Protocol 7

on Spanish quantitative quotas

1. The quotas referred to in Article 43 shall be global and open without discrimination to all the present Member States. They shall be open to all operators without restriction.

2. Quotas shall be open in one instalment at the beginning of the calendar year.

However, the Kingdom of Spain may open these quotas in two equal instalments, the second instalment starting at the beginning of the second half of the year. In that case the remainder of the first instalment shall be carried over to the second instalment so as to comply with the global annual amount.

3. The Kingdom of Spain shall notify the Commission each year or each half year and shall publish officially the opening of the quotas.

4. The time limit for making an application for a licence shall be for a minimum of four weeks from the publication or notification; once this time limit has expired, the Kingdom of Spain shall grant the licences within a maximum period of 20 working days.

5. The import licence shall be valid for at least six months.

6. The Kingdom of Spain shall furnish information to the Commission at half-yearly intervals on the use of the quotas.

Protocol 8

on Spanish patents

1. The Kingdom of Spain shall upon accession adjust its patent law so as to make it compatible with the principles of the free movement of goods and with the level of protection of industrial property attained in the Community, in particular in the fields of contractual licensing rules, of exclusive compulsory licensing, of the compulsory exploitation of a patent and also the patent of importation.

To that end, close cooperation shall be instituted between the Commission services and the Spanish authorities; this cooperation shall also cover the problems of transition of current Spanish law towards new law.

2. The Kingdom of Spain shall introduce, in its national legislation, a provision on shifting the burden of proof corresponding to Article 75 of the Luxembourg Convention of 15 December 1975 on the Community patent.

This provision shall apply upon accession with regard to new process patents filed as from the date of accession.

For patents filed prior to that date, this provision shall apply not later than 7 October 1992.

However, this provision shall not apply if the infringement proceedings are brought against the holder of another process patent for the manufacture of a product identical to that obtained as the result of the patented process of the plaintiff, if that other patent was issued before the date of accession. Nevertheless, the Kingdom of Spain shall repeal from accession Article 273 of its law relating to patents, currently in force.

In cases where shifting the burden of proof does not apply, the Kingdom of Spain shall continue to require the patent holder to adduce proof of infringement. In all these cases the Kingdom of Spain shall however pass new legislation with effect from 7 October 1992, introducing a judicial procedure known as 'distraint-description'.

'Distraint-description' means a procedure forming part of the system referred to in the preceding paragraphs by which any person entitled to bring an action for infringement may, after obtaining a Court order, granted on his application, cause a detailed description to be made, at the premises of the alleged infringer, by a bailiff assisted by experts, of the processes in question, in particular by photocopying technical documents, with or without actual distraint.This Court order may order the payment of a security, intended to grant damages to the alleged infringer in case of injury caused by the 'distraint-description'.