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## 9. Intellectual property

Intellectual property is governed in Mexico by the Industrial Property Law (IPL), of June 28, 1991, as amended, and the Copyright Law (CL). In addition, the NAFTA devotes an entire chapter to intellectual property. The NAFTA provisions establish cross-border enforcement procedures and generally serve to reinforce Mexico's recent reforms in the area of intellectual property, as embodied in the IPL.

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### 9.1 Patent Protection

Under the IPL, patents are protected in Mexico for a period of 20 years from the date the application for registration thereof is filed. Certain products, such as pharmaceuticals, medicines, animal feed, fertilizer and pesticides which under former statutes were not patentable until 1997, are now eligible for patent registration and protection as of June 28, 1991. Also, certain products, such as vegetable variations and microbiological inventions, which in the past were not subject to patent protection, are now patentable.

Under the IPL, any patent licence or assignment of patent rights must be registered with *Secretaría de Comercio y Fomento Industrial (SECOFI)*, Secretariat of Commerce and Industrial Development. If they are not registered, such licences or assignments will not be effective against third parties. Although the IPL is not totally clear on this issue, the registration procedure before *SECOFI* should not involve governmental review or approval of the corresponding patent licence or assignment.

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### 9.2 Trademark protection

Under the IPL, trademarks are protected in Mexico for a period of ten years, which period is renewable for successive ten-year terms. Any trademark licence or assignment of trademark rights must be registered with *SECOFI*. The registration procedure is similar to the one applicable to patents.

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### 9.3 Transfer of technology

The IPL not only introduced important reforms in the areas of patent and trademark protection, but it also repealed the Transfer of Technology Law (TTL) and its regulations. Under the TTL, all agreements which involved the transfer of technology such as patent and trademark licence agreements, know-how and technical assistance agreements had to be approved by and registered with the National Registry of Transfers of Technology (NRTT). The NRTT would not register agreements which contained "objectionable clauses", such as grant-backs, tie-ins, choice of foreign law and foreign forum clauses, and "excessive" royalties. With the abrogation of the TTL, parties may now freely negotiate technology agreements in Mexico.