

CHAPTER 10

INTELLECTUAL PROPERTY

Article 10.1: Affirmation of the TRIPS Agreement

1. Each Party affirms its rights and obligations with respect to the other Party under the Agreement on Trade-Related Aspects of Intellectual Property Rights in Annex 1C to the WTO Agreement (the “TRIPS Agreement”).
2. The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.
3. The Parties may, in formulating or amending their laws and regulations, adopt measures necessary to protect public health and nutrition, and to promote the public interest in sectors of vital importance to their socio-economic and technological development, provided that such measures are consistent with the provisions of the TRIPS Agreement.
4. Appropriate measures, may be needed to prevent the abuse of intellectual property rights by right holders or the resort to practices which unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with the provisions of the TRIPS Agreement.
5. The Parties reaffirm the Doha Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001.
6. The Parties shall ensure enforcement procedures as specified in Part III of the TRIPS Agreement so as to permit effective action against any act of infringement of intellectual property rights, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.

Article 10.2: Cooperation

1. The Parties agree to promote and strengthen cooperation in the area of intellectual property rights in order to enhance their economic and trade relations. Cooperation may cover areas such as:

(a) exchange of knowledge, experiences and best practices on intellectual property issues such as geographical indications and international registration of trademarks under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks;

(b) education and awareness relating to intellectual property;

(c) intellectual property issues relevant to:

(i) genetic resources, traditional knowledge and traditional cultural expressions; and

(ii) small and medium-sized enterprises;

(d) enforcement of intellectual property rights; and

(e) other activities as may be mutually agreed between the Parties.

2. All cooperation under this Article shall be at the request of a Party, on mutually agreed terms, subject to the relevant laws and regulations and availability of resources of each party.