6. Each Party shall ensure that right holders do not have to bear an unreasonable burden because of the fees and the cost of storage and destruction of the products the release of which has been suspended pursuant to paragraphs 1 and 3 and which have been found to be infringing products.

7. The competent authorities of each Party shall enable the right holder to analyse samples of the products the release of which has been suspended pursuant to paragraph 3, as appropriate and to the extent permitted by the laws and regulations of the Party, at the expense of the right holder.

8. Each Party shall adopt simplified procedures, which are to be used in the absence of objections and subject to the terms and conditions provided for in its laws and regulations, for the competent authorities to seize or destroy the products the release of which has been suspended.

Article 124
Enforcement - Civil Remedies

1. Each Party shall ensure that the right holder has the right to claim against the infringer damages adequate to compensate for the injury the right holder has suffered because of an infringement of his or her intellectual property right by an infringer who knowingly, or with reasonable grounds to know, engaged in the infringing activity.

2. For the purposes of this Article, "right holder" shall include holders of interests which are protected under the laws and regulations of each Party preventing acts of unfair competition.

3. Where the right holder claims against the infringer compensation for damages caused by an intentional or negligent infringement of his or her intellectual property rights, an amount calculated, taking into consideration such factors as the following, may be, where applicable, presumed to be the amount of such damages, whether or not actual damages can be calculated:

(a) the quantity of the products infringing the right holder's intellectual property rights and actually transferred to third persons, and the amount of profit per unit of products which would have been sold by the right holder if there had not been the act of infringement;

(b) the profits earned by the infringer from the act of infringement; or

(c) the amount that the right holder would have been entitled to receive for the exercise of his or her intellectual property rights.

4. In cases where it is extremely difficult for the right holder of intellectual property rights to prove the actual economic harm due to the nature of facts concerned, each Party shall ensure that, to the extent possible in accordance with its laws and regulations, its judicial authorities have the authority to determine the amount of damages based on the totality of the evidence presented to them.

Article 125
Enforcement - Criminal Remedies

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of the following acts committed wilfully and on a commercial scale:

(a) infringement of rights to patents, utility models where provided for in its laws and regulations, industrial designs or trademarks, copyrights or related rights, or rights relating to new varieties of plants;

(b) infringement of rights to layout-design of integrated circuits;

(c) disclosure of undisclosed information provided for in paragraph 4 of Article 120 to the extent provided for in the laws and regulations of the Party; and

(d) the acts of unfair competition provided for in subparagraphs 2(c) to 2(f) of Article 120 and the use of geographical indications and related indications as prescribed in subparagraphs 3(a)(i), 3(a)(ii), 3(b), 3(c), 3(d) insofar as subparagraph 3(a)(iii) is not applicable, 3(g)(i) and 3(g)(iii) of Article 119, to the extent provided for in the laws and regulations of the Party.

2. Importation, exportation or transit of products which constitutes an act referred to in subparagraph 1(a) or 1(d) shall be covered by the criminal procedures and penalties referred to in paragraph 1. Paragraph 2 of Article 123 shall apply to this paragraph.