

مرسوم سلطاني

رقم ٢٠١٧/٣٥

بالتصديق على البروتوكول المعدل

لاتفاقية حقوق الملكية الفكرية المتصلة بالتجارة (TRIPS)

سلطان عمان

نحن قابوس بن سعيد

بعد الاطلاع على النظام الأساسي للدولة الصادر بالمرسوم السلطاني رقم ٩٦/١٠١ ،
وعلى المرسوم السلطاني رقم ٢٠٠٠/١١٢ بالتصديق على بروتوكول انضمام سلطنة عمان
إلى اتفاقية مراكش بإنشاء منظمة التجارة العالمية ،
وعلى البروتوكول المعدل لاتفاقية حقوق الملكية الفكرية المتصلة بالتجارة (TRIPS) ،
وبعد العرض على مجلس الشورى ،
وبناء على ما تقتضيه المصلحة العامة .

رسمنا بما هو آت

المادة الأولى

التصديق على البروتوكول المشار إليه ، وفقا للصيغة المرفقة .

المادة الثانية

على جهات الاختصاص إيداع وثيقة التصديق على البروتوكول المشار إليه ، وفقا لأحكامه .

المادة الثالثة

ينشر هذا المرسوم في الجريدة الرسمية ، ويعمل به من تاريخ صدوره .

صدر في : ١ من ذي القعدة سنة ١٤٣٨ هـ

الموافق : ٢٥ من يوليوسنة ٢٠١٧ م

قابوس بن سعيد

سلطان عمان

AMENDMENT OF THE TRIPS AGREEMENT

The General Council;

to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2) and, in particular, the instruction of the Ministerial Conference to the Council for TRIPS contained in paragraph 6 of the Declaration to find an expeditious solution to the problem of the difficulties that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement;

where eligible importing Members seek to obtain supplies under the system set out in the proposed amendment of the TRIPS Agreement, the importance of a rapid response to those needs consistent with the provisions of the proposed amendment of the TRIPS Agreement;

paragraph 11 of the General Council Decision of 30 August 2003 on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health;

the proposal to amend the TRIPS Agreement submitted by the Council for TRIPS (IP/C/41);

the consensus to submit this proposed amendment to the Members for acceptance;

as follows:

1. The Protocol amending the TRIPS Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.
2. The Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.
3. The Protocol shall take effect in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

ATTACHMENT

PROTOCOL AMENDING THE TRIPS AGREEMENT

to the Decision of the General Council in document WT/L/641, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

as follows:

1. The Agreement on Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement") shall, upon the entry into force of the Protocol pursuant to paragraph 4, be amended as set out in the Annex to this Protocol, by inserting Article 31 after Article 31 and by inserting the Annex to the TRIPS Agreement after Article 73.
2. Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.
3. This Protocol shall be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.
4. This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.
5. This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.
6. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

at Geneva this sixth day of December two thousand and five, in a single copy in the English, French and Spanish languages, each text being authentic.

ANNEX TO THE PROTOCOL AMENDING THE TRIPS AGREEMENT

1. The obligations of an exporting Member under Article 31(f) shall not apply with respect to the grant by it of a compulsory licence to the extent necessary for the purposes of production of a pharmaceutical product(s) and its export to an eligible importing Member(s) in accordance with the terms set out in paragraph 2 of the Annex to this Agreement.
2. Where a compulsory licence is granted by an exporting Member under the system set out in this Article and the Annex to this Agreement, adequate remuneration pursuant to Article 31(h) shall be paid in that Member taking into account the economic value to the importing Member of the use that has been authorized in the exporting Member. Where a compulsory licence is granted for the same products in the eligible importing Member, the obligation of that Member under Article 31(h) shall not apply in respect of those products for which remuneration in accordance with the first sentence of this paragraph is paid in the exporting Member.
3. With a view to harnessing economies of scale for the purposes of enhancing purchasing power for, and facilitating the local production of, pharmaceutical products: where a developing or least-developed country WTO Member is a party to a regional trade agreement within the meaning of Article XXIV of the GATT 1994 and the Decision of 28 November 1979 on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903), at least half of the current membership of which is made up of countries presently on the United Nations list of least-developed countries, the obligation of that Member under Article 31(f) shall not apply to the extent necessary to enable a pharmaceutical product produced or imported under a compulsory licence in that Member to be exported to the markets of those other developing or least-developed country parties to the regional trade agreement that share the health problem in question. It is understood that this will not prejudice the territorial nature of the patent rights in question.
4. Members shall not challenge any measures taken in conformity with the provisions of this Article and the Annex to this Agreement under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994.
5. This Article and the Annex to this Agreement are without prejudice to the rights, obligations and flexibilities that Members have under the provisions of this Agreement other than paragraphs (f) and (h) of Article 31, including those reaffirmed by the Declaration on the TRIPS Agreement and Public Health (WT/MIN(01)/DEC/2), and to their interpretation. They are also without prejudice to the extent to which pharmaceutical products produced under a compulsory licence can be exported under the provisions of Article 31(f).