2. Each Party shall provide for procedures concerning the suspension at the border by its customs administration, on request of a right holder, of the release of goods suspected of infringing rights to trade marks, or copyright or related rights, which are destined for importation into the Party.

3. Each Party may provide for procedures concerning the suspension at the border by its customs administration of the release of goods suspected of infringing rights to trade marks, or copyrights or related rights which:

(a) are destined for exportation from the Party, on request of a right holder; and

(b) are destined for transhipment through the Party, *ex officio* or on request of a right holder.

4. Each Party may provide for procedures concerning the suspension at the border by its customs administration of the release of goods suspected of infringing rights to patents, industrial designs or new varieties of plants, which are destined for importation into, exportation from or transhipment through the Party.

5. In the case of suspension with respect to importation or exportation, in accordance with the procedures referred to in this Article, the competent authorities of the importing Party upon importation, or of the exporting Party upon exportation, shall, where authorised in accordance with its laws and regulations or by its judicial authorities, notify the right holder of the names and addresses of the importer and the consignor, or the exporter and the consignee, of the goods in question, as the case may be.

6. Once a positive determination regarding infringement has been made, each Party shall ensure that the goods, the release of which has been suspended in accordance with the procedures referred to in this Article, will not be released into the channels of commerce without the consent of the right holder, and that the goods will be destroyed or disposed of in accordance with its laws and regulations, except with the consent of the right holder, or otherwise, in exceptional circumstances.

7. Each Party shall provide for simplified procedures, to be used when the importer does not object, for the competent authorities to seize, destroy or dispose of the goods the release of which has been suspended in accordance with the procedures referred to in paragraph 2.

Note: For the purposes of this Article, the term "transhipment" means transhipment, as defined in the International Convention on the Simplification and Harmonization of Customs Procedures, done at Kyoto on 18 May 1973, as amended.

Article 16.19
Enforcement – Civil Remedies

1. Each Party shall provide that in civil judicial proceedings by a right holder of intellectual property rights against a person who knowingly, or with reasonable grounds to know, infringed the right holder's intellectual property rights, its judicial authorities shall have the authority to order the infringer to pay the right holder damages adequate to compensate for the injury the right holder has suffered because of the infringement of the right holder's intellectual property rights.

2. Each Party shall ensure, subject to its laws and regulations, that its judicial authorities have the authority to determine the amount of damages based on the totality of the evidence presented to them. In determining the amount of damages for infringement of intellectual property rights, a Party's judicial authorities shall have the authority to consider, *inter alia*, any legitimate measure of value the right holder submits, which may include lost profits, the value of the infringed goods or services measured by the market price, or the suggested retail price.

Article 16.20
Enforcement – Criminal Procedures and Penalties

1. Each Party shall provide for criminal procedures and penalties to be applied at least in cases of trade mark counterfeiting, copyright or related rights piracy or infringement of rights relating to new varieties of plants, committed wilfully and on a commercial scale.