当竞争

ARTICLE 14.44

不正当竞争

1. 每一方应根据《巴黎公约》¹提供有效的保护， 以防止不正当竞争行为。

¹ 为更明确起见， 缔约方理解巴黎公约第10*bis*条涵盖在各自法律法规下与服务业相关的不正当竞争行为。

2. In connection with the respective systems of the United Kingdom and Japan for the management of their country-code top-level domain (ccTLD) domain names¹, appropriate remedies² shall be available, in accordance with their respective laws and regulations, at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

3. Each Party shall provide for effective protection against unauthorised use of trademarks through the implementation of paragraph (2) of Article 6*septies* of the Paris Convention.

2. 在英国和日本的各自制度 针对其国家代码顶级域名 (ccTLD) 域名的管理¹, 适当的补救措施² 应根据其各自的法律和法规, 至少在以下情况下提供: 即个人出于恶意营利意图注册或持有与商标相同或易混淆相似的域名。

3. 每一方应当通过实施《巴黎公约》第6条2款*septies*的规定, 为商标的未经授权的使
用提供有效的保护。

¹ For greater certainty, for the United Kingdom, this paragraph applies only to ".uk" domain names.

² The Parties understand that such remedies may include, among other things, revocation, cancellation and transfer of the registered domain name, injunctive relief against the person that registered or holds the registered domain name and against the domain name registry, or damages against the person that registered or holds the domain name.

¹ 为更明确起见, 对于英国, 本段仅适用于“.uk”域名。² 缔约方理解, 此类救济措施可能包括, 但不限于, 撤销、注销和转让注册域名, 对注册或持有注册域名的个人以及域名注册机构采取禁令救济, 或对注册或持有域名的个人要求损害赔偿。

SECTION C

Enforcement

SUB-SECTION 1

General provisions

ARTICLE 14.45

Enforcement – general

1. The Parties affirm their commitments under the TRIPS Agreement and in particular Part III thereof. Each Party shall provide for the following complementary measures, procedures and remedies¹ necessary to ensure the enforcement of intellectual property rights. The measures, procedures and remedies shall be fair and equitable, and shall not 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 be effective, proportionate and dissuasive² 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. Each Party shall make all reasonable efforts to:
- (a) encourage the establishment of public or private advisory groups to address issues of at least counterfeiting and piracy; and

¹ Without prejudice to the civil and administrative measures, procedures and remedies laid down in this Chapter, a Party may provide for other appropriate sanctions in cases where intellectual property rights have been infringed.

² For the purposes of this Article, "dissuasive" may be deemed by a Party to be synonymous with "deterrent" under Article 41 of the TRIPS Agreement.

SECTION C

执行

分节 1

一般规定

第 14.45 条

执行 – 一般

1. 各方重申其根据与贸易有关的知识产权协定及该协定第三部分所做出的承诺。每一方应规定以下补充措施、程序和救济措施¹，以确保知识产权的执行。这些措施、程序和救济措施应公平合理，不应不必要地复杂或昂贵，或包含不合理的时间限制或不合理的延迟。
2. 第1段所述的措施、程序和救济措施应当是有效的、相称的且具有威慑性的²，并且应当以避免制造合法贸易的障碍和提供针对其滥用的保障的方式加以适用。
3. 每一方应当尽一切合理努力：
- (a) 鼓励建立公共或私人咨询小组，以解决假冒和盗版等至少一个问题；以及

¹ 在不影响本章规定的民事和行政措施、程序和救济措施的情况下，一方可以规定其他适当的制裁措施，以应对知识产权受到侵犯的情况。² 根据本条，一方可以将“威慑性的”视为与《与贸易有关的知识产权协定》第41条下的“威慑性的”同义。

(b) ensure internal coordination among, and facilitate joint actions by, its competent authorities concerned with enforcement of intellectual property rights, subject to their available resources.

ARTICLE 14.46

Entitled applicants

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

- (a) the holders of intellectual property rights in accordance with its laws and regulations;
- (b) the trade secret holders referred to in Article 14.41; and
- (c) all other persons and entities, as far as permitted by and in accordance with its laws and regulations.

(b) 确保其主管当局在知识产权执行方面的内部协调，并根据其可用资源促进联合行动。

ARTICLE 14.46

有权申请人

每一方应当承认有权寻求本节所述的措施、程序和救济措施的人员：

- (a) 知识产权持有人在根据其法律和法规； (b) 第14.41条中提到的商业秘密持有人；以及 (c) 所有其他个人和实体，只要符合其法律和法规的允许。

SUB-SECTION 2

Enforcement – civil remedies^{1 2}

ARTICLE 14.47

Measures for preserving evidence

1. The judicial authorities of each Party shall have the authority to order prompt and effective provisional measures to preserve relevant evidence in regard to the alleged infringement, in accordance with procedures which ensure the protection of confidential information as appropriate.
2. The judicial authorities of each Party shall have the authority to adopt provisional measures *inaudita altera parte* where appropriate, in particular if any delay is likely to cause irreparable harm to the right holder or if there is a demonstrable risk of evidence being destroyed.
3. In cases of intellectual property rights infringements, each Party shall provide that in civil judicial proceedings its judicial authorities have the authority to order the seizure or other taking into custody of suspect goods, materials and implements relevant to the act of infringement and of documentary evidence, either originals or copies thereof, relevant to the act of infringement.

¹ This Sub-Section applies for intellectual property rights described in Sub-Sections 1 to 9 of Section B, excluding Sub-Section 7.

² For Japan, civil enforcement for geographical indications will be provided within the scope of Article 10*bis* of the Paris Convention and Article 22 of the TRIPS Agreement.

第2分节

执行 – 民事救济^{1 2}

第14.47条

证据保全措施

1. 每一方司法当局应有权根据确保适当保护机密信息的程序，下令采取迅速有效的临时措施，以保全与指控侵权相关的相关证据。
2. 每一方司法当局在适当情况下应有权采取临时措施不听取对方意见，特别是如果任何延误可能对权利持有人造成不可弥补的损害，或存在证据被销毁的明显风险。
3. 在知识产权侵权的情况下，每一方应当规定，在民事诉讼程序中，其司法当局有权下令扣押或查封与侵权行为相关的涉嫌商品、材料和工具，以及与侵权行为相关的证据文件，无论是原件还是副本。

¹ 本分节适用于第B部分第1至9分节中描述的知识产权，不包括第7分节。² 对于日本，地理标志的民事执行将在巴黎公约第10*bis*条和与贸易有关的知识产权协定第22条规定的范围内提供。

Right of information

Without prejudice to its law governing privilege, the protection of confidentiality of information sources or the processing of personal data, each Party shall provide that in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority, upon a justified request of the right holder, to order the infringer or the alleged infringer to provide the right holder or the judicial authorities, at least for the purpose of collecting evidence with relevant information as provided for in its applicable laws and regulations that the infringer or alleged infringer possesses or controls. Such information may include information regarding any person involved in any aspect of the infringement or alleged infringement and regarding the means of production or the channels of distribution of the infringing or allegedly infringing goods or services, including the identification of third persons allegedly involved in the production and distribution of such goods or services and of their channels of distribution.

Provisional and precautionary measures

1. Each Party shall ensure that its judicial authorities may, on 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 its laws and regulations, 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 where appropriate, against a third party¹ over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right.

¹ For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

信息公开权

在不损害其关于特权、信息来源保密性或个人数据处理的法律规定的情况下，每一方应当规定，在涉及知识产权执行的民事诉讼程序中，其司法当局有权应权利持有人提出的合理请求，下令侵权人或被控侵权人向权利持有人或司法当局提供其适用法律法规规定的、侵权人或被控侵权人拥有或控制的相关信息，至少用于收集证据。此类信息可能包括涉及侵权或被控侵权任何方面的任何人员的信息，以及侵权或被控侵权商品或服务的生产方式或分销渠道的信息，包括涉嫌参与此类商品或服务的生产和分销的第三方及其分销渠道的识别。

临时和预防措施

1. 每一方应当确保其司法当局在申请人请求的情况下，可以针对被控侵权人发出临时禁令，以防止即将发生的知识产权侵权，或者根据其法律法规的规定，在适当的情况下，以临时为基础并附条件支付重复处罚金，禁止该权利的被控侵权行为的继续，或者要求该行为的继续以提交旨在确保权利持有人补偿的担保。在适当的情况下，临时禁令也可以针对相关司法当局行使管辖权且其服务被用于侵犯知识产权的第三方¹发出。

¹ 根据本条文的宗旨，一方可以规定“第三方”包括中介。

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 committed on a commercial scale, each Party shall ensure that if the applicant demonstrates circumstances likely to endanger the recovery of damages, its judicial authorities may order the precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of the alleged infringer's bank accounts and other assets.

ARTICLE 14.50

Corrective measures

1. Each Party shall ensure that its judicial authorities may order, on request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, at least the definitive removal from the channels of commerce, or the destruction, except in exceptional circumstances, of goods that they have found to be infringing an intellectual property right, without compensation of any sort. If appropriate, the judicial authorities may also order the destruction of materials and implements predominantly used in the creation or manufacture of those goods.

2. The judicial authorities of each Party shall have the authority to order that those measures shall be carried out at the expense of the infringer, unless particular reasons are invoked for not doing so.

2. 临时禁令也可以发出，以命令扣押或交付涉嫌侵犯知识产权的货物，以防止其进入或在其商业渠道内移动。

3. 在商业规模上发生的指控侵权行为中，每一方应确保如果申请人证明存在可能危及损害赔偿恢复的情况，其司法当局可以下令对被控侵权人的动产和不动产进行预防性扣押，包括冻结被控侵权人的银行账户和其他资产。

ARTICLE 14.50

纠正措施

1. 每一方应确保其司法当局可以在申请人请求且不影响因侵权对权利持有人造成的损害的情况下，下令至少从商业渠道中最终移除，或在特殊情况下以外，销毁其发现的侵犯知识产权的货物，而不予任何补偿。如果适当，司法当局还可以下令销毁主要用于制造这些货物的材料和工具。

2. 各一方的司法当局有权下令由侵权人承担采取这些措施的费用，除非提出特定理由不这样做。

ARTICLE 14.51

Injunctions

Each Party shall ensure that, if a judicial decision finds an infringement of an intellectual property right, its judicial authorities may issue an injunction aimed at prohibiting the continuation of the infringement against the infringer as well as, where appropriate, against a third party¹ over whom the relevant judicial authority exercises jurisdiction and whose services are used to infringe an intellectual property right.

ARTICLE 14.52

Damages

- 1. Each Party shall provide that in civil judicial proceedings its judicial authorities have the authority to order an infringer who, knowingly or with reasonable grounds to know, engaged in activities infringing intellectual property rights to pay the right holder damages adequate to compensate for the injury the right holder has suffered as a result of the infringement.
- 2. In determining the amount of damages for infringements of intellectual property rights, the judicial authorities of each Party may consider, *inter alia*, any legitimate measure of value that may be submitted by the right holder, which may include lost profits.
- 3. A Party may provide in its laws and regulations presumptions² for determining the amount of damages referred to in paragraph 1.

¹ For the purposes of this Article, a Party may provide that a "third party" includes an intermediary.

² This may include a presumption that the amount of damage is:

- (a) at least the amount that the right holder would have been entitled to receive for the exercise of his or her intellectual property rights, which may include reasonable royalty, to compensate a right holder for the unauthorised use of his or her intellectual property;
- (b) the profits earned by the infringer from the act of infringement; or
- (c) the quantity of the goods infringing the right holder's intellectual property rights and actually transferred to third persons, multiplied by the amount of profit per unit of goods which would have been sold by the right holder if there had not been the act of infringement.

ARTICLE 14.51

禁令

每一方应确保，如果司法判决认定存在知识产权侵权，其司法当局可以发布禁令，旨在禁止侵权人继续侵权，并在适当的情况下，禁止第三方¹ 使用相关司法当局行使管辖权且其服务被用于侵犯知识产权的第三方。

ARTICLE 14.52

损害赔偿

- 1. 每一方应当规定，在民事诉讼程序中，其司法当局有权命令明知或合理知道从事侵犯知识产权活动的侵权人向权利持有人支付损害赔偿，以补偿权利持有人因侵权而遭受的损失。
- 2. 在确定知识产权侵权的损害赔偿金额时，各方的司法当局可以考虑，*inter alia*，权利持有人可能提交的任何合法价值衡量标准，这可能包括利润损失。
- 3. 一方可以在其法律法规中规定² 推定，用于确定第1段所述损害赔偿的金额。

¹ 根据本条款的规定，一方可以规定“第三方”包括中介。² 这可能包括这样一种推定，即损害赔偿金额为：(a) 权利持有人本应有权获得的知识产权行使金额，这可能包括合理许可费，以补偿权利持有人因其知识产权的未经授权使用而遭受的损失；(b) 侵权人从侵权行为中获得的利润；或(c) 侵犯权利持有人知识产权的货物数量，以及这些货物实际转让给第三方的数量，乘以如果不存在侵权行为，权利持有人本应售出的每单位货物的利润金额。

ARTICLE 14.53

Costs

Each Party shall provide that its judicial authorities, where appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning infringements of intellectual property rights, that the prevailing party be awarded payment by the losing party of court costs or fees and appropriate attorney's fees, or any other expenses as provided for under its laws and regulations.

ARTICLE 14.54

Presumption of authorship or ownership

1. Each Party shall ensure that it is sufficient for the name of an author of a literary or artistic work to appear on the work in the usual manner in order for that author to be regarded as such, unless there is a proof to the contrary, and consequently to be entitled to institute infringement proceedings.
2. A Party may apply paragraph 1 *mutatis mutandis* to the holders of rights related to copyright with regard to their protected subject matter.

ARTICLE 14.55

Access to justice

The Parties recognise the importance of ensuring that right holders have access to justice and shall ensure that they have in place an effective judicial system and alternative dispute resolution mechanisms to allow right holders to enforce their rights without unwarranted delay and without unreasonable costs.

第14.53条

费用

每一方应当规定，在其司法当局在适当情况下，有权在涉及知识产权侵权的民事诉讼程序结束时，命令胜诉方由败诉方支付诉讼费用或费用以及适当的律师费，或其法律法规规定的任何其他费用。

第14.54条

作者或所有权推定

1. 每一方应确保，对于文学或艺术作品的作者，其姓名以通常方式出现在作品上，足以被视为该作者，除非有相反的证据，并因此有权提起侵权诉讼。
2. 一方可将其受保护的主体与与版权相关的权利持有人相关地应用第1段 作相应修改。

ARTICLE 14.55

获得正义的权利

缔约方承认确保权利持有人获得正义的权利的重要性，并确保他们建立有效的司法系统和替代性争议解决机制，以使权利持有人能够在不合理的延迟和不合理的费用的情况下行使其权利。

SUB-SECTION 3

Enforcement of protection against misappropriation of trade secrets

ARTICLE 14.56

Civil procedures and remedies

1. Each Party shall provide for appropriate civil judicial procedures and remedies for a trade secret holder to prevent, and obtain redress for, the acquisition, use or disclosure of a trade secret whenever carried out in a manner contrary to honest commercial practices.
2. Each Party shall provide, in accordance with its laws and regulations, that its judicial authorities have the authority to order that the parties, their lawyers and other persons concerned in the relevant civil judicial proceedings, are not permitted to use or disclose any trade secret or alleged trade secret which the judicial authorities have identified as confidential¹, in response to a duly reasoned application by an interested party and of which these parties, lawyers and other persons have become aware as a result of their participation in such civil judicial proceedings.

¹ For greater certainty, a Party may provide that its judicial authorities may identify a trade secret as confidential through a protective order.

分节 3

商业秘密滥用保护的实施

物品 14.56

民事程序和救济措施

- 每一方应确保为商业秘密持有人提供适当的民事诉讼程序和救济措施，以防止并就获取、使用或披露商业秘密（无论以何种方式实施且违反诚实商业行为）的行为寻求救济。
2. 每一方应根据其法律法规，确保其司法当局有权下令，在相关民事诉讼程序中，禁止缔约方、其律师和其他有关人员使用或披露司法当局已认定为机密的商业秘密或所谓商业秘密，这些商业秘密或所谓商业秘密是应有关方的合理申请而被司法当局确认的，并且缔约方、律师和其他有关人员因参与此类民事诉讼程序而知晓。

¹ 为更明确起见，一方可规定其司法当局可通过保护令将商业秘密认定为机密。

3. In the relevant civil judicial proceedings each Party shall provide that its judicial authorities have at least the authority to:

(a) order injunctive relief to prevent the acquisition, use or disclosure of the trade secret in a manner contrary to honest commercial practices;

(b) order the person that knew or ought to have known¹ that he, she or it was acquiring, using or disclosing a trade secret in a manner contrary to honest commercial practices to pay the trade secret holder damages appropriate to the actual prejudice suffered as a result of such acquisition, use or disclosure of the trade secret;

(c) take specific measures to preserve the confidentiality of any trade secret or alleged trade secret produced in civil judicial proceedings relating to the alleged acquisition, use and disclosure of a trade secret in a manner contrary to honest commercial practices. Such specific measures may include, in accordance with its laws and regulations, 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 a judicial decision in which the passages containing trade secrets have been removed or redacted; and

(d) impose sanctions on the parties, their lawyers and other persons concerned in the civil judicial proceedings for violation of judicial orders referred to in paragraph 2 concerning the protection of a trade secret or alleged trade secret produced in those proceedings.

4. A Party shall not be required to provide for the civil judicial procedures and remedies referred to in paragraph 1 when conduct contrary to honest commercial practices is carried out, in accordance with its relevant laws and regulations, to reveal misconduct, wrongdoing or illegal activity or to protect a legitimate interest recognised by law.

¹ For the purposes of this Article, a Party may interpret "ought to have known" as "was grossly negligent in failing to know".

3. 在相关民事诉讼程序中，每一方应确保其司法当局至少拥有以下权力：

(a) 裁定禁令救济，以防止以违反诚实商业行为的方式获取、使用或披露商业秘密；

(b) 裁定知道或应当知道¹ 其本人、本人或其正在以违反诚实商业行为的方式获取、使用或披露商业秘密的个人支付损害赔偿，损害赔偿应与因该商业秘密的获取、使用或披露而遭受的实际损害相适应；

(c) 采取具体措施以保护在涉及以违反诚实商业行为的方式获取、使用和披露商业秘密的民事诉讼程序中产生的任何商业秘密或所谓商业秘密的保密性。此类具体措施可包括，根据其法律和法规，限制对某些文件的全部或部分访问；限制对听证会及其相应记录或速记稿的访问；以及提供已删除或编辑掉的包含商业秘密的司法判决的非保密版本；以及

(d) 对在民事司法程序中因违反第2段所述涉及保护商业秘密或所谓商业秘密的司法命令而涉及的一方、其律师和其他人员施加制裁。

4. 一方不应被要求根据其相关法律法规，在采取与诚实商业行为相悖的行为以揭露不当行为、不法行为或非法活动或保护法律认可的合法利益时，提供第1段所述的民事司法程序和救济措施。

¹ 根据本条文的用途，一方可以将“应当知道”解释为“严重过失未知”。

SUB-SECTION 4

Enforcement – border measures

ARTICLE 14.57

Enforcement – border measures

- 1. With respect to goods imported or exported¹, each Party shall adopt or maintain procedures under which a right holder may submit applications requesting its customs authority to suspend the release of or detain goods suspected of infringing trademarks, copyright and related rights, geographical indications², patents, utility models, industrial designs, and plant variety rights (hereinafter referred to in this Article as "suspect goods") in its customs territory.
- 2. Each Party shall have in place electronic systems for the management by its customs authority of the applications referred to in paragraph 1 once they have been granted or recorded.
- 3. The customs authority of each Party shall decide on granting or recording the applications referred to in paragraph 1 within a reasonable period of time from the submission of the applications.
- 4. Each Party shall provide for the applications referred to in paragraph 1 to apply to multiple shipments.

¹ For the purposes of this Article, "goods imported or exported" means, for the United Kingdom, goods under customs control, being brought into or taken out from its customs territory or being there in temporary storage, placed under a customs procedure or re-exported.

² With respect to geographical indications, Japan may comply with the obligations set out in this Article by providing for administrative measures to prevent the release into its domestic market of suspect goods by its appropriate competent authorities, in accordance with its laws and regulations.

分节4

执法 - 边境措施

第14.57条

执法 - 边境措施

- 1. 对于进出口货物¹，每一方应当采取或维持程序，允许权利持有人提交申请，请求其海关当局暂停释放或扣留涉嫌侵犯商标、版权和相关权利、地理标志²、专利、实用新型、工业设计和植物品种权的货物（在本条中称为“涉嫌商品”）在其海关领土内。
- 2. 每一方应当建立电子系统，供其海关当局管理第1段所述的申请，一旦这些申请被批准或记录。
- 3. 每一方海关当局应当在申请提交后合理的时间内，决定是否批准或记录第1段所述的申请。
- 4. 每一方应当规定，第1段所述的申请适用于多个货物。

¹ 根据本条文的用途，“进出口货物”对英国而言，是指处于海关监管下的货物，正在其海关领土内输入或输出，或处于临时储存状态，正在海关程序下或再出口。² 关于地理标志，日本可以通过其主管当局根据其法律和法规采取行政措施，以防止涉嫌商品进入其国内市场，从而履行本条文规定的义务。

5. With respect to goods imported or exported, the customs authority of each Party shall have the authority to act upon its own initiative to suspend the release of or detain suspect goods in the customs territory of that Party.¹

6. Article 4.9 covers detection of suspect goods referred to in this Article.

7. Without prejudice to its laws and regulations relating to the privacy or confidentiality of information, a Party may authorise its customs authority to provide a right holder with information about goods, including a description and the quantities thereof, and if known, the name and address of the consignor, importer, exporter or consignee, and the country of origin of the goods, whose release has been suspended, or which have been detained.

8. A Party may adopt or maintain procedures by which its competent authorities may determine, within a reasonable period after the initiation of the procedures described in paragraphs 1 and 5, whether the suspect goods are infringing. In such case, the competent authorities shall have the authority to order the destruction of goods following a determination that the goods are infringing. A Party may have in place procedures allowing for the destruction of suspect goods without there being any need for the formal determination on the infringement, where the persons concerned agree or do not oppose to destruction.

9. If a Party requests right holders to bear the costs actually incurred for the storage or destruction of the goods whose release has been suspended, or which have been detained in accordance with paragraphs 1 and 5, those costs shall correspond to the services rendered for the storage or destruction of the goods.

¹ For the purposes of this paragraph, Japan may provide for penalties to be applied in cases of customs transit or transshipment of infringing goods. For such purposes,
(a) "customs transit" means the customs procedure under which goods are transported under customs control from one customs office to another; and
(b) "transshipment" means the customs procedure under which goods are transferred under customs control from the importing means of transport to the exporting means of transport within the area of one customs office which is the office of both importation and exportation.

5. 对于进出口货物，每一方的海关当局有权在其海关领土内自行采取行动，暂停释放或扣押涉嫌商品。¹

6. 第4.9条涵盖本条所述的涉嫌商品检测。

7. 不影响其关于信息隐私或保密性的法律法规，一方可以授权其海关当局向权利持有人提供关于商品的信息，包括描述和数量，如知晓，则还包括发货人、进口商、出口商或收货人的名称和地址，以及被暂停放行或被扣留的商品的原产国。

8. 一方可以采用或维持程序，由其主管当局在启动第1段和第5段所述的程序后合理期限内确定涉嫌商品是否侵权。在此情况下，主管当局有权在确定商品侵权后下令销毁商品。一方可以制定程序，允许在无需对侵权进行正式确定的情况下销毁涉嫌商品，前提是相关方同意或反对销毁。

9. 如果一方请求权利持有人承担因储存或销毁已被暂停释放的货物，或根据第1款和第5款被扣留的货物的实际费用，则这些费用应与为储存或销毁货物提供的服务相对应。

¹ 根据本段的规定，日本可以针对侵犯知识产权的商品的海关转运或转运案件规定处罚。为此目的，(a)“海关转运”是指货物在海关监管下从一个海关办公室运往另一个海关办公室的海关程序；以及(b)“转运”是指货物在海关监管下从进口运输工具转移到出口运输工具的海关程序，该转移发生在同一个海关办公室的区域内，该办公室既是进口地又是出口地。

10. There shall be no obligations to apply this Article to the import of goods put on the market in another country by or with the consent of the right holder. A Party may exclude from the application of this Article small quantities of goods of a non-commercial nature contained in travellers' personal luggage.

11. Consultations referred to in paragraph 4 of Article 4.3 shall also deal with the border measures by the customs authority of each Party under this Article.

12. The customs authorities of the Parties may cooperate on border measures against infringements of intellectual property covered by this Sub-Section.

13. Without prejudice to the responsibilities of the Committee on Intellectual Property referred to in Article 14.61, the Committee on Rules of Origin and Customs-Related Matters referred to in Article 4.14 may consider the possibility of cooperation on the following:

- (a) exchanging general information regarding seizures of infringing goods or suspect goods; and
- (b) holding a dialogue on specific topics of common interest concerning:
 - (i) general information regarding the use of risk management systems in the detection of suspect goods; and
 - (ii) general information regarding risk analysis in the fight against infringing goods.

10. 未经权利持有人同意在其他国家投放市场的货物，不适用本条。一方可以将旅客个人行李中包含的非商业性质的小量货物排除在本条适用范围之外。

11. 第4.3条第4段所述磋商亦应处理缔约方根据本条海关当局采取的边境措施。

12. 缔约方海关当局可就本分节涵盖的知识产权侵权边境措施进行合作。

13. 不影响第14.61条所述知识产权委员会的责任，第4.14条所述原产地规则和海关相关事务委员会可考虑以下合作的可能性：

- (a) 交换关于侵权货物查获或涉嫌商品的总体信息；以及
- (b) 就以下共同感兴趣的特定主题进行对话：
 - (i) 关于在涉嫌商品检测中使用风险管理系统的一般信息；以及
 - (ii) 关于打击侵权货物中风险分析的一般信息。

SUB-SECTION 5

Enforcement – criminal remedies

ARTICLE 14.58

Criminal procedures and penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of wilful trademark counterfeiting or copyright or related rights piracy on a commercial scale¹.
2. Each Party shall treat wilful importation or exportation of counterfeit trademark goods or pirated copyright goods carried out on a commercial scale as unlawful activities subject to criminal penalties.²
3. Each Party shall provide for criminal procedures and penalties to be applied in cases of wilful importation³ and domestic use, in the course of trade and on a commercial scale, of a label or packaging:⁴
- (a) to which a trademark has been applied without authorisation that is identical to, or cannot be distinguished from, a trademark registered in its territory; and
- (b) that is intended to be used in the course of trade on goods that are identical to goods for which that trademark is registered.

¹ For the purposes of this Sub-Section, acts carried out on a commercial scale include at least those carried out as commercial activities for commercial advantage or financial gain.

² The Parties understand that a Party may comply with its obligation under this paragraph by providing that distribution or sale of counterfeit trademark goods or pirated copyright goods carried out on a commercial scale is an unlawful activity subject to criminal penalties.

³ A Party may comply with its obligation relating to importation of labels or packaging through its measures concerning distribution.

⁴ A Party may comply with its obligations under this paragraph by providing for criminal procedures and penalties to be applied to attempts to commit a trademark offence.

分节 5

执行 – 刑事救济

第14.58条

刑事程序和处罚

1. 每一方应当规定刑事程序和处罚，至少适用于商业规模上的故意商标侵权或版权或相关权利盗版¹。
2. 每一方应当将商业规模上进行的假冒商标商品或盗版版权商品的故意进口或出口视为非法活动，并予以刑事处罚。。²
3. 每一方应当规定刑事程序和处罚，适用于故意进口³和在贸易过程中商业规模上的标签或包装的国内使用:⁴
- (a) 未经授权申请的商标与在其领土内注册的商标相同，或无法区分；以及
- (b) 打算使用在贸易过程中与已注册商标的商品相同的商品上。

¹ 根据本分节的规定，商业规模进行的活动包括至少那些以商业优势或经济利益为目的进行的商业活动。² 缔约方理解，一方可以通过规定商业规模进行的假冒商标商品或盗版版权商品的分销或销售是违法行为，并应受到刑事处罚来履行其在本段下的义务。³ 一方可以通过其关于分销的措施来履行其关于标签或包装进口的义务。⁴ 一方可以通过规定对商标犯罪行为的企图适用刑事程序和处罚来履行其在本段下的义务。

4. Recognising the need to address the unauthorised copying¹ of a cinematographic work from a performance in a movie theatre that causes significant harm to a right holder in the market for that work, and recognising the need to deter such harm, each Party shall adopt or maintain measures, which shall at a minimum include, but need not be limited to, appropriate criminal procedures and penalties.

5. With respect to the offences for which this Article requires a Party to provide for criminal procedures and penalties, each Party shall ensure that criminal liability for aiding and abetting is available under its law.

6. With respect to the offences described in paragraphs 1 to 5, each Party shall provide the following:

- (a) Its judicial or other competent authorities have the authority to order the seizure of suspected counterfeit trademark goods or pirated copyright goods, any related materials and implements used in the commission of the alleged offence, documentary evidence relevant to the alleged offence and assets derived from, or obtained through the alleged infringing activity. If a Party requires identification of items subject to seizure as a prerequisite for issuing a judicial order referred to in this subparagraph, that Party shall not require the items to be described in greater detail than necessary to identify them for the purpose of seizure.
- (b) The judicial authorities of a Party have the authority in accordance with the laws and regulations of such Party to order the forfeiture of any assets derived from or obtained through the infringing activity.
- (c) The judicial authorities of a Party have the authority in accordance with the laws and regulations of such Party to order the forfeiture or destruction of:
 - (i) all counterfeit trademark goods or pirated copyright goods;

¹ For the purposes of this Article, a Party may treat the term "copying" as synonymous with "reproduction".

4. 认识到需要解决未经授权复制¹ 电影作品的问题，该作品在电影院表演时对相关作品的市场权利持有人造成重大损害，并认识到需要阻止此类损害，每一方都应采取或维持措施，这些措施至少应包括但不限于适当的刑事程序和处罚。

5. 对于本条要求一方提供刑事程序和处罚的犯罪行为，每一方应确保其法律中规定有帮助和教唆的刑事责任。

6. 对于第1至5段所述的犯罪行为，每一方应提供以下内容：

- (a) 一方的司法或其他主管当局有权下令扣押涉嫌假冒商标商品或盗版版权商品、实施所谓犯罪行为所使用的任何相关材料及工具、与所谓犯罪行为相关的证据文件以及源自或通过所谓侵权行为获得的资产。如果一方要求将扣押物品的识别作为发出本段提及的司法命令的先决条件，该方不得要求对扣押物品的描述比识别扣押目的所需的更详细。
- (b) 一方的司法当局根据该方的法律法规，有权下令没收源自或通过侵权行为获得的任何资产。
- (c) 一方司法当局根据该方的法律法规，有权下令没收或销毁：
 - (i)所有假冒商标商品或盗版版权商品；

¹ 就本条而言，一方可以将“复制”一词视为与“复制”同义。

- (ii) materials and implements that have been predominantly used in the creation of counterfeit trademark goods or pirated copyright goods; and
- (iii) any other labels or packaging to which a counterfeit trademark has been applied and that have been used in the commission of the offence.

In cases in which counterfeit trademark goods and pirated copyright goods are not destroyed, the judicial or other competent authorities shall ensure that, except in exceptional circumstances, those goods are disposed of outside the channels of commerce in such a manner as to avoid causing any harm to the right holder. Each Party shall further provide that forfeiture or destruction under this subparagraph shall occur without compensation of any kind to the defendant.

- (d) Its judicial or other competent authorities have the authority to release, or alternatively, provide access to, goods, material, implements and other evidence held by the relevant authority to a right holder for civil¹ infringement proceedings.

7. With respect to the offences described in paragraphs 1 to 5, a Party may provide that its judicial authorities have the authority to order the seizure or forfeiture of assets, or alternatively, a fine, the value of which corresponds to the assets derived from, or obtained directly or indirectly through, the infringing activity.

8. Each Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability, which may be criminal, of legal persons for the offences specified in this Article for which the Party provides criminal procedures and penalties. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the criminal offences.

¹ A Party may also provide this authority in connection with administrative infringement proceedings.

- (ii)在制造假冒商标商品或盗版版权商品中主要使用的材料和工具；和
- (iii) 任何其他已应用假冒商标并被用于实施犯罪行为的标签或包装。

在假冒商标商品和盗版版权商品未被销毁的情况下，司法或其他主管当局应确保，除特殊情况外，这些商品以不损害权利持有人的方式在商业渠道之外进行处理。每一方应进一步规定，根据本款没收或销毁不得向被告提供任何补偿。

- (d) 其司法或其他主管当局有权将相关当局持有的商品、材料、工具和其他证据释放给，或提供访问权限给权利持有人，用于民事¹ 侵权诉讼。

7. 关于第1至5段所述的犯罪行为，一方可以规定其司法当局有权下令扣押或没收资产，或处以罚款，其价值与从侵权行为中获得的资产或直接或间接通过侵权行为获得的资产相当。

8. 每一方应根据其法律原则采取必要措施，以建立法人对本文规定的、该方提供刑事程序和处罚的犯罪行为的刑事责任。此种责任不应妨碍已犯刑事罪行的自然人的刑事责任。

¹ 一方也可以在行政侵权诉讼中提供此授权。

SUB-SECTION 6

Enforcement in the digital environment

ARTICLE 14.59

Enforcement in the digital environment

1. The Parties shall ensure that enforcement procedures, to the extent set forth in Sub-Sections 2 and 5, are available under its law so as to permit effective action against an act of infringement of intellectual property rights which takes place in the digital environment, including expeditious remedies to prevent infringement and remedies which constitute a deterrent to further infringements.
2. Each Party shall take appropriate measures to limit the liability of, or remedies available against, online service providers for intellectual property rights infringement by the users of their online services or facilities, where the online service providers take action to prevent access to the materials infringing intellectual property rights in accordance with the laws and regulations of the Party.
3. Further to paragraph 1, each Party's enforcement procedures shall apply to the infringement of copyright or related rights over digital networks, which may include the unlawful use of means of widespread distribution for infringing purposes, and to the infringement of trademarks, including through electronic commerce platforms and social media. These procedures shall be implemented in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce, and, consistent with that Party's law, preserves fundamental principles such as freedom of expression, fair process and privacy.
4. Each Party shall endeavour to promote cooperative efforts within the business community to effectively address trademark and copyright or related rights infringement while preserving legitimate competition and, consistent with that Party's law, preserving fundamental principles such as freedom of expression, fair process and privacy.

分节 6

数字环境中的执法

ARTICLE 14.59

数字环境中的执法

1. 缔约方应确保其法律规定的执法程序，包括第2和第5分节中规定的内容，能够有效应对发生在数字环境中的知识产权侵权行为，包括防止侵权和构成进一步侵权威慑的救济措施。
2. 每一方应采取适当措施，限制在线服务提供者因其在线服务或设施的用户侵犯知识产权而产生的责任或可获得的救济措施，前提是这些在线服务提供者根据该方的法律法规采取了行动，以防止访问侵犯知识产权的材料。
3. 根据第1段，每一方的执法程序应适用于数字网络上的版权或相关权利的侵权，这可能包括为侵权目的非法使用广泛分发手段，以及通过电子商务平台和社交媒体进行的商标侵权。这些程序应以避免创建合法活动障碍的方式进行实施，包括电子商务，并始终与该方的法律一致，以保护诸如言论自由、正当程序和隐私等基本原则。
4. 每一方应努力促进商界内的合作努力，以有效解决商标和版权或相关权利的侵权问题，同时保持合法竞争，并符合该方的法律，保持言论自由、正当程序和隐私等基本原则。

5. A Party may provide, in accordance with its laws and regulations, its competent authorities¹ with the authority to order an online service provider to disclose expeditiously to a right holder information sufficient to identify a subscriber whose account was allegedly used for infringement, where that right holder has filed a legally sufficient claim of trademark or copyright or related rights infringement, and where such information is being sought for the purpose of protecting or enforcing those rights. These procedures shall be implemented in a manner that avoids the creation of barriers to legitimate activity, including electronic commerce, and, consistent with that Party's law, preserves fundamental principles such as freedom of expression, fair process and privacy.

6. The Parties shall, as appropriate, promote the adoption of measures to enhance public awareness of the importance of respecting intellectual property rights and the detrimental effect of intellectual property rights infringement. This may include cooperation with the business community, civil society organisations and right holder representatives.

SECTION D

Cooperation and institutional arrangements

ARTICLE 14.60

Cooperation

1. The Parties, recognising the growing importance of the protection of intellectual property in further promoting trade and investment between them, shall cooperate on intellectual property, including by exchange information on relations of a Party with third countries on matters concerning intellectual property, in accordance with their respective laws and regulations and subject to their available resources.

¹ For the purposes of this Article, "competent authorities" may include the appropriate judicial, administrative or law enforcement authorities under the laws and regulations of a Party.

5. 一方可根据其法律和法规，授权其主管当局¹有权要求在线服务提供者迅速向权利持有人披露足以识别其账户据称被用于侵权行为的用户的信息，前提是该权利持有人已提出法律上充分的商标或版权或相关权利侵权的指控，并且此类信息是为了保护或执行这些权利而寻求的。这些程序应以避免制造合法活动的障碍，包括电子商务的方式实施，并符合 该方的法律，保持言论自由、正当程序和隐私等基本原则。

6. 缔约方应根据适当情况促进采取措施，以提高公众对尊重知识产权重要性的认识，以及知识产权侵权带来的不利影响。这包括与商界、民间社会组织 和权利持有人代表合作。

SECTION D

合作与机构安排

ARTICLE 14.60

合作

1. 缔约方，认识到知识产权保护在进一步促进其之间贸易和投资方面日益重要，应在知识产权方面进行合作，包括根据其各自<code>法律法规</code>并根据其<code>可用资源</code>，就一方与第三国在知识产权相关事务方面的关系交换信息。 知识产权保护

¹ 根据本条文的宗旨，“主管当局”可包括缔约方法律法规下的适当司法、行政或执法当局。

2. For the purposes of paragraph 1, cooperation may include exchange of information, sharing of experiences and skills and any other form of cooperation or activities as may be agreed between the Parties. Such cooperation may cover areas such as:

- (a) developments in domestic and international intellectual property policy;
- (b) intellectual property administration and registration systems;
- (c) education and awareness relating to intellectual property;
- (d) intellectual property issues relevant to:
 - (i) small and medium-sized enterprises;
 - (ii) science, technology and innovation activities; and
 - (iii) the generation, transfer and dissemination of technology;
- (e) policies involving the use of intellectual property for research, innovation and economic growth;
- (f) the implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of the WIPO;
- (g) technical assistance for developing countries;
- (h) best practices, projects and programmes related to the fight against infringements of intellectual property rights including measures in respect of websites registered outside the territories of the Parties; and
- (i) exploration of the possibility for further work on common efforts against infringements of intellectual property rights worldwide.

2. 为第1段的目的，合作可包括信息交换、经验分享和技能分享以及任何其他形式的合作或活动，这些合作或活动可由缔约方商定。此类合作可涵盖以下领域：

- (a) 国内和国际知识产权政策的进展； (b) 知识产权管理和注册制度；
- (c) 与知识产权相关的教育和意识； (d) 与以下方面相关的知识产权问题： (i) 中小型企业； (ii) 科学技术及创新活动； 以及 (iii) 技术的产生、转让和传播；
- (e) 涉及使用知识产权进行研究、创新和经济增长的政策；
- (f) 多边知识产权协议的实施，例如在WIPO主持下缔结或管理的协议；
- (g) 为发展中国家提供的技术援助；
- (h) 与打击知识产权侵权相关的最佳实践、项目和计划，包括针对在缔约方领土外注册的网站的措施； 以及
- (i) 探讨在全球范围内打击知识产权侵权的共同努力方面进一步开展工作的可能性。

3. The Parties shall seek to cooperate with regard to activities for improving the international intellectual property regulatory framework, including by encouraging further ratification of existing international agreements and by fostering international harmonisation, administration and enforcement of intellectual property rights and on activities in international organisations including the WTO and the WIPO.

ARTICLE 14.61

Committee on Intellectual Property

1. The Committee on Intellectual Property established pursuant to Article 23.3 (hereinafter referred to in this Article as "the Committee") shall be responsible for the effective implementation and operation of this Chapter.
2. The Committee shall have the following functions:
- (a) reviewing and monitoring the implementation and operation of this Chapter;
 - (b) exchanging information on legislative and policy developments on geographical indications and on any other matter of mutual interest in the area of geographical indications, including any matter arising from applicable requirements of specifications of geographical indications listed in Annex 14-B with respect to their protection under this Agreement;
 - (c) discussing any issues related to intellectual property with a view to enhancing protection of intellectual property and enforcement of intellectual property rights and to promoting efficient and transparent administration of intellectual property systems;
 - (d) reporting its findings and the outcomes of its discussions to the Joint Committee; and
 - (e) carrying out other functions as may be delegated by the Joint Committee pursuant to subparagraph 5(b) of Article 23.1.

3. 缔约方应就改进国际知识产权监管框架的活动进行合作，包括通过鼓励进一步批准现有的国际协议，以及促进知识产权权利的国际协调、管理和执行，以及在包括世界贸易组织和世界知识产权组织在内的国际组织中的活动。

第14.61条

知识产权委员会

1. 根据第23.3条设立的知识产权委员会（以下简称“该委员会”）负责本章的有效实施和运作。
2. 该委员会应具有以下职能：
- (a) 审查和监控本章的实施和运作；
 - (b) 交流有关地理标志的立法和政策发展情况，以及地理标志领域内任何其他共同利益的事项，包括附件14-B中列出的地理标志规范在根据本协定提供的保护方面产生的任何事项；
 - (c) 讨论与知识产权相关的任何问题，旨在加强知识产权保护、知识产权的执行，并促进知识产权制度的有效和透明管理；
 - (d) 向联合委员会报告其调查结果及其讨论的成果；和
 - (e) 执行联合委员会根据第23.1条第5(b)款可能授权的其他职能。

3. The Committee shall make recommendations to the Joint Committee on amendments to Annex 14-A and Annex 14-B on request of a Party.

4. Each Party shall examine any request of the other Party concerning the amendment of Annex 14-B, in accordance with Article 14.34.

5. The Committee may invite representatives of relevant entities other than the Parties, including from the private sector, with the necessary expertise relevant to the issues to be discussed.

ARTICLE 14.62

Security exceptions

For the purposes of this Chapter, Article 73 of the TRIPS Agreement is hereby incorporated into and made part of this Agreement, *mutatis mutandis*.

ARTICLE 14.63

Dispute settlement

Article 14.60 shall not be subject to dispute settlement under Chapter 22.

3. 委员会应根据一方的要求，就附件14-A和附件14-B的修订向联合委员会提出建议。

4. 每一方应当根据第14.34条审查另一方关于修改附件14-B的任何请求。

5. 委员会可以邀请除缔约方以外的相关实体的代表，包括来自私营部门且具备与将要讨论的问题相关的必要专业知识的代表。

ARTICLE 14.62

安全例外

根据本章的规定，与贸易有关的知识产权协定第73条现被纳入本协定并构成本协定的一部分，作相应修改。

ARTICLE 14.63

争端解决

第22章下，第14.60条不适用争端解决。