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 exporting[1] 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".

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 utilisation[1], 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.