

Chapter 9
Intellectual Property

Article 102
General Provisions

1. The Parties shall ensure adequate, effective, and non-discriminatory protection of intellectual property, in accordance with the provisions of the TRIPS Agreement.
2. Intellectual property referred to in this Chapter shall mean all categories of intellectual property that are under the TRIPS Agreement.

Article 103
Streamlining of Procedural Matters

1. For the purposes of providing efficient administration of the intellectual property protection system, each Party shall take appropriate measures to streamline its administrative procedures concerning intellectual property.
2. Neither Party shall require the certification, by any person other than the applicant or its representative, of a translation of an earlier application whose priority is claimed except in cases where the competent authority of the Party may reasonably doubt the accuracy of the translation.
3. Neither Party shall require that submission of a power of attorney be completed together with the filing of the application as a condition for according a filing date to the application.

Article 104
Promotion of Public Awareness Concerning
Protection of Intellectual Property

The Parties shall endeavour to take such measures as deemed appropriate to enhance public awareness of protection of intellectual property including educational and dissemination projects on the use of intellectual property as well as on the enforcement of intellectual property rights.

Article 105
Patents

1. Neither Party shall require the rejection of any application for patent solely on the ground that the subject matter claimed in the application includes, among other things, a computer programme.

Note: This paragraph shall not prejudice the patentability or non-patentability of computer programmes *per se* which shall be determined in accordance with the laws and regulations of each Party.

2. Where the competent authority of a Party intends to render its decision to the effect that an application for a patent is to be refused, it shall notify the applicant for the patent of the reasons for refusal and give the said applicant an opportunity to present, in accordance with the laws and regulations of the Party, its case against the reasons for refusal within a reasonable period of time.

3. Each Party shall provide that a patent owner may file a request in accordance with its laws and regulations for correction of the description, the scope of the claims, or the drawings, that are attached to the patent application, to the competent authority for patents for the purpose of restriction of the scope of the claims.

Article 106
Trademarks

1. Each Party shall protect well-known trademarks in accordance with the following subparagraphs:

- (a) Each Party may determine in accordance with its laws whether a trademark is a well-known trademark.

- (b) Each Party shall, *ex officio* if its legislation so permits, or on the objection or request for invalidation raised in opposition or rectification or cancellation or invalidation proceedings by the proprietor of the well-known trademark, in accordance with its laws, refuse the application for or rectify or cancel or invalidate the registration of a trademark which is identical with or similar to a well-known trademark.

Note: For greater certainty, for the purposes of this subparagraph, each Party may in accordance with its laws take into account either of the following conditions and where appropriate other relevant factors:

- (i) the use of the trademark in question is for unfair intentions; or
 - (ii) the use of that trademark would take unfair advantage of or be detrimental to the distinctive character or repute of the well-known trademark.
- (c) For the purposes of subparagraphs (a) and (b), each Party shall in accordance with its laws determine that a trademark is a well-known trademark in either one or both of the following circumstances and where appropriate taking into account other relevant factors:

- (i) if a trademark is well known in the other Party; or
- (ii) if a trademark is well known in both Parties;

as indicating the goods or services of the proprietor of that trademark.

Note: The protection of a well-known trademark shall also extend, subject to the laws of each Party, to goods or services which are not similar to those goods or services which are covered by the well-known trademark.

2. Each Party shall ensure that an applicant may file a request to the competent authority that its application for registration of a trademark be examined in preference to other applications, subject to reasonable grounds and procedural requirements. Where such a request has been filed, the competent authority shall take the request into consideration and endeavour to examine the application in preference to other applications, where appropriate.

Article 107 Geographical Indications

Each Party shall ensure protection of geographical indications in accordance with its laws and regulations and in conformity with the TRIPS Agreement.

Article 108 Unfair Competition

Each Party shall provide for protection against acts of unfair competition in accordance with Article 10 *bis* of the Paris Convention for the Protection of Industrial Property (1967).

Article 109 Security Exceptions

For the purposes of this Chapter, Article 73 of the TRIPS Agreement is incorporated into and forms part of this Agreement, *mutatis mutandis*.