CHAPTER TEN

INTELLECTUAL PROPERTY

Section A: General Provisions

Article 10.1: Definitions

For the purposes of this Chapter:

intellectual property embodies:

(a) copyright, including copyright in computer programs and in databases, and related rights;
(b) patents and utility models;
(c) trademarks;
(d) industrial designs;
(e) layout-designs (topographies) of integrated circuits;
(f) geographical indications;
(g) plant varieties; and
(h) protection of undisclosed information;

national means, in respect of the relevant right, a person of a Party that would meet the criteria for eligibility for protection provided for in the agreements listed in Article 10.5 or the TRIPS Agreement; and

WIPO means the World Intellectual Property Organization.

Article 10.2: Objectives

The protection and enforcement of intellectual property rights should contribute to the promotion of trade, investment, and 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.

Article 10.3: Principles

1. Nothing in this Chapter shall prevent a Party from adopting appropriate measures to prevent the abuse of intellectual property rights by right holders or the resort to practices that unreasonably restrain trade or adversely affect the international transfer of technology, provided that such measures are consistent with this Chapter.
2. A Party may, in formulating or amending its 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 this Chapter.

Article 10.4: Nature and Scope of Obligations

Each Party shall give effect to the provisions of this Chapter. A Party may, but shall not be obliged to, provide more extensive protection for, or enforcement of, intellectual property rights under its law than is required by this Chapter, provided that such protection or enforcement does not contravene the provisions of this Chapter. Each Party shall be free to determine the appropriate method of implementing the provisions of this Chapter within its own legal system and practice.

Article 10.5: International Agreements

The Parties reaffirm their obligations set out in the following multilateral agreements:

(a) the TRIPS Agreement;

(b) the *Patent Cooperation Treaty*, done on 19 June 1970, as modified on 3 October 2001;

(c) the *Paris Convention for the Protection of Industrial Property*, done on 20 March 1883, as amended on 28 September 1979 (hereinafter referred to as the "Paris Convention");

(d) the *Berne Convention for the Protection of Literary and Artistic Works*, done on 9 September 1886, as amended on 24 July 1971 (hereinafter referred to as the "Berne Convention");

(e) the *Protocol relating to the Madrid Agreement concerning the International Registration of Marks*, done on 27 June 1989;

(f) the *WIPO Performances and Phonograms Treaty*, done on 20 December 1996 (hereinafter referred to as the "WPPT");

(g) the *International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations*, done on 26 October 1961

(hereinafter referred to as the "Rome Convention");

(h) the *WIPO Copyright Treaty*, done on 20 December 1996 (hereinafter referred to as the "WCT");

(i) the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure*, done on 28 April 1977, as amended on 26 September 1980;

(j) the *Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled*, done on 27 June 2013 (hereinafter referred to as the "Marrakesh Treaty"); and

(k) the *International Convention for the Protection of New Varieties of Plants*, done on 19 March 1991.

Article 10.6: Intellectual Property and Public Health

The Parties recognize the principles established in the *Declaration on the TRIPS Agreement and Public Health*, adopted on 14 November 2001 (hereinafter referred to as the "Doha Declaration") by the Ministerial Conference of the WTO and confirm that the provisions of this Chapter are without prejudice to the Doha Declaration.

Article 10.7: National Treatment

1. In respect of all categories of intellectual property covered in this Chapter, each Party shall accord to nationals of the other Party treatment no less favorable than it accords to its own nationals with regard to the protection[1] of intellectual property rights in accordance with Article 3.1 of the TRIPS Agreement.
2. A Party may derogate from paragraph 1 in relation to its judicial and administrative procedures, including requiring a national of the other Party to designate an address for service of process in its territory, or to appoint an agent in its territory, provided that such derogation is:
    (a) necessary to secure compliance with laws or regulations that are not inconsistent with this Chapter; and
    (b) not applied in a manner that would constitute a disguised restriction on trade.

[1] For the purposes of this paragraph, "protection" includes (1) matters affecting the availability, acquisition, scope, maintenance, and enforcement of intellectual property rights as well as matters affecting the use of intellectual property rights specifically covered by this Chapter, and (2) the prohibition on circumvention of effective technological measures, and the rights and obligations concerning rights management information set out in Article 10.43.

3. Paragraph 1 does not apply to procedures provided in multilateral agreements concluded under the auspices of WIPO relating to the acquisition or maintenance of intellectual property rights.

Article 10.8: Transparency

1. Each Party shall make available on the Internet its laws and regulations regarding the protection and enforcement of intellectual property rights.
2. Each Party shall, subject to its legal system and practice, endeavor to make information concerning applications for, and registration of, trademarks, geographical indications, industrial designs, patents, and plant variety rights accessible for the general public.
3. The Parties also acknowledge the importance of informational materials, such as publicly accessible databases of registered intellectual property rights that assist in the identification of subject matter that has fallen into the public domain.
4. Each Party shall, to the extent possible, endeavor to make available such information in the English language.

Article 10.9: Application of Chapter to Existing Subject Matter and Prior Acts

1. Unless otherwise provided in this Chapter, this Chapter gives rise to obligations in respect of all subject matter existing at the date of entry into force of this Agreement for a Party and that is protected on that date in the territory of a Party where protection is claimed, or that meets or comes subsequently to meet the criteria for protection under this Chapter without unreasonably impairing the fair interest of third parties.
2. Unless provided in this Chapter, a Party shall not be required to restore protection to subject matter that on the date of entry into force of this Agreement has fallen into the public domain in its territory.

Article 10.10: Exhaustion of Intellectual Property Rights

Without prejudice to any provisions addressing the exhaustion of intellectual property rights in international agreements to which a Party is a member, nothing in this Agreement prevents a Party from determining whether or under what conditions the exhaustion of intellectual property rights applies under its legal system.

Section B: Cooperation

Article 10.11: Cooperation Activities and Initiatives

The Parties shall endeavor to cooperate on the subject matter covered by this Chapter, such as through appropriate coordination, training, and exchange of information between the respective intellectual property offices of the Parties, or other institutions, as determined by each Party. Cooperation activities and initiatives undertaken under this Chapter shall be subject to the availability of resources of the Parties, on request of a Party, and on terms and conditions mutually agreed upon between the Parties. Cooperation may cover areas such as:

(a) developments in domestic and international intellectual property policy;
(b) patent examination quality and efficiency;
(c) intellectual property administration and registration systems;
(d) education and awareness relating to intellectual property;
(e) intellectual property issues relevant to:
    (i) small and medium-sized enterprises;
    (ii) science, technology, and innovation activities;
    (iii) the generation, transfer, and dissemination of technology; and
    (iv) empowering women and youth;
(f) policies involving the use of intellectual property for research, innovation, and economic growth;
(g) implementation of multilateral intellectual property agreements, such as those concluded or administered under the auspices of WIPO;
(h) capacity-building;
(i) enforcement of intellectual property rights; and
(j) other activities and initiatives as may be mutually determined between the Parties.

Section C: Trademarks

Article 10.12: Types of Signs Registrable as Trademarks

No Party shall require, as a condition of registration, that a sign be visually perceptible, nor shall a Party deny registration of a trademark only on the ground that the sign of which it is composed is a sound. Additionally, each Party shall make best efforts to register scent marks. A Party may require a concise and accurate description, or graphical representation, or both, as applicable, of the trademark.

Article 10.13: Collective and Certification Marks

Each Party shall provide that trademarks include collective marks and certification marks. A Party is not obligated to treat certification marks as a separate category in its law, provided that those

marks are protected. Each Party shall also provide that signs that may serve as geographical indications are capable of protection under its trademark system.

Article 10.14: Use of Identical or Similar Signs

Each Party shall provide that the owner of a registered trademark shall have the exclusive right to prevent third parties that do not have the owner's consent from using in the course of trade identical or similar signs for goods or services that are identical or similar to those goods or services in respect of which the owner's trademark is registered, where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed.

Article 10.15: Exceptions

A Party may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interest of the owner of the trademark and of third parties.

Article 10.16: Well-Known Trademarks

1. Neither Party may require, as a condition for determining that a mark is a well-known mark, that the mark has been registered in the territory of that Party or in another jurisdiction. Additionally, neither Party may deny remedies or relief with respect to well-known marks solely because of the lack of:
    (a) registration;
    (b) inclusion on a list of well-known marks; or
    (c) prior recognition of the mark as well-known.
2. Article 6bis of the Paris Convention shall apply, *mutatis mutandis*, to goods or services that are not identical or similar to those identified by a well-known trademark,[2] whether registered or not, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the trademark, and provided that the interests of the owner of the trademark are likely to be damaged by such use.
3. Each Party recognizes the importance of the *Joint Recommendation Concerning Provisions on the Protection of Well-Known Marks* as adopted by the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of WIPO at the Thirty-Fourth Series of Meetings of the Assemblies of the Member States of WIPO held on 20 to 29 September 1999.

[2] In determining whether a trademark is well-known in a Party, that Party need not require that the reputation of the trademark extend beyond the sector of the public that normally deals with the relevant goods or services.

4. Each Party shall provide for appropriate measures to refuse the application or cancel the registration and prohibit the use of a trademark that is identical or similar to a well-known trademark,[3] for identical, similar, or related goods or services, if the use of that trademark is likely to cause confusion or to deceive with the prior well-known trademark.

Article 10.17: Bad Faith Trademarks

Each Party shall provide that its competent authority has the authority to cancel a registration of a trademark where the application to register the trademark was made in bad faith in accordance with its laws and regulations.

Article 10.18: Procedural Aspects of Examination, Opposition, and Cancellation of Trademarks

Each Party shall provide a system for the examination and registration of trademarks which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register a trademark;
(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a trademark;
(c) providing an opportunity to oppose the registration of a trademark or to seek cancellation of a registered trademark; and
(d) requiring administrative decisions in opposition and cancellation proceedings to be reasoned and in writing, which may be provided by electronic means.

Article 10.19: Electronic Trademarks System

Each Party shall provide:

(a) a system for the electronic application for, electronic processing of, and maintenance of trademarks; and
(b) a publicly available electronic information system, including an online database, of trademark applications and of registered trademarks.

Article 10.20: Classification of Goods and Services

[3] The Parties understand that a well-known trademark is one that was already well-known before, as determined by a Party, the application for, registration of or use of the first-mentioned trademark.

Each Party shall adopt or maintain a trademark classification system that is consistent with the *Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks*, done at Nice on 15 June 1957, as revised and amended (hereinafter referred to as the "Nice Classification"). Each Party shall provide that:

(a) registrations and the publications of applications indicate the goods and services by their names, grouped according to the classes established by the Nice Classification;[4] and
(b) goods or services may not be considered as being similar to each other on the ground that, in any registration or publication, they are classified in the same class of the Nice Classification. Conversely, each Party shall provide that goods or services may not be considered as being dissimilar from each other on the ground that, in any registration or publication, they are classified in different classes of the Nice Classification.

Article 10.21: Term of Protection for Trademarks

Each Party shall provide that initial registration and each renewal of registration of a trademark shall be for a term of no less than 10 years.

Article 10.22: Non-Recordal of a License

No Party shall require recordal of trademark licenses:

(a) to establish the validity of the license; or
(b) as a condition for use of a trademark by a licensee to be deemed to constitute use by the holder in a proceeding that relates to the acquisition, maintenance, or enforcement of trademarks.

Article 10.23: Protection of Intellectual Property Rights in Digital Environment

1. In connection with each Party's system for the management of its country-code top-level domain (ccTLD) domain names, the following shall be available:

(a) an appropriate procedure for the settlement of disputes, based on, or modelled along the same lines as, the principles established in the *Uniform Domain-Name Dispute-Resolution Policy*, as approved by the Internet Corporation for Assigned Names and Numbers (ICANN) or that:
(i) is designed to resolve disputes expeditiously and at low cost;
(ii) is fair and equitable;
(iii) is not overly burdensome; and

[4] A Party that relies on translations of the Nice Classification shall follow updated versions of the Nice Classification to the extent that official translations have been issued and published.

(iv) does not preclude resort to judicial proceedings;

(b) online public access to a reliable and accurate database of contact information concerning domain name registrants in accordance with each Party's law and, if applicable, relevant administrator policies regarding the protection of privacy and personal data; and

(c) appropriate remedies,[5] at least in cases in which a person registers or holds, with a bad faith intent to profit, a domain name that is identical or confusingly similar to a trademark.

2. In order to identify and mitigate copyright infringements in digital trade, each Party shall have in place measures to block access to and shut down online services making profits primarily from distribution of copyright infringing materials.
3. Each Party shall adopt or maintain a regime providing for limitations on the liability of, or on the remedies available against, online service providers, while preserving the legitimate interests of right holder.

Article 10.24: Country Names

Each Party shall provide the legal means for interested persons to prevent commercial use of the country name of a Party in relation to a good in a manner that misleads consumers as to the origin of that good.

Section D: Geographical Indications

Article 10.25: Protection of Geographical Indications

1. Geographical indication means an indication that identifies a good as originating in the territory of a Party, or a region or locality in that territory, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin.
2. The Parties reaffirm that geographical indications may be protected through a trademark or sui generis system or other legal means.

Article 10.26: Administrative Procedures for the Protection of Geographical Indications

Each Party shall provide administrative procedures for the registration or recognition of geographical indications through a trademark or a sui generis system. Each Party shall, with respect to applications for that registration or requests for that recognition, ensure that its laws and regulations governing the filing of those applications or requests are readily available to the public and clearly set out the procedures for these actions.

[5] The Parties understand that such remedies may, but need not, include among other things, revocation, cancellation, transfer, damage, or injunctive relief.

Article 10.27: Date of Protection of a Geographical Indication

If a Party grants protection to a geographical indication, the protection shall commence no earlier than the filing date[6] or the registration date in that Party according to its domestic laws and regulations.

Section E: Patents

Article 10.28: Patentable Subject Matter

1. Each Party shall make patents available for any invention, whether a product or process, in all fields of technology, provided that the invention is new, involves an inventive step, and is capable of industrial application.[7] In addition, each Party may provide that a patent shall be available for any new use or method of using a known product.
2. Each Party may exclude from patentability:[8]
   (a) inventions, the prevention within its territory of the commercial exploitation of which is necessary to protect *ordre public* or morality, including to protect human, animal, or plant life or health or to avoid serious prejudice to the environment, provided that such exclusion is not made merely because the exploitation is prohibited by its law; and
   (b) diagnostic, therapeutic, and surgical methods for the treatment of humans or animals.

Article 10.29: Grace Period

Each Party shall disregard information contained in public disclosures of an invention related to an application to register a patent[9] if the public disclosure:

(a) was made by the inventor, applicant, or a person that obtained the information from the inventor or applicant inside or outside its territory; and
(b) occurred within at least 12 months prior to the date of filing of the application.

Article 10.30: Procedural Aspects of Examination, Opposition, and Invalidation of Patents

[6] For greater certainty, the filing date referred to in this Article includes, as applicable, the priority filing date under the Paris Convention.

[7] For purposes of this Article, the terms "inventive step" and "capable of industrial application" may be deemed by a Party to be synonymous with the terms "non-obvious" and "useful" respectively.

[8] For greater certainty, it is understood that this paragraph does not prevent a Party from legislating exceptions to patentability that are consistent with Article 27 of the TRIPS Agreement.

[9] For greater certainty, a patent may include a utility model in accordance with domestic law and regulations.

Each Party shall provide a system for the examination and registration of patents which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register a patent;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register a patent;

(c) providing an opportunity for interested parties to seek cancellation or invalidation of a registered patent; and

(d) requiring decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

Article 10.31: Amendments, Corrections, and Observations

1. Each Party shall provide a patent applicant with at least one opportunity to make amendments, corrections, or observations in connection with its application.
2. Each Party shall provide a patent owner with opportunities to make amendments or corrections after registration, provided that such amendments or corrections do not change or expand the scope of the patent right as a whole.[10]

Article 10.32: Exceptions

A Party may provide limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions do not unreasonably conflict with a normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

Section F: Protection of Undisclosed Test or Other Data

Article 10.33: Protection of Undisclosed Test or Other Data for Pharmaceutical Products

1. If a Party requires, as a condition for granting marketing approval for a new pharmaceutical product, the submission of undisclosed test or other data concerning either the safety or efficacy of the product or both, that Party shall not permit third persons, without the consent of the

[10] It is understood that the amendments or corrections which do not change or expand the scope of the right means that the scope of the patent right stays the same as before or is reduced.

person that previously submitted such information, to market the same or a similar[11] product on the basis of:

(a) that information; or

(b) the marketing approval granted to the person that submitted such information,

for at least five years from the date of marketing approval of the new pharmaceutical product in its territory.

2. A Party shall adopt or maintain a system other than judicial proceedings that precludes, based upon patent information submitted to the regulatory authority by a patent owner or the applicant for marketing approval, the issuance of marketing approval to any third person seeking to market a pharmaceutical product subject to a patent claiming that product, unless by consent or acquiescence of the patent owner.
3. Notwithstanding paragraph 1, a Party may take measures to protect public health in accordance with:
   (a) the Doha Declaration;
   (b) any waiver of any provision of the TRIPS Agreement granted by WTO Members in accordance with the WTO Agreement to implement the Doha Declaration and that is in force between the Parties; or
   (c) any amendment of the TRIPS Agreement to implement the Doha Declaration that enters into force with respect to the Parties.
4. For the purposes of paragraph 1, a new pharmaceutical product means a pharmaceutical product that contains an active ingredient for which no other pharmaceutical product containing the same active ingredient has previously obtained marketing approval in the territory of the Party.

Section G: Industrial Designs

Article 10.34: Industrial Design Protection

1. Each Party shall ensure in its domestic law adequate and effective protection of industrial designs including a part(s) of an article.
2. Each Party shall ensure that requirements for securing or enforcing registered industrial design protection do not unreasonably impair the opportunity to obtain or enforce such protection.

[11] For greater certainty, for the purposes of this Section, a pharmaceutical product is "similar" to a previously approved pharmaceutical product if the marketing approval, or, in the alternative, the applicant's request for such approval, of that similar pharmaceutical product is based upon the undisclosed test or other data concerning the safety and efficacy of the previously approved pharmaceutical product, or the prior approval of that previously approved product.

3. The duration of protection available for registered industrial designs shall amount to at least 20 years from the date of filing.

Article 10.35: Procedural Aspects of Examination, Opposition, and Invalidation of Industrial Designs

Each Party shall provide a system for the examination and registration of industrial designs which includes among other things:

(a) communicating to the applicant in writing, which may be by electronic means, the reasons for any refusal to register an industrial design;

(b) providing the applicant with an opportunity to respond to communications from the competent authorities, to contest any initial refusal, and to make a judicial appeal of any final refusal to register an industrial design;

(c) providing an opportunity for interested parties to seek cancellation or invalidation of a registered industrial design; and

(d) requiring decisions in opposition, cancellation, or invalidation proceedings to be reasoned and in writing, which may be delivered by electronic means.

Article 10.36: Amendments, Corrections, and Observations

Each Party shall provide an applicant for an industrial design with at least one opportunity to make amendments, corrections, or observations in connection with its application before registration.

Article 10.37: Grace Period

Each Party shall disregard information contained in public disclosures of a design related to an application to register an industrial design if the public disclosure:

(a) was made by the creator, applicant, or a person that obtained the information from the creator or applicant inside or outside its territory; and

(b) occurred within at least 12 months prior to the date of filing of the application.

Article 10.38: Exceptions

A Party may provide limited exceptions to the exclusive rights conferred by an industrial design, provided that such exceptions do not unreasonably conflict with a normal exploitation of an industrial design and do not unreasonably prejudice the legitimate interests of the owner of the protected design, taking account of the legitimate interests of third parties.

Section H: Copyright and Related Rights

Article 10.39: Protection of Copyright and Related Rights

The Parties shall comply with:

(a) Articles 1 through 22 of the Rome Convention;
(b) Articles 1 through 18 of the Berne Convention;
(c) Articles 1 through 14 of the WCT; and
(d) Articles 1 through 23 of the WPPT.

Article 10.40: Limitations and Exceptions

1. With respect to this Section, each Party shall confine limitations or exceptions to exclusive rights to certain special cases that do not conflict with a normal exploitation of the work, performance, phonogram, or broadcasting, and do not unreasonably prejudice the legitimate interests of the right holder.
2. This Article does not reduce or extend the scope of applicability of the limitations and exceptions permitted by the TRIPS Agreement, the Berne Convention, the WCT, or the WPPT.

Article 10.41: Balance in Copyright and Related Rights Systems

Each Party shall endeavor to achieve an appropriate balance in its copyright and related rights system, among other things by means of limitations or exceptions that are consistent with Article 10.40, including those for the digital environment, giving due consideration to legitimate purposes such as, but not limited to: criticism; comment; news reporting; teaching, scholarship, research, and other similar purposes; and facilitating access to published works for persons who are blind, visually impaired, or otherwise print disabled.[12]

Article 10.42: Contractual Transfers

Each Party shall provide that for copyright and related rights, any person acquiring or holding any economic right in a work, performance, or phonogram:

(a) may freely and separately transfer that right by contract; and
(b) by virtue of contract, including contracts of employment underlying the creation of works, performances, or phonograms, shall be able to exercise that right in that person's own name and enjoy fully the benefits derived from that right.

[12] As recognized by the Marrakesh Treaty.

Article 10.43: Obligations concerning Protection of Technological Measures and Rights Management Information

1. Each Party shall provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors, performers, or producers of phonograms in connection with the exercise of their rights and that restrict acts, in respect of their works, performances, or phonograms, which are not authorized by the authors, performers, or producers of phonograms concerned or permitted by its law.
2. Each Party shall provide adequate and effective legal remedies against any person knowingly removing or altering any electronic rights management information[13] without authority knowing, or with respect to civil remedies having reasonable grounds to know, that it will induce, enable, facilitate, or conceal an infringement of any copyright or related rights.

Article 10.44: Collective Management

The Parties recognize the role of collective management societies for copyright and related rights in collecting and distributing royalties based on practices that are fair, efficient, transparent, and accountable, which may include appropriate record keeping and reporting mechanisms.

Article 10.45: Presumption of Authorship or Ownership

In civil, administrative, and criminal proceedings involving copyright or related rights, each Party shall provide for a presumption that, in the absence of proof to the contrary, the person whose name is indicated as the author, publisher, performer, producer, or broadcasting organizations of the work, performance, phonogram, or broadcast in the usual manner, is the designated right holder in such work, performance, phonogram, or broadcast.

Section I: Enforcement

[13] For the purposes of this Chapter, rights management information means information which identifies the work, the author of the work, the owner of any right in the work, or the performer, the performance of the performer, the producer of the phonogram, the phonogram, the owner of any right in the performance or phonogram, or information about the terms and conditions of use of the work, the performance or the phonogram, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance or a phonogram or appears in connection with the communication of a work, or with the communication or making available of a fixed performance or a phonogram to the public.

Article 10.46: General Obligation in Enforcement

1. The Parties shall provide in their respective laws for the enforcement of intellectual property rights consistent with the TRIPS Agreement, in particular Articles 41 through 61.
2. Each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, 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.[14]
3. Each Party shall take measures to curtail infringement of copyright on the Internet or other digital networks.[15]

Article 10.47: Border Measures

1. Each Party shall, in conformity with its domestic law and regulations and the provisions of Section 4 of Part III of the TRIPS Agreement, adopt or maintain procedures to enable a right holder, who has valid grounds for suspecting that the importations of counterfeit trademark or pirated copyright goods may take place, to lodge an application in writing with its competent authorities for the suspension by that Party's customs authorities of the release into free circulation of such goods.
2. A Party may enable such an application to be made in respect of goods which involve other infringements of intellectual property rights, provided that the requirements of Section 4 of Part III of the TRIPS Agreement are met. A Party may also provide for corresponding procedures concerning the suspension by the customs authorities of the release of infringing goods destined for exportation from its territory in accordance with its domestic law and regulations.

[14] For greater certainty, each Party confirms that the enforcement procedures set out in this Section shall be available to the same extent with respect to acts of infringement of copyright or related rights and trademarks, in the digital environment.

[15] For greater certainty, it is understood that such measures may include, but are not limited to, legislation, guidelines, policies, awareness campaigns, etc.