The delegation of Mexico has requested that the attached Decree, published in the Official Gazette of the United Mexican States on 17 March 1987, be circulated to participants in the Negotiating Group on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods.
Decree Prohibiting the Importing of Goods Illegally Bearing Marks Registered in Mexico

The Department of Trade and Industrial Development, in pursuance of Articles 16 and 34 of the Organic Law on the Federal Public Administration; 1:II(d) and 2:II of the Law establishing implementing regulations for Article 131 of the Political Constitution of the United Mexican States in regard to foreign trade; 210:11, 211:4 and 223 of the Law on inventions and marks, as amended by the Decree published in the Official Gazette of the Federation on 16 January last, and

WHEREAS,

This Department has received complaints regarding goods which have been imported bearing marks whose use is unlawful, and which it is our duty to protect since they have been registered in our country, whether under an international commitment or because such acts are offences in our country under the Law on inventions and marks and furthermore such acts are a form of unfair competition and a threat to the rights of consumers, which should likewise be repressed in accordance with our legislation, has found it appropriate to issue the following

DECREE:

Article 1. The import of goods illegally bearing marks registered in Mexico shall be prohibited.

Natural or legal persons wishing to import goods covered by marks registered in Mexico may do so only after showing proof to the relevant customs offices that the use of the mark borne by such goods is lawful.

Article 2. The use of a mark shall be deemed lawful in the following cases:

(a) When the mark is the property of the person carrying out the import or that person has the right to use it by virtue of being the licensee.

(b) When the importer is acting on behalf of the owner or licensee of the mark borne by the goods.

(c) When the foreign exporter is the owner or licensee of the mark borne by the goods to be imported.

(d) When the owner or licensee of the mark and the importer are respectively the parent firm and the subsidiary.

(e) When the goods concerned form part of the luggage of passengers in international transport, in accordance with Article 46:6 of the Customs Law and Article 107 of the implementing regulations.
In all the cases mentioned the importer shall not be required to show proof that the mark borne by the goods to be imported is being used lawfully, but must show that the operation falls within one of the cases mentioned above.

This Decree shall enter into force on the day following its publication in the Official Gazette of the Federation.

Mexico City, 12 March 1987