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 remedies[1] 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 dissuasive[2] 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

(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.

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[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.