

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 19 November 2007

on the acceptance, on behalf of the European Community, of the Protocol amending the TRIPS Agreement, done at Geneva on 6 December 2005

(2007/768/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133(5) in conjunction with the first sentence of the first subparagraph of Article 300(2) and the second subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament ⁽¹⁾,

Whereas:

(1) On 14 November 2001 at Doha, the Fourth Session of the Ministerial Conference of the World Trade Organisation (hereinafter referred to as the WTO) adopted the Declaration on the TRIPS Agreement and Public Health (WTO doc. WT/MIN(01)/DEC/2).

(2) Paragraph 6 of that Declaration instructed the Council for TRIPS 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 Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the TRIPS Agreement).

(3) On 30 August 2003, the WTO General Council adopted a temporary Decision on the implementation of paragraph 6 of the Declaration on the TRIPS Agreement and Public Health.

(4) Paragraph 11 of that Decision provides that that Decision, including the waivers granted in it, is to terminate for each Member on the date on which an amendment to the TRIPS Agreement replacing its provisions takes effect for that Member.

(5) On 6 December 2005, in order to transform the 30 August 2003 Decision into an amendment of the TRIPS Agreement, the WTO General Council adopted a Protocol amending the TRIPS Agreement and submitted it to the Members of the WTO for acceptance.

(6) Paragraph 3 of the Protocol provides that the Protocol is to be open for acceptance by Members until 1 December 2007 or such later date as may be decided by the Ministerial Conference.

(7) The Commission participated, on behalf of the Community, in the negotiation of the Protocol.

(8) In accordance with Article 133(5) of the Treaty, the Community is competent to conclude agreements in the field of commercial aspects of intellectual property.

⁽¹⁾ Assent of 24 October 2007 (not yet published in the Official Journal).

(9) The Protocol should be accepted on behalf of the Community.

(10) In its instrument of acceptance, the Community should also confirm, in accordance with Article 300(7) of the Treaty, that the Protocol will be binding on its Member States,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol amending the TRIPS Agreement, done at Geneva on 6 December 2005, is hereby accepted on behalf of the Community.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to deposit the instrument of acceptance of the Protocol with the Director-General of the WTO.

Article 3

In its instrument of acceptance, the Community shall confirm, in accordance with Article 300(7) of the Treaty, that the Protocol will be binding on its Member States.

Done at Brussels, 19 November 2007.

For the Council

The President

L. AMADO
