



OVERVIEW OF THE WTO AND THE TRIPS AGREEMENT

WIPO-WASME SPECIAL PROGRAM

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Background

- Experience of inter-war years
- Establishment of multilateral economic organizations
- The GATT (General Agreement on Tariffs and Trade)
- Eight rounds of trade negotiations
- Uruguay Round (1986-1994)
 - Liberalization of tariffs
 - Agriculture and textiles
 - Non-tariff barriers
 - Services and intellectual property rights
 - Strengthened dispute settlement system
 - Creation of the World Trade Organization (WTO)
- **147 Members**



World Trade Organization

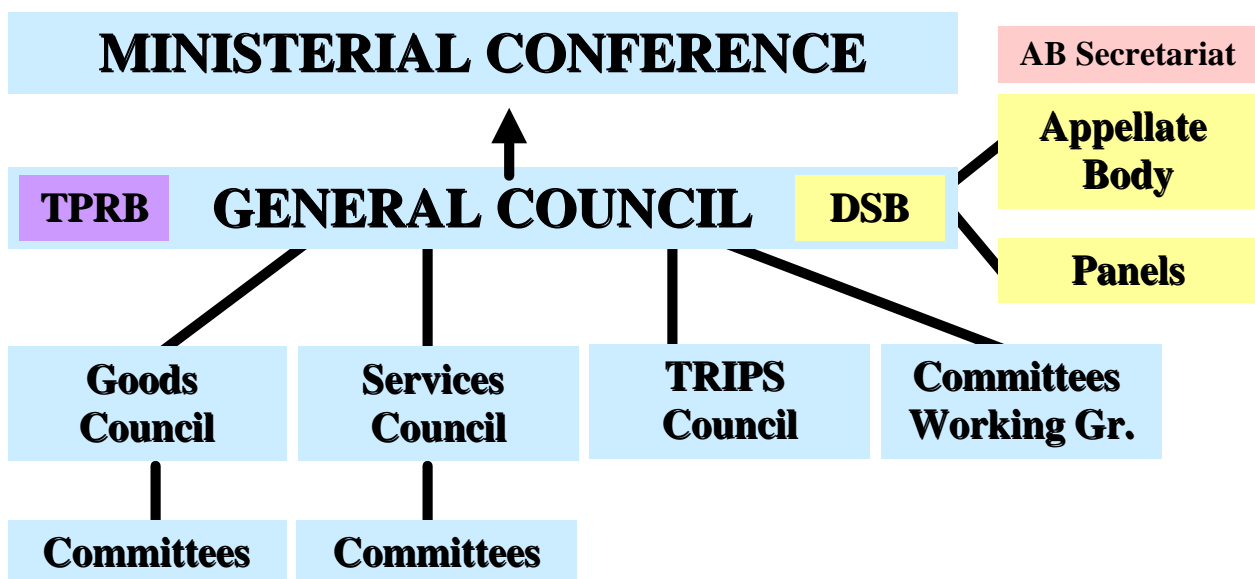
Three Basic Functions:

- Set of rules for international trade
- Forum for negotiations
- Forum for monitoring implementation and resolution of disputes



WTO Secretariat

STRUCTURE



(WTO) Secretariat



Marrakesh Agreement establishing the WTO

Post-Uruguay Round Developments



1 Jan. 1995 **Entry into force of the Marrakesh Agreement (WTO)**

Dec. 1996 **Ministerial Conference - 1st Session (Singapore)**

(Singapore) Ministerial Declaration
Ministerial Declaration for the expansion of trade in information technology products (ITA I)

May 1998 **Ministerial Conference - 2nd Session (Geneva)**

(Geneva) Ministerial Declaration
Declaration on electronic commerce

Nov. 1999 **Ministerial Conference - 3rd Session (Seattle)**

Nov. 2001 **Ministerial Conference - 4th Session (Doha)**

Ministerial Declaration ("Doha Development Agenda")
Declaration (TRIPS / Public Health)

August 2003 **Ministerial Conference - 5th Session (Cancún)**



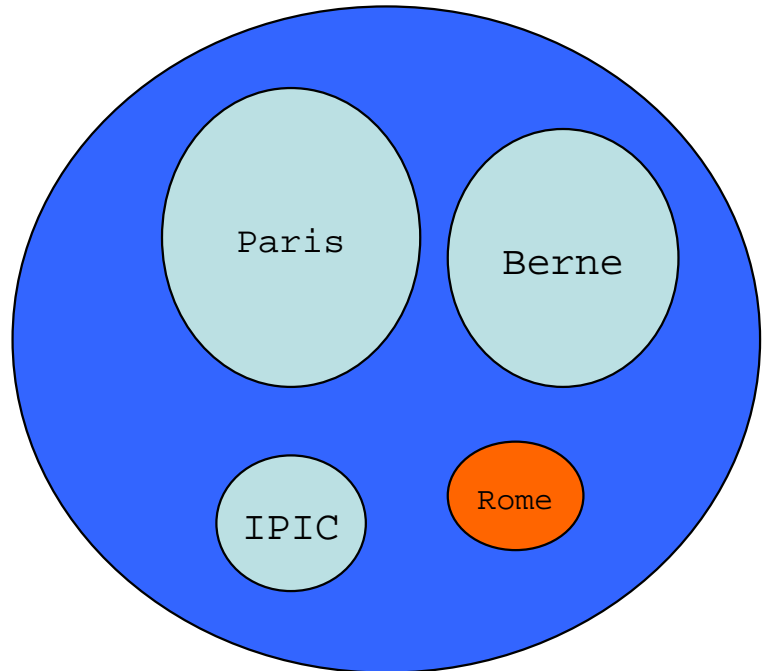
The TRIPS Agreement: Main features

Minimum standards of protection **not harmonization**

- n Basic principles: national treatment, m.f.n.
- n Coverage: **all key IPRs**
 - n reference to the incorporated treaty, if any;
 - n definition of the subject-matter, if possible, **including exclusions**;
 - n conditions for protection;
 - n term for protection (except for GIs and undisclosed information);
 - n exclusive rights, **including exceptions**.
- n Enforcement
- n Dispute settlement
- n Transitional arrangements
- n Review of implementation

"Incorporation" technique

- To refer to existing conventions
- To ensure coherence
- To avoid re-opening of existing texts
- To negotiate the + elements
- To have a short but comprehensive text



Conventions fully incorporated or almost fully incorporated

Plus elements

Conventions with very few elements incorporated

IPD/ttw



General provisions and basic principles

Minimum level of protection (subject to transition periods, in particular for LDCs);

Freedom to determine the appropriate method of implementing the Agreement

Incorporated conventions

National treatment (Art. 3)

Most-favoured nation treatment (MFN) (Art. 4, 5)



DCs and LDCs

- n 1.1.2000: DCs (+ 5 years for pharmaceuticals and agro-chemicals; "mailbox") and economies in transition
- n 1.1.2006: for LDCs (+ possible extensions) (Art. 66.1).
Mailbox. Doha: 1.1.2016 for pharmaceuticals (patents and test data protection)

Acceding LDCs: WT/L/508

- n Obligation for ICs to provide incentives to their enterprises to transfer technology to LDCs (Art. 66.2)

Enforcement

- n **Enforcement procedures shall be available so as to permit effective action against infringement,**
 - n including expeditious remedies to prevent further infringement and
 - n remedies that constitute a **deterrent to further infringements**
- n **Avoid the creation of barriers to legitimate trade and safeguard against abuse**
- n **General principles of law: right to be heard, decisions in writing, opportunity for review etc.**
- n **Civil judicial and administrative procedures and remedies:**
 - n injunctions, damages and others
 - n **Provisional measures**
 - n Right of information
- n **Border measures for importation of counterfeit trademark or pirated copyright goods**
- n **Criminal procedures and penalties for wilful trademark counterfeiting or copyright piracy on a commercial scale**

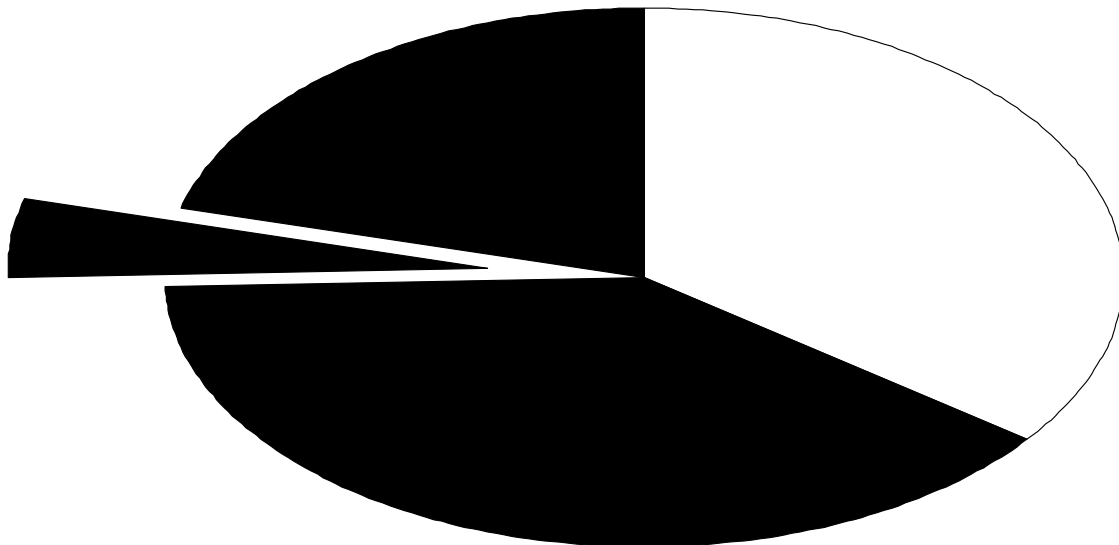
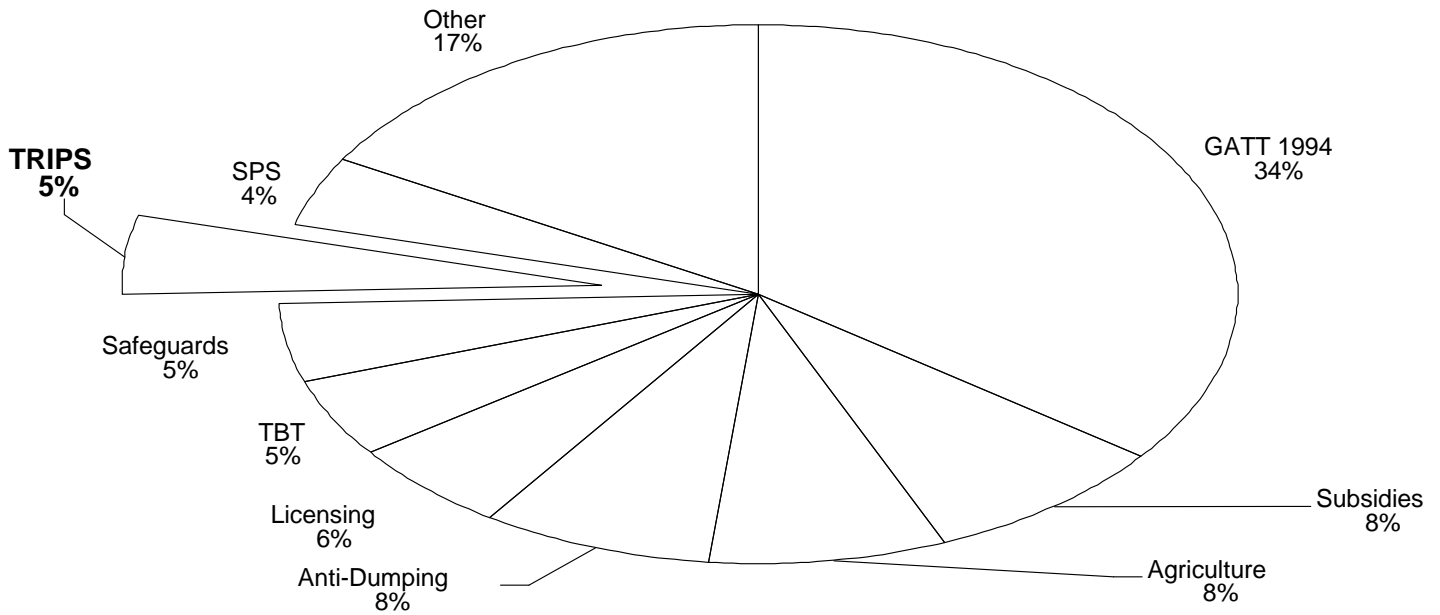


Rules for acquisition and maintenance of IPRs

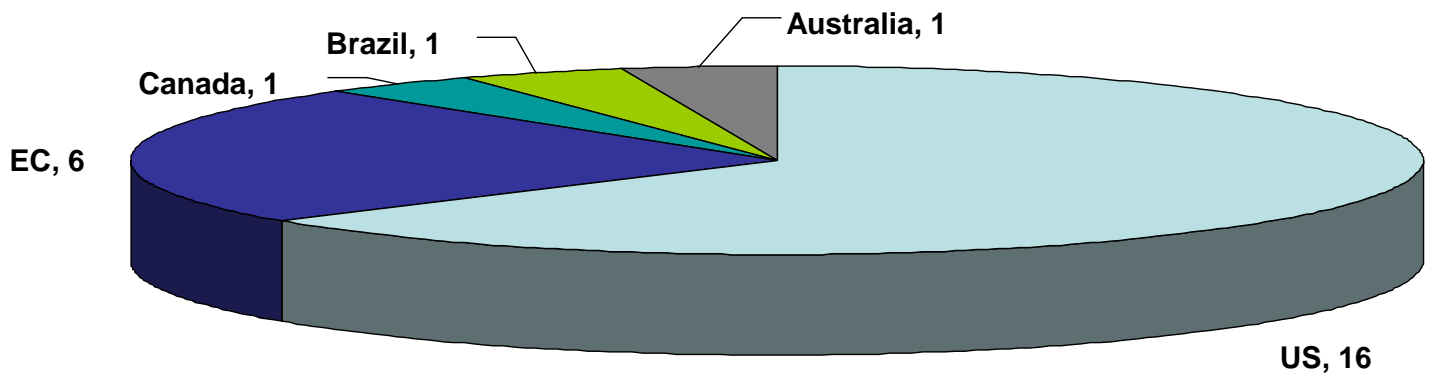
Application of enforcement principles to procedures for filing, registration, renewal

- n Fair and equitable
- n Not unnecessarily complicated or costly nor unwarranted delays
- n Decisions on merits, preferably in writing
- n Final administrative decisions subject to judicial or quasi-judicial reviews

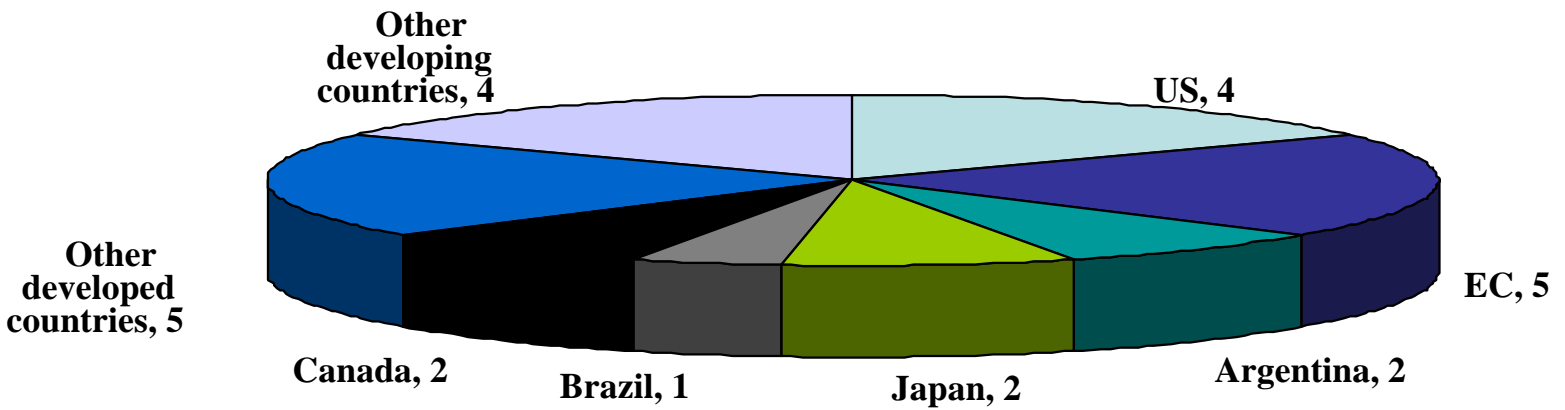
Consultations According to Agreement at Issue



Complainants - TRIPS



Respondents – TRIPS





Current work & negotiations relevant to TRIPS

Ministerial Declarations and Decisions at Doha, November 2001:

- n WT/MIN(01)/DEC/1
- n WT/MIN(01)/DEC/2 (public health)
 - n[Decision of 30 August 2003 WT/L/540]
- n WT/MIN(01)/17 (decision on outstanding implementation issues)
- n Doha Development Agenda (DDA)
 - n Negotiations on a multilateral register for wines and spirits
 - n Work programme
 - n **TRIPS Regular Session and Special Session**



REVIEW OF ARTICLE 27.3(B) AND DOHA WORK PROGRAMME

- **Article 27.3(b): biotechnological inventions – under review since 1999**
- **Doha Ministerial Declaration:**
 - **Paragraph 19:** “We instruct the Council for TRIPS,.... to examine, *inter alia*, **the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the protection of traditional knowledge and folklore...**”
 - **Paragraph 12:** Outstanding implementation issues



WHY DOHA DECLARATION ON TRIPS AND PUBLIC HEALTH?

- The purpose of the Declaration was to respond to these concerns that strengthened IPR protection would lead to reduced access to essential medicines, especially in poorer countries
 - Different views about the nature and scope of the flexibility available in TRIPS
 - Whether this flexibility would be interpreted by the WTO and its Members in a broad, pro-public health way; and
 - Fear of coming under pressure from trading partners not to use flexibility



What was the problem resolved before Cancún?

- Members can issue compulsory licences for importation as well as for domestic production.
- So, what was the problem?
- Whether sources of supply from generic producers in other countries to meet such demand will be available, particularly in the light of the provision of Article 31(f) of the TRIPS Agreement ("predominantly for the supply of the domestic market of the Member")
 - Concern greater as countries with important generic industries come under an obligation to provide patent protection for pharmaceutical products as from 2005



Doha Development Agenda's Present Situation

- Cancun Ministerial Conference, September 2003
- Consultations Chairman General Council, Oct.-Dec. 2003
 - Focus on Agriculture, NAMA, Cotton and Singapore issues
- Resumption of work of negotiating groups and other Doha bodies 2004
- Possible July package



Consult our website
www.wto.org

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