



ACCESSION TO THE WORLD TRADE ORGANIZATION

PROCEDURES FOR NEGOTIATIONS UNDER ARTICLE XII

TEMPLATES FOR ACCESSION NEGOTIATING INPUTS IN THE AREAS OF SPS, TBT, IPRs AND
INDUSTRIAL POLICY, INCLUDING SUBSIDIES

Note by the Secretariat¹

Addendum

This document has been prepared in consultation with WTO Members but is without prejudice to the positions of WTO Members and to their rights to request additional data and documentation, which they may deem necessary, in the course of the WTO accession process.

¹ This document revises, replaces and complements documents WT/ACC/8 and WT/ACC/9 of 15 November 1999. Specifically, it supplements the original document with information, which takes into account the evolution of accession practices. It also incorporates a number of editorial changes and technical corrections.

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I. Checklist of Illustrative SPS Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference
1. Standstill: the introduction of new standards, animal health regulations and food safety regulations shall conform to SPS Agreement principles.	1. Generally agreed principle in WTO accession negotiations.
2. Establishment and operation of a single Contact Point for Information ("enquiry point").	2. Article 7 and Annex B.3.
3. Transparency: notification and access to documentation:	3. Article 7 and Annex B, also G/SPS/7.
(a) identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;	(a) Annex B.5(b) and Annex B.10.
(b) establish guidance or law requiring publication of proposed measures at an early stage for comment;	(b) Annex B.5(a).
(c) provision in law or administrative procedure to provide copies of proposed measures to Members; and	(c) Annex B.5(c).
(d) require in law or administrative procedure, a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination.	(d) Annex B.5(d).
4. Necessity: measures are applied only to the extent necessary to protect human, animal or plant health.	4. Article 2.2.
5. Regulations Based on Science: regulations governing animal and plant health and food safety shall be based on scientific evidence.	5. Articles 2.2, 3.3 and 5.2.
6. Harmonization: to the extent possible, members shall follow international standards, guidelines, and recommendations in establishing SPS measures.	6. Article 3.1, 3.3 and 3.4.
7. Equivalence: Members shall recognize different measures that achieve the same level of protection.	7. Article 4.
8. Risk Assessment: developing scientific evidence and conducting risk assessments to ensure that measures are based on science and applied only to the extent necessary to protect health.	8. Article 5.1, 5.2 and 5.3.
9. Regional conditions: measures take into account the regional characteristics both of the areas from which products originate and the areas for which they are destined.	9. Article 6 and Annexes A.6 and A.7.

Commitments (by the time of accession)	WTO Reference
10. Non-discrimination: measures do not arbitrarily or unjustifiably discriminate between different Members or between domestic and foreign suppliers.	10. Article 2.3, and Annex C.1(a) and (d).
11. Control, inspection and approval procedures: ensure that procedures, including systems for approval of the use of additives or for establishing tolerances for contaminants in foods, beverages or feedstuffs comply with the Agreement.	11. Article 8 and Annex C.

II. Checklist of Illustrative TBT Issues for Consideration in Accessions

Commitments (by the time of accession)	WTO Reference
1. Standstill: the introduction of new standards, technical regulations and conformity assessment procedures should be fully compatible with the TBT Agreement	1. Generally agreed principle in WTO accession negotiations
2. Submission of Statement on Implementation	2. Article 15.2 and TBT Committee Decision: G/TBT/1
3. Establishment and operation of a single Contact Point for Information ("inquiry point")	3. Article 10
4. Identification of authority responsible for notifications, publications and other internal procedures to ensure transparency obligations are met on an ongoing basis:	4. Articles 2, 3, 5, 7, 10, 15.2, Annex 3 and G/TBT/1
(a) identification of publication where notices of proposed technical regulations and conformity assessment procedures will appear;	(a) Articles 2.9.1, 3.1, 5.6.1, 7.1 and 10.1.5
(b) identification of authority responsible for making notifications to the WTO;	(b) Articles 2.9.2, 2.10.1, 3.2, 3.3, 5.6.2, 5.7.1, 7.2, 7.3, 10.7 and 10.10
(c) guidance/law to ensure regulatory authorities afford non-discriminatory consideration of comments in the preparation of a final regulation;	(c) Articles 2.9.4, 2.10.3, 3.1, 3.3, 5.6.4, 5.7.3, 7.1 and 7.3
(d) guidance/law to ensure regulatory authorities allow a reasonable period of time between the final publication of a technical regulation and conformity assessment procedure and its entry into force so that suppliers can adapt;	(d) Articles 2.11, 2.12, 3.1, 5.8, 5.9 and 7.1
(e) publication and notification of work programme for standards and non-governmental conformity assessment procedures, including publication of notices of draft standards and an opportunity for public comment.	(e) Article 4, Annex 3 (J, K, L, N, O), and Article 8.1
5. Development and Application of Technical Regulations and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or "reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	5. Articles 2, 3, 5, 6 and 7
(a) non-discrimination with respect to the treatment of products;	(a) Articles 2.1, 3.1, 5.1, 5.2 and 7.1
(b) the prohibition of unnecessary obstacles to international trade and the consideration of less trade-restrictive alternatives to fulfilling legitimate objectives;	(b) Articles 2.2, 3.1, 5.1, 5.2 and 7.1

Commitments (by the time of accession)	WTO Reference
(c) the ongoing review of technical regulations to ensure they are appropriate to achieve the desired legitimate objective;	(c) Articles 2.3, 3.1 and 7.1
(d) the consideration of appropriate international standards, guides and recommendations as a basis for technical regulations and conformity assessment procedures;	(d) Articles 2.4, 3.1, 5.4 and 7.1
(e) the consideration of equivalent technical regulations of other Members;	(e) Articles 2.7, 3.1 and 7.1
(f) the acceptance of the results of conformity assessment procedures conducted by bodies in an exporting Member country;	(f) Articles 6 and 7.1
(g) non-discriminatory and cost-based fee structure.	(g) Articles 5.2, 7.1 and 10.4
6. Development and Application of Standards and Conformity Assessment Procedures: Existence of legal and/or administrative underpinnings (or "reasonable measures" as appropriate) to ensure ongoing compliance with provisions of the agreement concerning, in particular:	6. Article 4 and Annex 3, Article 8
(a) non-discrimination with respect to the treatment of products;	(a) Annex 3.D. and Article 8.1
(b) the prohibition of unnecessary obstacles to international trade;	(b) Annex 3.E. and Article 8.1
(c) the consideration of appropriate international standards, guides and recommendations as a basis for standards;	(c) Annex 3.F. and Article 8.1
(d) non-discriminatory and cost-based fee structure.	(d) Annex 3.M. and 3.P., Articles 8.1 and 10.4

III. Implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

TRIPS Agreement	Country
<i>General principles</i>	
For the purposes of the TRIPS Agreement, the term "intellectual property" refers to all categories of intellectual property (IP) that are the subject of Sections 1 through 7 of Part II of the Agreement. TRIPS Article 1.2.	
Members shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of IP, subject to the exceptions provided in the Paris, Berne and Rome Conventions, and the IPIC Treaty. For performers, producers of phonograms and broadcasting organizations, this only applies to rights provided under TRIPS. Certain exceptions under Berne and Rome are subject to notification. Exceptions should not be inconsistent with the provisions of TRIPS and not be applied in a manner constituting a disguised restriction on trade. "Protection" includes matters affecting the availability, acquisition, scope, maintenance and enforcement of IP rights as well as those matters affecting the use of IP rights specifically addressed in TRIPS. TRIPS Article 3.	
Most favoured nation (MFN) principle: with regard to the protection of IP, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members, subject to four express exemptions. The scope of 'protection' is that as defined for Article 3. TRIPS Article 4.	
National treatment and MFN principles do not apply to procedures provided in WIPO agreements relating to the acquisition or maintenance of IP rights. TRIPS Article 5.	
Aspects of exhaustion of IP rights may be subject to the provisions of Article 3 (national treatment) and Article 4 (MFN). TRIPS Article 6.	
<i>Paris Convention standards on industrial property</i>	
Compliance with Articles 1 through 12 and Article 19 of the Paris Convention for the Protection of Industrial Property ("Paris Convention") in respect of Parts II, III, and IV of the TRIPS Agreement. TRIPS Article 2. The following items specify these Paris Convention standards in detail in the context of TRIPS (no reference is made to obligations separately undertaken by countries as Parties to the Paris Convention and members of the Paris Union).	
Industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition. Paris Convention Article 1(2).	

TRIPS Agreement	Country
<p>Nationals of Members are to enjoy in all other Members the advantages that their respective laws grant to nationals, and shall have the same protection and the same legal remedy against any infringement of their rights if they conform to the conditions and formalities imposed upon those Members' nationals. Paris Convention, Article 2 (note also Article 3 of TRIPS Agreement)</p>	
<p>Nationals of non-Member countries who are domiciled or who have "real and effective" industrial or commercial establishments in a Member shall be treated as nationals of a Member. Paris Convention, Article 3.</p>	
<p>An application for a patent, for registration of a utility model, an industrial design, or a trademark that is equivalent to a regular national filing under the domestic legislation of a Member shall give rise to a right of priority for the purposes of filing in the other Members. The periods of priority are to be 12 months for patents and utility models, and 6 months for industrial designs and trademarks; further details are stipulated. Paris Convention, Article 4.</p> <p>These provisions apply also to service marks. TRIPS Article 62.</p>	
<p>Patents obtained for the same invention in various Members are independent of each other. Paris Convention, Article 4<i>bis</i>.</p>	
<p>Inventors have the right to be named as such in the patent. Paris Convention, Article 4<i>ter</i>.</p>	
<p>Restrictions or limitations on the sale of a patented product or a product produced by a patented process cannot be the grounds for refusing or invalidating that patent. Paris Convention, Article 4<i>quater</i>.</p>	
<p>Importation of a patented product manufactured in a Member cannot be the basis of forfeiture of the patent. Paris Convention, Article 5.A(1).</p>	
<p>Compulsory licensing is authorized as a means to prevent abuses, such as the failure to work, but a patent may not be forfeited unless the grant of a compulsory license would not be sufficient to prevent the abuse. Proceedings for forfeiture or revocation cannot be instituted until two years after the grant of the first compulsory license. Paris Convention, Article 5.A(2) and (3).</p>	
<p>An application for a compulsory license for failure to work cannot be made until four years have passed since the patent application was filed, or three years from date of grant and no compulsory license is to be granted if the patentee justifies the failure to work by legitimate reasons. Licenses are to be non-exclusive, and may not be transferred except with the enterprise or goodwill that exploits the license. Paris Convention, Article 5.A(4).</p>	
<p>Industrial designs cannot be forfeited for failure to work or for importing articles corresponding to those that are protected. Paris Convention Article 5.B.</p>	

TRIPS Agreement	Country
A mark cannot be cancelled for unjustified non-use before a reasonable period of time has passed and permits the proprietor to use differing elements that do not diminish the distinctive character of a mark without invalidating the registration or diminishing the protection granted the mark. Concurrent use of the mark by co-proprietors is permitted so long as that use does not mislead the public and is not contrary to public interest. Paris Convention, Article 5.C (note also TRIPS Article 19 specifies a period of at least three years of permitted non-use)	
The protection of patents, utility models, registered trademarks, or industrial designs cannot be conditioned upon indication or mention of such protection upon the goods. Paris Convention, Article 5.D.	
A grace period of at least six months is required for the payment of maintenance fees for industrial property, but a surcharge is permissible. Countries are authorized to restore patents that lapsed for non-payment of fees. Paris Convention, Article 5 <i>bis</i> .	
Use of patented devices aboard a vessel, aircraft, or land vehicle temporarily or accidentally in the territory or the Member shall not be an infringement of patent rights, where they are used for the construction, operation or other needs of the vessel. Paris Convention, Article 5 <i>ter</i> .	
Process patent owners have all the rights against an imported product produced by the patented process that they would have with respect to products manufactured at home. Paris Convention, Article 5 <i>quater</i> .	
Protection of industrial designs is required. Paris Convention, Article 5 <i>quinquies</i> .	
The conditions for filing, registration and renewal of trademarks is subject to domestic legislation but filing, registration and renewal are independent of those in other countries, including the country of origin. Paris Convention, Article 6.	
Members are required, <i>ex officio</i> if legally possible, or at the request of an interested party, to refuse to register or to cancel the registration of a trademark confusingly similar to a well-known mark. Requesting cancellation of such a mark must be possible until 5 years after registration. No time limit is placed on a mark registered or used in bad faith. Paris Convention, Article 6 <i>bis</i> .	
Members are required to refuse to register or to invalidate the registration that includes, without authorization, armorial bearings, flags, state emblems, official signs and hallmarks, etc. An exception is provided for owners of rights acquired in good faith before this obligation entered into force for that country. Paris Convention, Article 6 <i>ter</i> .	
The assignment of a mark is valid if the portion of the business or goodwill of the business together with the exclusive right to manufacture and sell the goods bearing the mark are also transferred. Paris Convention, Article 6 <i>quater</i> (note also TRIPS Article 21 which requires permitting transfer with or without the corresponding business).	

TRIPS Agreement	Country
Trademarks duly registered in a Member must be accepted for filing in other Members, with certain reservations. Paris Convention, Article <i>6quinquies</i> .	
Protection of service marks is required. Paris Convention, Article <i>6sexties</i> (note also TRIPS Article 15).	
Trademark owners shall be able to oppose or request cancellation of a registration of their trademarks applied for by their agent or representative without their authorization, unless the agent or representative justifies his action. Paris Convention, Article <i>6septies</i> .	
The nature of the goods to which a trademark is applied may in no case be an obstacle to the registration of the trademark. Paris Convention, Article 7 (Note also TRIPS Article 15.4 applies this standard to services)	
Registration must be permitted of collective marks belonging to associations, the existence of which is not contrary to the law of the country of origin, even where the association is not established in the country where protection is being sought. Paris Convention, Article <i>7bis</i> .	
Trade names must be protected without the necessity of registration, whether or not the names are part of a trademark. Paris Convention, Article 8.	
Seizure on importation or exclusion is required for goods bearing a trademark or trade name without authorization, unless a Member's laws provide for neither remedy, in which case domestic actions and remedies must be available. Paris Convention, Article 9.	
The obligation of Article 9 also applies to the direct or indirect use of false indications of source of goods, or false indication of the producer, manufacturer, or merchant of such goods. Paris Convention, Article 10.	
Protection is required against unfair competition, including against acts that create confusion of various kinds about the goods or activities of a competitor, that consist of false allegations about a competitor, or that are apt to mislead the public regarding a competitor's goods. Paris Convention, Article <i>10bis</i> .	
Appropriate legal remedies are required to be assured to nationals of other Members effectively to repress actions referred to in Articles 9, 10 and <i>10bis</i> , and federations and associations representing foreign businesses are to be allowed to take action in court and before administrative authorities to repress such acts, in so far as domestic entities can take such action. Paris Convention, Article <i>10ter</i> .	
Temporary protection consistent with domestic legislation, must be afforded to patentable inventions, utility models, industrial designs and trademarks in respect of goods exhibited at official or officially recognized international exhibitions held in their territory. Paris Convention, Article 11.	

TRIPS Agreement	Country
An industrial property service must be established as well as a central office for the communication to the public of patents, utility models, industrial designs and trademarks, the service including the publication of a periodic journal of the names of patent owners with a brief designation of their inventions, and the reproduction of trademarks. Paris Convention, Article 12.	
Paris Convention, Article 19 authorizes Paris Union countries to enter into separate and special industrial property agreements among themselves, so long as those agreements do not contravene the provisions of the Paris Convention.	
<i>Copyright and Related Rights</i>	<i>Citation to copyright and related laws</i>
Compliance with Articles 1 through 21 of the Berne Convention for the Protection of Literary and Artistic Works ("Berne Convention") with the exception of Article 6 <i>bis</i> of the Berne Convention. TRIPS Article 9.1. The following items specify these Berne Convention standards in detail in the context of TRIPS (no reference is made to obligations separately undertaken by countries as Parties to the Berne Convention and members of the Berne Union).	
"Literary and artistic works" are defined as "every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression", giving examples. Berne Convention, Article 2. Limitations related to speeches are provided in Article 2 <i>bis</i> .	
Protection is to be provided to the works of authors who are nationals of Members and to works of nationals of non-Member countries if those works are published in a Member simultaneously with publication in the non-Member country. Berne Convention, Article 3.	
Protection must be provided to cinematographic works if the maker has headquarters or a habitual residence in a Member; and to works of architecture or artistic works incorporated into a building or structure located in a Member. Berne Convention, Article 4.	
Authors enjoy the rights required by the Berne Convention and any other rights a country provides works on a national treatment basis without being subject to any formalities. Berne Convention, Article 5.	
The term of protection for copyright is required to run for 50 years following the death of the author. Special terms are authorized for cinematographic works, anonymous or pseudonymous works, photographic works and works of applied art. Berne Convention, Article 7.	
Authors of protected works have the exclusive right to make or authorize the making of translations of their works. Berne Convention, Article 8.	

TRIPS Agreement	Country
Authors have the exclusive right to authorize reproduction of the work in any manner or form with only limited exceptions that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author. Berne Convention, Article 9.	
Certain "free uses of works" are permissible, subject to certain requirements. Berne Convention, Articles 10 and 10 <i>bis</i> .	
Authors of dramatic, dramatico-musical and musical works and any translation thereof and authors of literary and artistic works, have the exclusive right to authorize the public performance of their works, including by broadcast, public recitation and any communication to the public, in some respects subject to certain limitations. Berne Convention, Articles 11, 11 <i>bis</i> , and 11 <i>ter</i> .	
Authors of literary or artistic works have the exclusive right to authorize adaptations, arrangements and other alterations of their works. Berne Convention, Article 12.	
Reservations and conditions on the exclusive recording right granted to authors of musical works that are recorded, and to authors of words that are recorded with the musical work, are permitted. Berne Convention, Article 13.	
Authors of literary and artistic works have the exclusive right to authorize the cinematographic adaptation and reproduction of their works and the distribution, public performance and communication to the public of the adaptation or reproduction, without the limitations authorized under Article 13(1). Berne Convention, Article 14.	
A cinematographic work is to be protected as an original work without prejudice to any work that is adapted or reproduced and the author of the cinematographic work is to enjoy the same rights as the author of any other work. Berne Convention, Article 14 <i>bis</i> .	
"Droit de suite" is required in connection with subsequent sales of works of art and manuscripts. Berne Convention, Article 14 <i>ter</i> .	
Ownership of a work, for purposes of litigation, is presumed to be that which appears on the work in the usual manner. Berne Convention, Article 15.	
Infringing copies of a work are subject to seizure whether domestically produced or imported. Berne Convention, Article 16.	
Apply copyright protection to all works which, at the moment TRIPS becomes effective, have not fallen into the public domain through the expiry of the term of protection in the country of origin, or in the country where protection is claimed. Berne Convention, Article 18.1 and 18.2.	
Members are entitled to provide greater protection than that required by the Berne Convention. Berne Convention, Article 19.	

TRIPS Agreement	Country
<p>Members may enter into special agreements among themselves to provide more extensive rights than those provided by the Berne Convention. Berne Convention, Article 20.</p> <p>(The 1996 WIPO Copyright Treaty (WCT) is an agreement concluded within the meaning of Article 20 of the Berne Convention, but adherence to the WCT is not a TRIPS obligation.)</p>	
<p>Protect computer programs, whether in source or object code, as literary works under the Berne Convention. Compilations of data, whether in machine readable or other form are to be protected if they constitute intellectual creations. TRIPS Article 10.</p>	
<p>Provide rental rights at least for computer programs and cinematographic works with certain exceptions. TRIPS Article 11.</p>	
<p>Provide a term of protection of 50 years from the death of the author (Berne Article 7.1 and TRIPS Article 9.1); or, for works where the term is not measured on the basis of the life of the author, a term of 50 years from the end of the calendar year of authorized publication, or, if not published within 50 years from the making of the work, 50 years from the end of the calendar year of making. TRIPS Article 12.</p>	
<p>Confine limitations and exceptions to exclusive rights to certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the right holder's legitimate interests. TRIPS Article 13.</p>	
<p>Provide performers with the right for 50 years from the date of a performance to prevent unauthorized fixation of their unfixed performances and of reproductions of such fixations and to prevent the unauthorized broadcast by wireless means and communication to the public of their live performances. TRIPS Article 14.1 and 14.5.</p>	
<p>Provide phonogram producers with the right for 50 years from the date of first authorized fixation to prohibit unauthorized reproduction of their phonograms, directly or indirectly, and to prohibit rental of copies of their phonograms once sold or otherwise distributed. TRIPS Article 14.2, 14.4 and 14.5.</p>	
<p>Providing broadcasting organizations with the exclusive rights for 20 years of fixation, reproduction of fixations, and rebroadcasting by wireless means of their broadcasts and the communication to the public of broadcasts of their broadcasts or provide to the owners of the copyright in the material broadcast the possibility of exercising such rights. TRIPS Article 14.3 and 14.5.</p>	
Trademarks	Citation to appropriate law
<p>Provide eligibility for trademark or service mark protection for any sign, or combination of signs capable of distinguishing the goods or services of one undertaking from those of other undertakings. TRIPS Article 15.1.</p>	
<p>Not deny registration for a mark based solely on the nature of the goods or services to which a trademark is to be applied. TRIPS Article 15.4.</p>	

TRIPS Agreement	Country
Trademarks must be published before or promptly after registration to permit opposition or opportunity to apply for cancellation. TRIPS Article 15.5.	
Provide trademark owners the exclusive right to prevent unauthorized use of identical or similar marks for similar goods or services of other parties if confusion is likely to result. TRIPS Article 16.1.	
Presume confusion where an identical mark is used without authorization on identical goods or services. TRIPS Article 16.1.	
Provide protection for well know trademarks and service marks in accordance with Article 6 <i>bis</i> , of the Paris Convention, even where use is on goods or services which are not similar to those in respect of which a trademark is registered if the latter use would imply a connection with the right holder and such use would be likely to damage the right holder's interests. TRIPS Article 16.2 and 16.3.	
Limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, are permitted under the conditions set out in TRIPS Article 17.	
Provide a period of protection for registration of at least seven years, renewable indefinitely. TRIPS Article 18.	
Allow cancellation for non-use only after a period of three years of uninterrupted non-use unless valid reasons exist for the non-use, including government restrictions of use. TRIPS Article 19.1.	
No unjustified encumbering of the use of a trademark by special requirements. TRIPS Article 20.	
May establish conditions for licensing but compulsory licensing not permitted and owner of registered mark must be able to assign it with or without transfer of business. TRIPS Article 21.	
<i>Geographical Indications (GIs)</i>	<i>Citation to appropriate law or laws</i>
Provide means, with certain exceptions, to prevent use of GIs for goods where a given quality, reputation or other characteristic of a good is attributable to its origin, if such use misleads the public as to the origin of the good or constitutes an act of unfair competition. TRIPS Article 22.1 and 22.2.	
Refuse to register, or invalidate registrations of, trademarks containing a GI if their use would mislead the public as to the origin of the good, except in instances in which such marks have been used in a continuous manner for at least 10 years or in good faith before 15 April 1994. TRIPS Article 22.3.	
Protect against use of GIs, even when literally true, but which falsely represent to the public that the goods originate in another territory. TRIPS Article 22.4.	
Provide means, with certain exceptions, to prevent use of GIs for wines and spirits on wines and spirits not originating from the place indicated in the GI, even if the use is accompanied by expressions such as "kind", "type," "style", etc. TRIPS Articles 23.1 and 24.	

TRIPS Agreement	Country
Refuse or invalidate, with certain exceptions trademark registrations containing GIs for wines and spirits not having the origin indicated by the GI. TRIPS Articles 23.2 and 24.	
Industrial Designs	Citation to appropriate law
Provide, with certain exceptions, protection for new or original, independently created industrial designs. TRIPS Article 25.1.	
Ensure that requirements for securing protection for textile designs are not prohibitive of such protection. TRIPS Article 25.2.	
Exceptions to design rights should be limited, not unreasonably conflicting with normal exploitation or producing the owner's legitimate interest, taking account of legitimate third party interests. TRIPS Article 26.2.	
Protection should amount to at least 10 years. TRIPS Article 26.3	
Patents (including plant variety protection)	Citation to appropriate law
Provide patents for any inventions, whether products or processes, in all fields of technology if they are new, involve an inventive step and are industrially applicable. Exclusions are permitted for inventions that are methods of treatment, and plants and animals, except for microorganisms and non-biological and microbiological processes. Exclusions are also permitted for reasons of <i>ordre public</i> and morality. TRIPS Article 27.	
Provide protection of plant varieties either by patents or by an effective <i>sui generis</i> system, or by any combination thereof. TRIPS Article 27.3(b).	
Provide patent owners with the right to prevent others from making, using, offering for sale, selling or importing a patented product or from using a patent process or using, offering for sale, selling or importing a product produced directly obtained by using such process. TRIPS Article 28.1.	
Give patent owners the right to assign the rights in the patent, or transfer the rights by succession, or license them. TRIPS Article 28.2.	
Require applicants to disclose the invention so that one skilled in the art can carry it out and may require indication of the best mode and information on corresponding foreign applications. TRIPS Article 29.	
Ensure that any exceptions to exclusive patent rights are limited, do not unreasonably conflict with normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking third party interests into account. TRIPS Article 30.	
Patents can be subject to compulsory licences or use by governments provided the conditions enumerated in Article 31 are met. TRIPS Article 31.	
Option of providing a special compulsory licence for export of medicines, subject to certain requirements. 2005 Protocol amending TRIPS (introducing Article 31 <i>bis</i>) and related 2003 waiver.	

TRIPS Agreement	Country
Provide an opportunity for judicial review of decisions to revoke or forfeit a patent. TRIPS Article 32.	
Provide a patent term of at least 20 years from the filing date. TRIPS Article 33.	
Provide judicial authorities with the authority to shift the burden of proof in process patent infringement actions to the defendant in instances in which the product produced by the process is new or where it is substantially likely that the identical product was made using the process and the patent owner has been unable through reasonable efforts to determine the process used. TRIPS Article 34.	
<i>Layout designs (topographies) of integrated circuits</i>	<i>Citation to appropriate law</i>
Provide protection for original layout designs of integrated circuits that are registered or have been commercially exploited anywhere in the world. Articles 3, 4, 5, and 7 of the Washington Treaty as incorporated into TRIPS Article 35.	
Make unlawful, except in certain circumstances, the reproduction, importation, sale or other distribution for commercial purposes of a protected layout design or an integrated circuit embodying such design or an article containing such an integrated circuit. Article 6 of the Washington Treaty and TRIPS Article 36.	
Provide such protection for a term of 10 years from the filing of an application for registration or from first commercial exploitation. TRIPS Article 38.	
<i>Protection of undisclosed information</i>	<i>Citation to appropriate law or laws</i>
Provide protection for undisclosed information that is secret (not generally known or readily ascertainable); has commercial value because of its secrecy, and has been subject to reasonable steps to keep it secret. TRIPS Article 39.2.	
When submission of test data is required for marketing approval of pharmaceutical or agricultural chemicals utilizing a new chemical entity, protect such test data in accordance with TRIPS Article 39.3.	
<i>Enforcement²</i>	<i>Citation to appropriate law or laws</i>
- General Provisions	
Make available the specified enforcement procedures so as to provide for effective action against infringement of IP rights while avoiding the creation of barriers to legitimate trade and providing safeguards against their abuse. TRIPS Article 41.1.	
Provide enforcement procedures that are fair and equitable and are not unnecessarily complicated or costly and do not entail unreasonable time-limits or unwarranted delays. TRIPS Article 41.2.	
Provide that decisions on the merits of a case be preferably in writing, with the reasons explained, and based only on the evidence presented in the case to the parties. TRIPS Article 41.3.	

² As an alternative to the section on enforcement, acceding governments may choose to complete document IP/C/5 ("Checklist of Issues on Enforcement") in anticipation of future notification requirements.

TRIPS Agreement	Country
Provide for review by judicial bodies of final administrative decisions and of at least the legal aspects of initial judicial decisions on the merits of a case. TRIPS Article 41.4.	
- Civil and Administrative Procedures and Remedies	
Provide a procedure that allows plaintiffs to bring an action for infringement; requires that defendants be notified; permits both side to present evidence in support of their position; and protects confidential information. TRIPS Article 42.	
Authorize judges to order production of evidence necessary to substantiate a party's claims where that party has been unable to obtain such evidence from the opposing party. TRIPS Article 43.1.	
Authorize judges to enjoin a defendant from infringing intellectual property rights, with certain exception possible. TRIPS Article 44.1 and 44.2.	
Authorize judges to order the payment of monetary damages adequate to compensate for the injury done by the infringement. TRIPS Article 45.1.	
Authorize judges to order infringer to pay right holders enforcement costs and recovery of profits and/or statutory damages. TRIPS Article 45.2.	
Authorize additional remedies including seizure of infringing goods, and the materials and implements the predominant use of which is infringement. TRIPS Article 46.	
Authorize indemnification of defendant, including attorneys' fees in the event of abuse by plaintiffs. TRIPS Article 48.1.	
Exempt public authorities and officials from liability in connection with the administration of intellectual property laws only where the actions are taken or intended in good faith within the scope of the relevant authority. TRIPS Article 48.2.	
Ensure that administrative remedies conform to the principles in the preceding Articles. TRIPS Article 49.	
- Provisional Measures	
Authorize judges to grant temporary restraining orders and provisional relief to prevent infringement and to preserve evidence. TRIPS Article 50.1.	
Authorize judges to require the complaining party to indemnify the defending party against harm if the decision on the merits finds the provisional relief unjustified. TRIPS Article 50.3.	
Provide for notice, for formal action by the plaintiff after temporary restraining orders, etc. TRIPS Article 50.4.	

TRIPS Agreement	Country
- Special requirements related to border measures	
Provide for suspension of release by customs authorities of goods suspected of bearing a counterfeit trademark or of being a pirated copyrighted work, at the request of a right holder. Members are authorized to extend such protection to holders of other forms of intellectual property. TRIPS Article 51.	
Require right holders initiating border measures to provide evidence of a prima facie infringement and a description of the goods sufficiently detailed for customs authorities to recognize them. The right holder must be notified within a reasonable time that action will be taken on his behalf. TRIPS Article 52.	
Authorize authorities to require the right holder requesting border measures to post a bond sufficient to protect the defendant and to prevent abuse. TRIPS Article 53.	
Require prompt notification of the right holder and the importer when action under TRIPS Article 51 is taken. TRIPS Article 54.	
Require that customs authorities be notified within 10 days of the receipt of notice that proceedings on the merits have begun or the suspension is to be revoked. TRIPS Article 55.	
Authorities must be authorized to require the right holder to compensate the importer or owner of the goods subject to border measures if goods were wrongfully detained or if proceedings leading to a decision on the merits are not begun within the allotted time. TRIPS Article 56.	
Right holders must be allowed to inspect the detained goods in order to substantiate the right holder's claims. Importers must be given similar authority. Members may give the right holder the names and addresses of those involved in the importation when infringement is found to exist. TRIPS Article 57.	
Establish the conditions that must be in place if customs authorities are authorized to act <i>ex officio</i> , including the ability to ask the right holder for information at any time; the requirement to notify the importer promptly of the suspension; and the requirement that public officials be liable if they act in bad faith. TRIPS Article 58.	
Competent authorities must be able to order destruction or disposal other than by re-export of infringing goods where appropriate. TRIPS Article 59.	
Members are authorized to except from border measures small quantities of infringing goods of a non-commercial nature carried in personal luggage or shipped in small consignments. TRIPS Article 60.	

TRIPS Agreement	Country
- Criminal Procedures	
Provide criminal procedures and penalties, sufficient to act as a deterrent, for wilful trademark counterfeiting or copyright piracy on a commercial scale. Authorizes extension of criminal procedures to infringements of other forms of intellectual property where they are committed wilfully and on a commercial scale. TRIPS Article 61.	
Administration of IP rights	
Procedures and formalities for acquisition or maintenance of IP rights should be reasonable and consistent with TRIPS. TRIPS Article 62.1.	
Procedures for grant or registration of IP rights should permit the granting or registration of the right within a reasonable period of time so as to avoid unwarranted curtailment of the period of protection. TRIPS Article 62.2.	
Procedures for acquisition or maintenance of IP rights and any administrative revocation and <i>inter partes</i> procedures such as opposition, revocation and cancellation, shall be governed by the general principles set out in paragraphs 2 and 3 of Article 41. Final administrative decisions for such procedures shall be subject to review by a judicial or quasi-judicial authority (apart from unsuccessful opposition or administrative revocation, provided that invalidation procedures apply). TRIPS Article 62.4 and 62.5.	

IV. Draft Notification Pursuant to Article 25 of the Agreement on Subsidies and Countervailing Measures and Under Article XVI of the GATT 1994

*Questionnaire Format for Subsidy Notifications under Article 25 of the Agreement on Subsidies And Countervailing Measures and under Article XVI of the GATT 1994*³

General Rules⁴

1. The following subsidies are subject to notification under Article 25 of the Agreement on Subsidies and Countervailing Measures and under Article XVI of the GATT 1994:
 - (a) all specific subsidies, as defined in Articles 1 and 2 of the Agreement on Subsidies and Countervailing Measures ("the SCM Agreement"), shall be notified pursuant to Article 25.2 of the SCM Agreement;and
 - (b) all other subsidies (i.e., in addition to those described in (a)), which operate directly or indirectly to increase exports of any product from, or to reduce imports of any product into, the territory of the Member granting or maintaining the subsidies, shall be notified pursuant to Article XVI:1 of the GATT 1994.
2. It is understood that notifications made in accordance with the following questionnaire format will satisfy the notification requirements of both Article 25 of the SCM Agreement and Article XVI of the GATT 1994.
3. Any Member considering that there are no measures in its territory requiring notification under the SCM Agreement and Article XVI of the GATT 1994 shall so inform the Secretariat in writing.
4. The content of notifications should be sufficiently specific to enable other Members to evaluate the trade effects and to understand the operation of notified subsidies.
5. It is recognized that notification of a measure does not prejudice either its legal status under the GATT 1994 and the SCM Agreement, the effects under the SCM Agreement, or the nature of the measure itself.
6. To the extent that subsidies are provided on the basis of specific products or sectors, notifications of those subsidies should be organized by product or sector.
7. To the extent that information called for in any question is not provided, the response to that question shall explain why not.
8. In accordance with Article 25.1 of the SCM Agreement, subsidy notifications shall be submitted no later than 30 June of each year.
9. Members shall submit new and full notifications each third year (with 1995 understood to be the year for the first new and full notifications under Article 25 of the SCM Agreement and under Article XVI of the GATT 1994), and shall submit updating notifications in the intervening years.

³ Circulated as G/SCM/6/Rev.1.

⁴ This document, and the general rules therein, are prepared to assist Members in the preparation of subsidy notifications under Article 25 of the Agreement on Subsidies and Countervailing Duties, and is without prejudice to the legal obligations therein. This document can thus also assist and guide acceding governments in the preparation of their draft subsidy notifications.

Information to be Provided⁵

1. Title of the subsidy programme, if relevant, or brief description or identification of the subsidy.
2. Period covered by the notification. The period to be covered by the notification should be the most recently completed calendar or fiscal year. In the latter case, the start and end dates of the fiscal year should be specified.
3. Policy objective and/or purpose of the subsidy.
4. Background and authority for the subsidy (including identification of the legislation under which it is granted).
5. Form of the subsidy (i.e., grant, loan, tax concession, etc.).
6. To whom and how the subsidy is provided (whether to producers, to exporters, or others; through what mechanism; whether a fixed or fluctuating amount per unit; if the latter, how determined).
7. Subsidy per unit, or in cases where this is not possible, the total amount or the annual amount budgeted for that subsidy (indicating, if possible, the average subsidy per unit in the previous year). Where provision of per unit subsidy information (for the year covered by the notification, for the previous year, or both) is not possible, a full explanation.
8. For the information cited in items 3 to 7 above, the notification does not necessarily have to have an independent heading corresponding to each item, and may provide information on multiple items in one heading (e.g. provide information on items 3 and 4 under one heading). In this case, the notification must clearly specify what items are covered by which heading.
9. Duration of the subsidy and/or any other time limits attached to it, including date of inception/commencement.
10. Statistical data permitting an assessment of the trade effects of the subsidy. The specific nature and scope of such statistics is left to the judgement of the notifying Member/acceding government. To the extent possible, relevant and/or determinable, however, it is desirable that such information include statistics of production, consumption, imports and exports of the subsidized product(s) or sector(s):
 - (a) for the three most recent years for which statistics are available;
 - (b) for a previous representative year, which, where possible and meaningful, should be the latest year preceding the introduction of the subsidy or preceding the last major change in the subsidy.

⁵ The information requested in points 1-9 below must be provided in full:

(a) for all subsidies in the case of full notifications

(b) for subsidies notified for the first time in update notifications.

In the case of subsidies which have previously been notified, the information provided in update notifications under points 3, 4, 5, 6 and 8 may be limited to indicating any modifications (or the absence thereof) from the previous notification.