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<p><b>Article 9 - Damages</b></p> <p>1. Each Party shall provide that, in civil judicial proceedings concerning the enforcement of intellectual property rights, its judicial authorities have the authority to order the infringer who, knowingly or with reasonable grounds to know, engaged in infringing activity to pay the right holder damages adequate to compensate for the injury the right holder has suffered as a result of the infringement. 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.</p> <p>2. At least in cases of copyright or related rights infringement and trademark counterfeiting, each Party shall provide that, in civil judicial proceedings, its judicial authorities have the authority to order the infringer to pay the right holder the infringer's profits that are attributable to the infringement. A Party may presume those profits to be the amount of damages referred to in paragraph 1.</p> <p>3. At least with respect to infringement of copyright or related rights protecting works, phonograms, and performances, and in cases of trademark counterfeiting, each Party shall also establish or maintain a system that provides for one or more of the following:</p> <ul style="list-style-type: none"> <li>(a) pre-established damages; or</li> <li>(b) presumptions<sup>[3]</sup> for determining the amount of damages sufficient to compensate the right holder for the harm caused by the infringement; or</li> <li>(c) at least for copyright, additional damages.</li> </ul> <p>4. Where a Party provides the remedy referred to in subparagraph 3(a) or the presumptions referred to in subparagraph 3(b), it shall ensure that either its judicial authorities or the right holder has the right to choose such a remedy or presumptions as an alternative to the remedies referred to in paragraphs 1 and 2.</p> <p>5. Each Party shall provide that its judicial authorities, where appropriate, have the authority to order, at the conclusion of civil judicial proceedings concerning infringement of at least copyright or related rights, or trademarks, that the prevailing party be awarded payment by the losing party of court costs or fees and appropriate attorney's fees, or any other expenses as provided for under that Party's law.</p>	<p><b>Article 20.40 - Damages</b></p> <p>1. Each Party shall provide that:</p> <p>(a) in civil judicial proceedings, its judicial authorities have the authority to order the infringer who knowingly or with reasonable grounds to know, engaged in infringing activity of intellectual property rights to pay the right holder:</p> <ul style="list-style-type: none"> <li>(i) damages adequate to compensate for the injury the right holder has suffered as a result of the infringement; or</li> <li>(ii) the profits of the infringer that are attributable to the infringement, which may be presumed to be the amount of damages referred to in paragraph (i); and</li> </ul> <p>(b) in determining the amount of damages for infringements of intellectual property rights, its judicial authorities may consider, among other things, any legitimate measure of value that may be submitted by the right holder, including lost profits.</p> <p>2. As an alternative to paragraph 1, a Party's law may provide for the payment of remuneration, such as a royalty or fee, to compensate a right holder for the unauthorised use of the right holder's intellectual property.</p>
<p><b>Article 10 - Other Remedies</b></p> <p>1. At least with respect to pirated copyright goods and counterfeit trademark goods, each Party shall provide that, in civil judicial proceedings, at the right holder's request, its judicial authorities have the authority to order that such infringing goods be destroyed, except in exceptional circumstances, without compensation of any sort.</p> <p>2. Each Party shall further provide that its judicial authorities have the authority to order that materials and implements, the predominant use of which has been in the manufacture or creation of such infringing goods, be, without undue delay and without compensation of any sort, destroyed or disposed of outside the channels of commerce in such a manner as to minimize the risks of further infringements.</p>	<p><b>Article 20.48 - Remedies</b></p> <p>1. Each Party shall provide that its competent authorities have the authority to order the destruction of goods following a determination referred to in Article 20.47 that the goods are infringing. In cases where such goods are not destroyed, each Party shall ensure that, except in exceptional circumstances, such goods are disposed of outside the channels of commerce, in such a manner as to avoid any harm to the right holder.</p> <p>2. In respect of counterfeit trademark goods, the simple removal of the trademark unlawfully affixed shall not be sufficient, other than in exceptional cases, to permit release of the goods into the channels of commerce.</p> <p>3. Each Party may provide that its competent authorities have the authority to impose administrative penalties following a determination referred to in Article 20.47 that the goods are</p>

<p>3. A Party may provide for the remedies described in this Article to be carried out at the infringer's expense.</p>	<p>infringing.</p>
<p><b>Article 16 - Border Measures</b></p> <p>1. Each Party shall adopt or maintain procedures with respect to import and export shipments under which:</p> <p style="padding-left: 40px;">(a) its customs authorities may act upon their own initiative to suspend the release of suspect goods; and</p> <p style="padding-left: 40px;">(b) where appropriate, a right holder may request its competent authorities to suspend the release of suspect goods.</p> <p>2. A Party may adopt or maintain procedures with respect to suspect in-transit goods or in other situations where the goods are under customs control under which:</p> <p style="padding-left: 40px;">(a) its customs authorities may act upon their own initiative to suspend the release of, or to detain, suspect goods; and</p> <p style="padding-left: 40px;">(b) where appropriate, a right holder may request its competent authorities to suspend the release of, or to detain, suspect goods.</p>	<p><b>Article 20.49 - Specific cooperation in the area of border measures</b></p> <p>1. Each Party agrees to cooperate with the other Party with a view to eliminating international trade in goods infringing intellectual property rights. For this purpose, each Party shall establish contact points in its administration and be ready to exchange information on trade in infringing goods. Each Party shall, in particular, promote the exchange of information and cooperation between its customs authorities and those of the other Party with regard to trade in goods infringing intellectual property rights.</p> <p>2. The cooperation referred to in paragraph 1 may include exchanges of information regarding mechanisms for receiving information from rights holders, best practices, and experiences with risk management strategies, as well as information to aid in the identification of shipments suspected of containing infringing goods.</p> <p>3. The cooperation under this Section shall be conducted consistent with relevant international agreements that are binding on both Parties. The Joint Customs Cooperation Committee referred to in Article 6.14 (Joint Customs Cooperation Committee) will set the priorities and provide for the adequate procedures for cooperation under this Section between the competent authorities of the Parties.</p>
<p><b>Section 2: Civil Enforcement</b></p> <p>Footnote 2: A Party may exclude patents and protection of undisclosed information from the scope of this Section.</p>	<p>No equivalent exclusion.</p>