

TRIPS-plus: where are we now?

An informal report from GRAIN for the Third SAARC Peoples Forum

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Background

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was part of the 1994 Marrakech accords that established the World Trade Organisation (WTO) and came into force the following year. “TRIPS” quickly became a well-known term because the Agreement set, for the first time, binding minimum standards for the protection of intellectual property rights (IPR) in seven areas worldwide. Controversially, TRIPS obliges all WTO members to start patenting life forms and processes, and to either patent or provide a similar type of intellectual property system on food crops (plant varieties). Distinct from previous international agreements on IPR, such as those administered by the World Intellectual Property Organisation (WIPO), TRIPS is part and parcel of the world trade system and it is enforced through WTO’s powerful dispute settlement and sanction machinery. So if Islamabad falls short, in Washington’s view and confirmed by a WTO dispute panel, on its commitments to provide domestic patent protection for American inventions, Pakistan’s cotton farmers could suffer the consequences through tariff retaliation if the US so decides.

The term “TRIPS-plus” emerged later on, toward the end of the 1990s. Who invented the term isn’t clear, but a number of NGOs started talking about and analysing TRIPS-plus policies affecting different parts of the developing world. Significantly, governments, intellectual property experts and organisations, trade analysts and the media picked up on the term rather quickly, and it is now an accepted expression for an acknowledged reality.

TRIPS-plus refers to policies, and policy-making processes, that embody commitments which go beyond the minimum standards set out in the TRIPS Agreement. Table 1 outlines some criteria for when an agreement can be called TRIPS-plus in terms of biodiversity. The TRIPS Agreement is a multilateral one: some 150 countries have agreed to it as part of the all-or-nothing rule for membership in the WTO. TRIPS-plus agreements, by contrast, tend to be bilateral or regional treaties, often initiated by industrial powers towards weaker countries. A representative sample is laid out in Annex 1.

Table 1: What makes an agreement “TRIPS-plus” in terms of patenting life?

	TRIPS	TRIPS-plus
patenting of plants	optional	explicitly required or no option retained
patenting of animals	optional	explicitly required or no option retained
patenting of plant varieties	optional	explicitly required
patenting of ‘biotechnological inventions’	(n.a.)	explicitly required

	TRIPS	TRIPS-plus
UPOV standards for plant variety protection	(n.a.)	explicitly required
Budapest system for deposit of micro-organisms	(n.a.)	explicitly required
traditional knowledge	(n.a.)	explicitly required
IPR standards referred to	(sets minimum standards, with reference to a few WIPO treaties)	refers to “highest international standards”

There are many different kinds of TRIPS-plus agreements. In terms of intellectual property rights on life, we have found TRIPS-plus provisions in free trade agreements, bilateral investment treaties, scientific and research cooperation agreements, development or technical assistance agreements, multifaceted “partnership” agreements and plain old intellectual property agreements. Many of these are negotiated directly between governments, with drafts kept secret until the final hour. There is nothing necessarily illegal about these processes or the final agreements. But because they are drawn up behind closed doors, they skirt public scrutiny. And because they are negotiated independently, outside the constraints of the WTO, they are an powerful tool for rich countries to get what they want from poor countries. The bottom line is that these bilateral treaties are clandestinely creating new, *de facto* international standards for IPR protection worldwide. Because if you add them all up, they are effectively setting new and standardised norms that go well beyond the minimum prescriptions of the WTO.

GRAIN was alerted to the issue in 1999 by colleagues in Latin America¹, where TRIPS-plus policies had advanced far and fast due to the region’s close reach to the US and the power of national debt burdens. We supported the preparation of a regional analysis on the problem, in terms of biodiversity, which was completed in 2001.² During that process, we came upon a news report that the European Parliament had approved a new development cooperation agreement between the EU and Bangladesh. The report talked about Bangladesh joining UPOV, which TRIPS does not require. This triggered a parallel process with colleagues from the South Asia Network on Food, Ecology and Culture (SANFEC) to pull together a regional analysis on the extent of the problem in Asia. Perhaps because the issue was so new and uncharted for many of us, that parallel research effort became a global review instead of a regional one, which was also published in 2001.³

How far have we come?

On the broad scale of things, the whole issue of TRIPS-plus politics and processes has not been sufficiently addressed. Civil society groups that have experienced TRIPS-plus pressures in their own countries – such as Nicaragua, Ecuador or Bangladesh – have had to deal with the terrible political reality of secret deals, tied hands and, in some cases, little scope to make

¹ Especially Margarita Flórez of the Instituto Latinoamericano de Servicios Legales Alternativos in Colombia, to whom we are indebted for building our awareness of this issue. See <http://www.ilsa.org.co>.

² Margarita Flórez, “Todos los caminos conducen a la propiedad intelectual: Una mirada a los mecanismos que aumentan el control monopólico sobre la biodiversidad en América Latina”, *Conflicto entre Comercio Global y Biodiversidad*, No. 6, Gaia/GRAIN, Septiembre 2001, 18 pp. <http://www.grain.org/sp/publications/gg-num6-sp.cfm>

³ GRAIN, in cooperation with SANFEC, “TRIPS-plus through the back door: How bilateral treaties impose much stronger rules for IPRs on life than the WTO”, July 2001, 14 pp. <http://www.grain.org/publications/trips-plus-en.cfm>

a difference. A handful of NGOs have done some research, campaigning or lobbying on the matter, and the same for a few think-tanks. But people have not come together to put up a concerted fight against what has emerged as the driving force of IPR policy-making in the world today.

Roughly, we can see the following:

- NGOs, collectively speaking, have developed a preliminary framework to analyse TRIPS-plus agreements in terms of IPRs on life. We know more or less the types of agreements to look at and what to look for. But the framework has not been fine-tuned, is still partial and has only been applied it to a small number of countries.⁴ One drawback we face is the amount of time it takes to find the agreements, read through them and keep an active track. (We're talking of thousands of agreements.) Another is the need to get greater expertise on the investment treaties, which are difficult to analyse. A third is the need to cooperate more on such research, monitoring and analysis.
- TRIPS-plus policies are gaining more and more ground. In terms of the three major IPR powers – Europe, the US and Japan – the EU is advancing steadily in its plans, Japan is only starting to engage in bilateral agreements, and the US is increasing its initiatives. Some snapshots from the past two years, where IPRs on life are on the line:
 - Bangladesh agreed to the EU proposal before public debate could take off. Other pending EU agreements with Tunisia, Lebanon and Morocco were completed.
 - The EU partnership agreement with the African, Caribbean and Pacific (ACP) group is now entering a bilateral negotiation phase, where 76 country agreements between the EU and each ACP partner will be drawn up under the framework of the discretely TRIPS-plus Cotonou Agreement.
 - New, harshly TRIPS-plus agreements have been negotiated and finalised between the US and Singapore, Vietnam, Chile and Jordan. The US-Laos treaty might come into force this year, pending the grant of Normal Trade Relation status to Laos from US Congress.
 - New regional negotiations have started between the US and the Caribbean states (CAFTA) and between the US and southern African states (COMESOC). The next regional target for the US is set to be ASEAN.
 - The US is starting one-on-one processes with Morocco and Bahrain, and has been looking at Egypt. Bilateral negotiations for three free trade agreements between the US and Thailand, Indonesia and the Philippines are expected to be launched at the next meeting of the Asia-Pacific Economic Cooperation (APEC) in October 2003.
 - The text under negotiation for the Free Trade Area of the Americas – North and South – promises a hemispheric TRIPS-plus reality in 2005 with commitments to UPOV, to patents on life and to IPR on traditional knowledge.
- Some governments have been put under question for, or accused of, making TRIPS-plus deals in different parts of the world. The European Commission in particular has faced pressure from the Greens in the European Parliament and from NGOs. From an initial phase of denial, the Commission has move on to confrontation about it. Next door to the EU, an NGO campaign was recently launched against the TRIPS-plus policies of the

⁴ From what we've seen: the US, the EU, EFTA and to some extent Japan, Australia and Switzerland.

European Free Trade Association governments (Iceland, Liechtenstein, Norway and Switzerland).⁵ And bit by bit, the TRIPS-plus politics of the industrialised world are being criticised by experts, intellectuals and development agencies.

➤ At the multilateral or global level:

- TRIPS-plus is more or less a “non-issue” at WTO. Bilateral, plurilateral and regional trade agreements are tolerated by the Organisation, though at times schizophrenically, and the TRIPS Council does not monitor the content of these agreements. Crucially, the unilateral approach of the US, with its Special 301 process to leverage threats against countries with weak IPR laws or enforcement, has been challenged but not blocked by the WTO membership.⁶
- UNCTAD has done important monitoring and analytical work on bilateral investment treaties (BITs).⁷ But despite prodding from NGOs, it has not looked specifically into TRIPS-plus implications of BITs regarding IPRs on life.
- The only real action, at the global level, is under way at WIPO. Since a few years, WIPO is pursuing a very active process to create a world patent system: one patent law for all countries run by one office granting one document.⁸ The political core of this system – the Substantive Patent Law Treaty – is now under negotiation and may not retain the exclusions for plants and animals that TRIPS currently offers.⁹ In other words, TRIPS-plus politics could get sanctioned at a global scale through WIPO, if not through any global investment treaty.

In sum, TRIPS-plus is gaining ground in more and more countries, few people are monitoring or doing something about it, and in this process the sheer effectiveness of the bilateral approach is only growing.

Need for further action

It's apparent from the global level at least that a number of actions are needed to challenge and arrest the TRIPS-plus tide:

- a) Governments that have proposed, accepted or are discussing TRIPS-plus deals really need to be challenged, frontally.
- b) We need a process of sharing among people who have experienced TRIPS-plus politics at home so that others can learn from the political process and improve their own resistance measures and strategies.
- c) There is important scope to increase cooperation among those working on or affected by different aspects of TRIPS-plus policies and other bilateral deals. Farmers, workers, the health care sector, the IT community – many issues are being negotiated and have to be implemented domestically, not just patents on seeds.

⁵ See Berne Declaration et al., “EFTA must stop pushing for patents on life in developing countries”, 26 June 2003, at http://www.evb.ch/index.cfm?page_id=2287.

⁶ An introduction to the US Special 301 is available at <http://usinfo.state.gov/products/pubs/intelprp/301.htm>.

⁷ See UNCTAD for its annual *World Investment Report* at <http://r0.unctad.org/wir/index.htm> and its work on international investment agreements at <http://r0.unctad.org/en/subsites/dite/iaa/index.htm>.

⁸ GRAIN, “WIPO moves toward ‘world patent’ system”, July 2002, at <http://www.grain.org/publications/wipo-patent-2002-en.cfm>.

⁹ GRAIN (forthcoming), “Toward the ‘world patent’? WIPO’s Substantive Patent Law Treaty”, working title only, to be published in September 2003.

- d) Regarding the EU, there is space to work with political parties in the European Parliament, who have an interest in the issue from different angles.
- e) We need more analytical work on bilateral investment treaties in particular. Intellectual property rights are treated as investments under these deals, but the legal and policy implications of what these treaties are bringing forward are not yet entirely clear.
- f) We also need to foster a better appreciation of the importance of bilateral trade politics in activist work on the multilateral institutions, including the WTO, the World Bank and the IMF.
- g) To help unmask the TRIPS-plus trend and raise its profile, UNCTAD could be asked to do an authoritative study on the extent of the problem, including the investment treaties.

Bilateral & regional agreements imposing TRIPS-plus standards for IPRs on life in developing countries ^(a)

GRAIN, August 2003

Proponent North	Counterpart South	Date	Status	TRIPS-plus and potential ^(b) TRIPS-plus provisions on life forms
AFRICA & MIDDLE EAST				
EU	ACP <i>(Cotonou Agreement)</i>	2000	In force. Negotiations on individual bilateral <i>Economic Partnership Agreements</i> between the EU and 76 ACP countries start in 2003.	The parties recognise the need to ensure adequate and effective protection of patents on plant varieties and on biotechnological inventions ¹
EU	Algeria	2002	Negotiations concluded.	Algeria shall accede to and implement UPOV (1991 Act) within 5 years of entry into force, although accession can be replaced by implementation of an effective <i>sui generis</i> system if both parties agree. ² Must accede to Budapest Treaty. ³
EFTA ⁴	Egypt		Under negotiation	
EU	Egypt		Under negotiation	
EFTA	Jordan	2001	In force	Jordan must join UPOV and accede to Budapest Treaty by 2006; must ensure “adequate and effective patent protection for inventions in all fields of technology on a level similar to that prevailing in the European Patent Convention”. ⁵
EU	Jordan		Under negotiation	
US	Jordan	2000	In force	Jordan must implement and join UPOV within one year and partially implement Budapest Treaty; no exclusions for plants and animals from patent law ⁶
EFTA	Lebanon		Under negotiation	
EU	Lebanon	2002	Interim Agreement in force as of March 2003	Lebanon must join UPOV (1991 Act) and accede to Budapest Treaty by 2008 ⁷
EFTA	Morocco	2000	In force	Morocco must join UPOV and accede to Budapest Treaty by 2000 and provide “adequate and effective patent protection for inventions in all fields of technology on a level similar to that prevailing in the European Patent Convention” ⁸
EU	Morocco	2000	In force	Morocco must join UPOV (1991 Act) and accede to Budapest Treaty by 2004 ⁹
US	Morocco		Under negotiation	
EFTA	Palestinian Authority	1998	In force	Must implement “highest international standards” of IPR protection ¹⁰

Proponent North	Counterpart South	Date	Status	TRIPS-plus and potential ^(b) TRIPS-plus provisions on life forms
EU	Palestinian Authority	1997	In force	“highest international standards” ¹¹
EFTA	South Africa		Under negotiation	
EU	South Africa	1999	In force	South Africa shall ensure adequate and effective protection for patents on biotechnological inventions; “highest international standards”; must undertake to go beyond TRIPS ¹²
US	Southern Africa (Southern African Customs Union)		Under negotiation	
US	Sub-Saharan Africa (African Growth & Opportunities Act)	2000	In force	Trade benefits are gauged on extent to which African countries go beyond TRIPS ¹³
EU	Syria		Under negotiation	
EFTA	Tunisia		Under negotiation	
EU	Tunisia	1998	In force	Tunisia must join UPOV (1991 Act) and accede to Budapest Treaty by 2002; “highest international standards” ¹⁴
ASIA & PACIFIC				
EU	ACP (Cotonou Agreement)	2000	In force. Negotiations on individual bilateral <i>Economic Partnership Agreements</i> between the EU and 76 ACP countries start in 2003.	The parties recognise the need to ensure adequate and effective protection of patents on plant varieties and on biotechnological inventions ¹⁵
EU	Bangladesh	2001	In force	Bangladesh shall endeavour to join UPOV (1991 Act) and to accede to the Budapest Treaty by 2006 ¹⁶
US	Cambodia	1996	In force	Cambodia must join UPOV ¹⁷
US	Korea	1986	In force	Korea must join Budapest Treaty ¹⁸
US	Laos	1997	Concluded. Entry into force pending US grant of NTR status to Laos.	Laos must join UPOV (1978 or 1991 Act) “without delay”; Laos shall provide patents for any invention in all fields of technology (no exclusions) ¹⁹
US	Mongolia	1991	In force	No exclusions for plants and animals from patent law ²⁰
US	Singapore	2003	Approved	Singapore must join UPOV within six months or by end of 2003, whichever sooner; Singapore must patent plants, animals and plant varieties (“each Party may exclude inventions from patentability only as defined in Articles 27.2 and 27.3(a) of the TRIPS Agreement”) ²¹

Proponent North	Counterpart South	Date	Status	TRIPS-plus and potential ^(b) TRIPS-plus provisions on life forms
EU	Sri Lanka	1995	In force	“highest international standards” ²²
US	Sri Lanka	1991	In force	No exclusions for plants and animals from patent law ²³
Switzerland	Vietnam	1999	In force	Vietnam must join UPOV (1991 Act) by 2002 ²⁴
US	Vietnam	2000	In force	Vietnam must implement and make best effort to join UPOV; must provide patent protection on all forms of plants and animals that are not varieties as well as on inventions that encompass more than one variety ²⁵
LATIN AMERICA & CARIBBEAN				
EU	ACP (Cotonou Agreement)	2000	In force. Negotiations on individual bilateral <i>Economic Partnership Agreements</i> between the EU and 76 ACP countries start in 2003.	The parties recognise the need to ensure adequate and effective protection of patents on plant varieties and on biotechnological inventions ²⁶
US	Andean countries (Andean Trade Preferences Act)	1991	In force	Trade benefits to Andean countries gauged on extent to which they go beyond TRIPS ²⁷
US	Caribbean countries (Caribbean Basin Trade Partnership Act)	2000	In force	Trade benefits to Caribbean countries gauged on extent to which they go beyond TRIPS ²⁸
US	Central America (US-Central American Free Trade Agreement)		Under negotiation	
EFTA	Chile	2003	Signed, for entry into force in 2004	Chile must join the UPOV Convention (1978 or 1991 Act) by 2007 and accede to the Budapest Treaty by 2009 ²⁹
US	Chile	2003	Approved	Chile must join UPOV (1991 Act) and provide patents on any invention in any field of technology (no exceptions); “Each Party will undertake reasonable efforts...to develop and propose legislation within 4 years from the entry into force of this Agreement that makes available patent protection for plants that are new, involve an inventive step, and are capable of industrial application” ³⁰
US	Ecuador	1993	Agreed but not in force, failing ratification by Ecuador’s Parliament	Ecuador must conform with UPOV if it does not grant patents on plant varieties ³¹

Proponent North	Counterpart South	Date	Status	TRIPS-plus and potential ^(b) TRIPS-plus provisions on life forms
US and Canada	Latin America <i>(Free Trade Area of the Americas)</i>		Under negotiation	US negotiating position is no exclusions for plants or animals from patent law; actual negotiating text contains many proposals to implement UPOV ³²
EFTA	Mexico	2000	In force	Mexico must join UPOV and accede to the Budapest Treaty by 2002 ³³
EU	Mexico	2000	In force	Mexico must accede to Budapest Treaty within three years; shall provide “highest international standards” of IPR protection ³⁴
US and Canada	Mexico <i>(North American Free Trade Agreement)</i>	1994	In force	Mexico must implement and join UPOV within two years ³⁵
US	Nicaragua	1998	In force	Nicaragua must join UPOV; no exclusion for plants and animals from patent law ³⁶
US	Trinidad & Tobago	1994	In force	Trinidad & Tobago must implement and make best effort to join UPOV ³⁷

- (a) The table reflects different kinds of agreements, but mainly trade, IPR or partnership agreements.
(b) It is seriously unclear what “highest international standards” of IPR protection refers to in all cases cited

¹ Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States, CE/TFN/GEN/23-OR, ACP/00/0371/00, 8.2.00. <http://europa.eu.int/comm/trade/pdf/acp.pdf> [Art 45]

² Euro-Mediterranean Agreement establishing an Association between the European Community and its Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part – Annexes 1 to 6 and Protocols Nos 1 to 7, Council of the European Union, Brussels, 12 April 2002, 6786/02 ADD 1 AL 1, Annex 6, Article 3. http://europa.eu.int/comm/external_relations/algeria/docs/index.htm

³ *Ibid*, Annex 6, Art 1.

⁴ The European Free Trade Association is composed of the non-European Union countries Iceland, Liechtenstein, Norway and Switzerland. The EFTA cases cited in this table were investigated by Berne Declaration and published in *TRIPS-plus through EFTA's back door*, June 2003, http://www.evb.ch/cm_data/Trips_plus%20by%20EFTA.doc. We only updated the Chile case.

⁵ EFTA-Jordan Free Trade Agreement, Art 17, http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/Jordan/JO/JO_FTA.pdf and Annex VI, http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/JO/Annexes/10-Annex_VI.pdf

⁶ Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area. <http://192.239.92.165/regions/eu-med/middleeast/textagr.pdf> [Art 4.1(b), Art 4.18, Art 4.21 and Art 4.29(b)].

⁷ Interim agreement on trade and trade-related matters between the European Community, of the one part, and the Republic of Lebanon, of the other part, Official Journal of the European Communities L 262/2 of 30 September 2002. [Annex 2.2]

⁸ EFTA-Morocco Free Trade Agreement.

http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/Morocco/MA/MA_FTA_EN.pdf [Art 16] and http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/MA/Annexes/14-Annex_V.pdf [Annex V]

⁹ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, Official Journal of the European Communities (OJ) L 070 of 18 March 2000, p. 0002-0204. http://europa.eu.int/eur-lex/en/lif/dat/2000/en_200A0318_01.html [Annex 7, Art 1]

¹⁰ Interim Agreement between the EFTA States and the PLO for the Benefit of the Palestinian Authority.

http://secretariat.efta.int/Web/ExternalRelations/PartnerCountries/Palestinian_Authority/PLO/PLO_FTA.pdf [Art 15]

¹¹ Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, Official Journal L 187 of 16 July 1997, p. 0003-0135. http://europa.eu.int/eur-lex/en/lif/dat/1997/en_297A0716_01.html [Title II, Art 33]

¹² Agreement on Trade, Development and Cooperation between the European Community and its Member States, of the one part, and the Republic of South Africa, of the other part, Official Journal L 311 of 4 December 1999 p. 0003-0297. http://europa.eu.int/eur-lex/en/lif/dat/1999/en_299A1204_02.html or http://europa.eu.int/comm/development/south_africa/agreement.pdf [Art 46]

¹³ Trade and Development Act of 2000. <http://www.agoa.gov/agoa/agoatext.pdf> [Sec B.211.5.b.ii]

¹⁴ Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, Official Journal L 097 of 30 March 1998 p. 0002-0183. http://europa.eu.int/eur-lex/en/lif/dat/1998/en_298A0330_01.html [Annex 7]

¹⁵ Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States, CE/TFN/GEN/23-OR, ACP/00/0371/00, 8.2.00. <http://europa.eu.int/comm/trade/pdf/acp.pdf> [Art 45]

¹⁶ Cooperation Agreement between the European Community and the People's Republic of Bangladesh on partnership and development, OJ C143 of 21 May 1999. [Art 4.5] Cooperation Agreement between the European Community and the People's Republic of Bangladesh on partnership and development, Official Journal L 118, 27/04/2001 P. 0048 – 0056.

[http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=22001A0427\(01\)&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=22001A0427(01)&model=guichett)

[http://europa.eu.int/cgi-bin/eur-lex/udl.pl?REQUEST=Seek-](http://europa.eu.int/cgi-bin/eur-lex/udl.pl?REQUEST=Seek-Deliver&COLLECTION=oj&SERVICE=eurlex&LANGUAGE=en&DOCID=20011118p0048)

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¹⁷ *Agreement between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection.* http://199.88.185.106/tcc/data/commerce_html/TCC_Documents/CambodiaTrade.html [Art XI.1]

¹⁸ *Record of Understanding on Intellectual Property Rights.* http://199.88.185.106/tcc/data/commerce_html/TCC_2/KoreaIntellectual.html [Sec. B.6]

¹⁹ *Agreement between the United States of America and the Lao People's Democratic Republic on Trade Relations.*

<http://www.ustr.gov/regions/asia-pacific/2003-04-bta-laos.pdf> [Art 13 and 18]

²⁰ *Agreement on Trade Relations between the Government of the United States of America and the Government of the Mongolian People's Republic.* http://199.88.185.106/tcc/data/commerce_html/TCC_2/MongoliaTrade.html [Art 9(c)i]

²¹ *US-Singapore Free Trade Agreement*, May 2003. <http://www.ustr.gov/new/fta/Singapore/final/text%20final.PDF> [Art 16.1 and Art 16.7]

²² *Council Decision of 27 March 1995 concerning the conclusion of the Cooperation Agreement between the European Community and the Democratic Socialist Republic of Sri Lanka on Partnership and Development.*

http://www.dellka.cec.eu.int/en/eu_and_country/agreements.htm [Art 8.1.a]

²³ *Agreement on the Protection and Enforcement of Intellectual Property Rights between the United States of America and the Democratic Socialist Republic of Sri Lanka.*

http://199.88.185.106/tcc/data/commerce_html/TCC_2/Sri_Lanka_Intellectual_Property/Sri_Lanka_Intellectual_Property.html [Sec 2c]

²⁴ *Abkommen zwischen dem Schweizerischen Bundesrat und der Sozialistischen Republik Vietnam über den Schutz des geistigen Eigentums und über die Zusammenarbeit auf dem Gebiet des geistigen Eigentums.* <http://www.admin.ch/ch/d/ff/2000/1521.pdf> [Art 2 and Annex 1]

²⁵ *Agreement between the United States of America and the Socialist Republic of Vietnam on Trade Relations.*

<http://usembassy.state.gov/vietnam/www/hbta.html> [Chpt II: Art 1.3 and Art 7.2(c)]

²⁶ *Partnership Agreement between the African, Caribbean and Pacific States and the European Community and its Member States*, CE/TFN/GEN/23-OR, ACP/00/0371/00, 8.2.00. <http://europa.eu.int/comm/trade/pdf/acp.pdf> [Art 45]

²⁷ *Andean Trade Preferences Act.* <http://www.mac.doc.gov/atpa/webmain/legislation1.htm> [Sec 3202(d)9 and 3202(c)2b.ii]

²⁸ *US-Caribbean Trade Partnership Act of 2000.* <http://www.mac.doc.gov/CBI/Legislation/cbileg-00.htm> [Sec B.211.5.b.ii]

²⁹ *EFTA-Chile Free Trade Agreement*, Article 46, http://secretariat.ofta.int/Web/ExternalRelations/PartnerCountries/Chile/CL/CL_FTA.pdf and Annex XII, http://secretariat.ofta.int/Web/ExternalRelations/PartnerCountries/CL/CL_RUAP/Annexes/Annex_XII.pdf

³⁰ *US-Chile Free Trade Agreement*, consolidated draft of 3 April 2003. <http://www.ustr.gov/new/fta/Chile/text/17text.pdf> [Art 17.1 and 17.9]

³¹ *Agreement between the Government of the United States of America and the Government of Ecuador Concerning the Protection and Enforcement of Intellectual Property Rights.* http://199.88.185.106/tcc/data/commerce_html/TCC_Documents/EcuadorIntellectual.html [Art 6.1(c)]

³² *Free Trade Area of the Americas, Draft Agreement*, Chapter on Intellectual Property Rights, Second Consolidated Draft, FTAA.TNC/w/133/Rev.2, 1 November 2002, <http://www.ustr.gov/regions/whemisphere/ftaa2002/tnc-w-133-11of12-eng.pdf>. The US negotiating position as of early 2001: <http://www.ustr.gov/regions/whemisphere/intel.html>.

³³ *EFTA-Mexico Free Trade Agreement.* http://secretariat.ofta.int/Web/ExternalRelations/PartnerCountries/Mexico/MX/MX_FTA.pdf [Art 16] and http://secretariat.ofta.int/Web/ExternalRelations/PartnerCountries/MX/Annexes/30-Annex_XXI.pdf [Annex XXI]

³⁴ *Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part*, Official Journal L 276/45 of 28 October 2000.

http://europa.eu.int/comm/trade/pdf/oj276_mex.pdf [Art 12.1]. Decision No 1/-- of the Joint Council.

http://europa.eu.int/comm/trade/pdf/text_dec.pdf [Title IV, Art 36.2 and 36.4].

³⁵ *North America Free Trade Agreement*, Chapter 17, Intellectual Property. <http://www.mac.doc.gov/nafta/ch17.htm> [Art 1701.2 and Annex 1701.3]

³⁶ *Agreement between the Government of the United States of America and the Government of the Republic of Nicaragua Concerning Protection of Intellectual Property Rights.* http://199.88.185.106/tcc/data/commerce_html/TCC_2/NicaraguaPR.html [Art 1.2 and Art 7.2]

³⁷ *Memorandum of Understanding between the Government of the United States of America and the Government of Trinidad and Tobago Concerning Protection of Intellectual Property Rights.*

http://199.88.185.106/tcc/data/commerce_html/TCC_2/TrinidadTobago_Intellectual_Property/TrinidadTobago_Intellectual_Property.html [Art 1.2]