protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. The Parties shall review this subparagraph upon any amendment to subparagraph 3(b) of Article 27 of the TRIPS Agreement with a view to deciding whether to adopt a similar amendment to this subparagraph.

Article 11.37: Rights Conferred

1. Each Party shall provide that a patent shall confer on its owner the following exclusive rights:

   (a) where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of making, using, offering for sale, selling, or importing[33] for these purposes 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 the act of using the process, and from the acts of using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.

2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

Article 11.38: Exceptions to Rights Conferred

A 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.

Article 11.39: Other Use without Authorisation of the Right Holder

For greater certainty, nothing in this Agreement shall limit a Party's rights and obligations under Article 31 and Article 31*bis* of the TRIPS Agreement, and the Annex and Appendix to the Annex to the TRIPS Agreement.

Article 11.40: Experimental Use of a Patent

Without limiting Article 11.38 (Exceptions to Rights Conferred), each Party shall provide that any person may do an act that would otherwise infringe a patent if the act is done for experimental purposes[34] relating to the subject matter of a patented invention.

Article 11.41: Procedural Aspects of Examination and Registration

1. The Parties recognise the importance of improving the quality and efficiency of their respective patent systems as well as simplifying and streamlining the procedures and processes of their respective competent authorities for the benefit of all users of their respective patent systems and the public as a whole.

2. Each Party shall provide a patent system, which includes:

   (a) a requirement to provide to the applicant a communication in writing of the reasons for a refusal to grant a patent;

   (b) an opportunity for the applicant to make amendments and observations in connection with their applications;[35]

   (c) an opportunity to do at least one of the following in relation to a patent before it has been granted:

      (i) file an opposition against the patent application; or

      (ii) provide the competent authority with information that could deny novelty or inventive step of an invention claimed in the patent application;

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[33] This right, like all other rights conferred under this Chapter in respect of the use, sale, importation, or other distribution of goods, is subject to Article 11.6 (Exhaustion of Intellectual Property Rights).

[34] For greater certainty, each Party may determine, consistent with Article 11.38 (Exceptions to Rights Conferred), what acts fall within the meaning of "experimental purposes".

[35] For the purposes of this subparagraph, the Parties understand that "amendments" may include corrections and "observations" may include explanations or responses to a finding on its application by the competent authority whether or not such response is given in conjunction with an amendment or correction to the application.