3. Paragraph 2 shall also apply if only small quantities of products are imported or exported, as long as the import or export constitutes an infringement of the right conferred by the protected industrial design under the laws and regulations of a Party.

4. Each Party shall ensure that the term of protection available is no less than 20 years.

Article 117
Patents

1. Subject to paragraphs 2 and 3, patents shall be available for any inventions, whether products or processes, in all fields of technology, including in the field of biotechnology, provided that they are new, involve an inventive step and are capable of industrial application. Subject to paragraph 3, patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced.

2. Each Party may exclude from patentability inventions, the prevention of the commercial exploitation of which within the Party is necessary to protect *ordre public* or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law.

3. Each Party may also exclude from patentability:

(a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals, with the exception of products consisting of a substance or a composition for use in any such method; and

(b) plant and animal varieties other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes.

4. Each Party 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 exporting 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.

5. With respect to the patent which is granted for an invention related to pharmaceuticals or plant protection products, each Party shall, subject to the terms and conditions of its applicable laws and regulations, provide for a compensatory term of protection for any period during which the patented invention cannot be worked due to marketing approval process.

6. For the purposes of paragraph 5:

(a) "compensatory term of protection" means, for Japan, an extension of a term of patent protection and, for Switzerland, a term specified in a supplementary protection certificate;

(b) "marketing approval" means approval or any other disposition by the competent authorities that is intended to ensure the safety and, where applicable, efficacy of the pharmaceuticals or plant protection products as provided for in the relevant laws and regulations of each Party; and

(c) the length of the compensatory term of protection shall be:

(i) for Japan, equal to the length of extension which the patentee requests, provided that the compensatory term of protection shall not exceed either the length of time during which the patented invention cannot be worked due to marketing approval processes, or a maximum term as provided for in the laws and regulations of Japan. As of the date of entry into force of this Agreement, such maximum term is stipulated as being five years by the relevant law of Japan; and