

Chapter 13

Intellectual Property and Innovation

Article 13.1: Principles

1. The Parties recognize the importance of intellectual property rights in promoting economic and social development, particularly in the globalization of technological innovation and trade, science, as well as the transfer and dissemination of knowledge and technology to the mutual advantage of technology producers and users, and agree to encourage the development of social economic well-being and trade through these means.
2. The Parties recognize the need to achieve a balance between the rights of right holders and the legitimate interests of users and the community with regard to protected subject matter.

Article 13.2: General Provisions

1. Each Party reaffirms its commitments established in existing international agreements in the field of intellectual property rights, to which both are parties, in particular the TRIPS Agreement.
2. Each Party shall establish and maintain transparent intellectual property rights regimes and systems that seek to:
 - (a) provide certainty over the protection and enforcement of intellectual property rights; and
 - (b) facilitate international trade through the dissemination of ideas, technology, science and creative works.
3. Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent the abuse of intellectual property rights by right holders or practices that unreasonably restrain trade or the international transfer of technology or practices that in particular cases have an adverse effect on competition in the relevant market, provided that such measures are consistent with each Party's international obligations and domestic laws.

Article 13.3: Genetic Resources, Traditional Knowledge and Folklore

1. The Parties recognize the contribution made by the genetic resources, traditional knowledge and folklore to scientific, cultural and economic development.
2. The Parties acknowledge and reaffirm the principles and provisions established in the *Convention on Biological Diversity* adopted on 5 June 1992

and encourage a mutually supportive relationship between the TRIPS Agreement and the *Convention on Biological Diversity*.

3. Subject to each Party's international obligations and domestic laws, each Party may adopt or maintain measures to promote the conservation of biological diversity, the sustainable utilization of its components and the fair and equitable participation in the benefits arising from the utilization of genetic resources, traditional knowledge and folklore in conformity with what is established in the aforementioned *Convention*.

Article 13.4: Patents and Public Health

1. The Parties recognize the principles established in the *Doha Declaration on the TRIPS Agreement and Public Health* adopted on 14 November 2001 by the Ministerial Conference of the WTO (as found in document WT/MIN(01)/DEC/2 dated 20 November 2001). In interpreting and implementing the provisions under this Chapter, the Parties shall ensure consistency with this *Declaration*.

2. The Parties shall respect the Decision of the WTO General Council of 30 August 2003 on *Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health*, as well as the *Protocol Amending the TRIPS Agreement*, done at Geneva on 6 December 2005.

Article 13.5: Geographical Indications

1. The Parties recognize the importance of geographical indications and reaffirm the obligations in the TRIPS Agreement in relation to Articles 22, 23 and 24 on geographical indications, and shall provide for protection of geographical indications in their domestic laws consistent with the TRIPS Agreement.

2. The Parties agree to launch future negotiations through the Commission for the inclusion of a list of terms that are recognized as geographical indications for agricultural products in the respective Party, within the meaning of Article 22.1 of the TRIPS Agreement. The particular terms to be included and the number of such terms remain to be discussed and agreed by the Commission. Subject to the respective Party's domestic laws, in a manner that is consistent with the TRIPS Agreement, such terms if included, will be protected as geographical indications in the territory of the other Party³¹.

³¹ For greater certainty, the Parties acknowledge that geographical indications contained in any such lists will be recognized and protected in each Party only to the extent permitted by and according to terms and conditions set out in its domestic laws.

Article 13.6: Cooperation

1. In relation to intellectual property, the Parties agree that they may cooperate on the following areas:

- (a) intellectual property management, licensing, registration, and exploitation, through the exchange of information and sharing of experiences;
- (b) technology and market intelligence through exchange of experience and information, as mutually agreed by the Parties;
- (c) exchange of information on the implementation of intellectual property systems, aimed at promoting the efficient registration of intellectual property rights;
- (d) policy dialogue on intellectual property initiatives in multilateral and regional *fora*; and
- (e) exchange of information and cooperation on appropriate initiatives to promote awareness of the benefits of intellectual property rights and systems.

2. All cooperation under this Article shall be carried out on terms that are mutually acceptable to the intellectual property offices and relevant authorities of each Party. Cooperation shall also be subject to the availability of resources of each Party.