

APPENDIX 1

GUIDE TO TRANSPARENCY UNDER TRIPS

A Overview

This Appendix provides a practical guide to the transparency mechanisms established under the TRIPS Agreement concerning how countries choose to implement provisions of the Agreement. These mechanisms help the TRIPS Council to monitor the operation of the Agreement and to promote understanding of members' intellectual property (IP) policies and legal systems. This Appendix focuses only on the practical use of these mechanisms: the relevant modules of this guide should be consulted for their full background and context.

The transparency mechanisms fall into several categories:

- **Formal notifications** expressly required in the terms of the Agreement itself
- A checklist of members' IP **enforcement** measures to supplement these notifications
- **Reviews** of notified national IP legislation
- Questionnaires on national practices as part of the Agreement's **built-in review agenda**
- **Reports** on technical assistance programs and on technology transfer mechanisms
- **Contact points** for the coordination of technical assistance

When working with these transparency mechanisms, 'notifications' refers to the transparency obligations provided in the TRIPS Agreement itself; 'reviews' refers to the work of the Council on some of the specific tasks mandated to it under the Agreement; and 'reports' concerns other transparency measures that the Council has itself agreed upon. These are outlined briefly below.

Notifications

The Agreement itself specifically requires WTO members to notify to the TRIPS Council:

- their IP laws and regulations (Article 63.2);
- contact points in their administrations for the purposes of cooperation aimed at the elimination of trade in infringing goods (Article 69);

- their intent to make use of certain possibilities under the Agreement relating to their substantive obligations, specifically concerning modifications to the criteria of eligibility for protection (Articles 1.3, 3.1) and exceptions to MFN treatment (Article 4(d)); and
- information concerning the use of public health flexibilities introduced by the 2017 amendment to the Agreement.

Members' IP laws, once notified, are reviewed by members in the TRIPS Council, yielding an extensive record of questions and answers.

There is also provision for notification of state emblems to be notified under Article 6ter of the Paris Convention, in cooperation with WIPO.

Since domestic judicial, administrative and border control measures to enforce IP rights are often not contained in IP legislation as such, the TRIPS Council agreed on a checklist to enable members to notify elements of their enforcement systems that are relevant to their obligations under Part III of the TRIPS Agreement.

Section C below sets out the details of these notification requirements.

Built-in reviews

The Agreement requires specific review processes in the TRIPS Council regarding geographical indications under Article 24.2 (see Module IV) and biotech patenting and plant variety protection under Article 27.3(b) (see Module V). To progress these reviews, the TRIPS Council established specific subject-matter questionnaires which have enabled members to report in detail on their domestic laws in these areas.

Section E below sets out details of the material provided under these reviews.

Reports

The TRIPS Council has agreed on specific processes for developed country members to report on their technology transfer measures under Article 66.2, and on their technical assistance programs under Article 67.

Section D below sets out details of the material provided through these reporting procedures.

Contact points

In addition to the enforcement contact points established under Article 69, the TRIPS Council agreed on the establishment of contact points to facilitate coordination of technical assistance under Article 67.

Section D.3 below sets out details of the information members typically provide.

How members provide this material

The different categories of transparency material – notifications, reports, contributions to review processes – are provided to the WTO Secretariat by representatives of WTO member governments. In practice, they can provide them through various channels but increasingly use the tailored online e-TRIPS Submission System (illustrated in Figure A1.1). As this platform is a means for WTO members to fulfil their formal legal obligations to notify material to the TRIPS Council, it is only accessible by member governments, unlike the notified material itself, which is publicly available (see section B below). The Secretariat's role is simply to compile and disseminate the material provided by member governments.

Figure A1.1 Screenshot of the e-TRIPS Submission System

WORLD TRADE ORGANIZATION **E-TRIPS SUBMISSION SYSTEM** English French Spanish
CarlsonN ⓘ

Home Create new submissions Admin Panel Tools

Welcome to the e-TRIPS Submission System

The WTO TRIPS Agreement recognizes the value of transparency about national intellectual property (IP) systems. WTO Members have therefore agreed to provide a range of information about IP laws, their enforcement, and other aspects of their IP systems. The e-TRIPS Submission System is an optional online tool for submitting:

1. **TRIPS Notifications**, such as national laws and regulations relevant to TRIPS;
2. **TRIPS Review Materials**, such as responses to questionnaires established by the TRIPS Council; and
3. **TRIPS-related Reports**, such as regular reports on technical assistance and measures for technology transfer.

It is not mandatory for Members to use the e-TRIPS Submission System, although it is the preferred means for submitting notifications or reports. You are encouraged to contact the WTO Secretariat at e-TRIPS@wto.org concerning use of this gateway or alternative means of notifying.

[How does the e-TRIPS Submission System work?](#)

[What can I \(and cannot\) submit through the e-TRIPS Submission System?](#)

[Need additional information?](#)

e-TRIPS Submission Dashboard

TRIPS Notifications

- Laws or Regulations under Art. 63.2 ⓘ
- Checklist of Issues on Enforcement under Art. 63.2 ⓘ
- Contact point for IP enforcement under Art. 69 ⓘ
- Contact point on technical and financial cooperation ⓘ

Members can also submit notifications of IP laws through the WIPO-WTO Common Portal, established in 2010 to allow members to electronically submit texts of IP laws and regulations simultaneously to the two Organizations.

B Accessing and using transparency materials

Since 1996, these transparency requirements have yielded a useful collection, much of it unique, of factual information about national IP laws and enforcement mechanisms, technical assistance programmes and transfer of technology measures, and contact points to ease cooperation. Traditionally issued as formal WTO documents, this material is now more readily searched and accessed through the e-TRIPS Gateway, as well as through the regular documentation service, the WTO Documents Online database. Screenshots illustrating these two avenues are provided in Figures A1.2 and A1.3 respectively. Appendix 2 below describes the document symbols that identify different categories of notifications, review materials and reports. Enquiries concerning this material can always be made to the WTO TRIPS Council Secretariat at ipd@wto.org.

Figure A1.2 Screenshot of the e-TRIPS Gateway at e-trips.wto.org

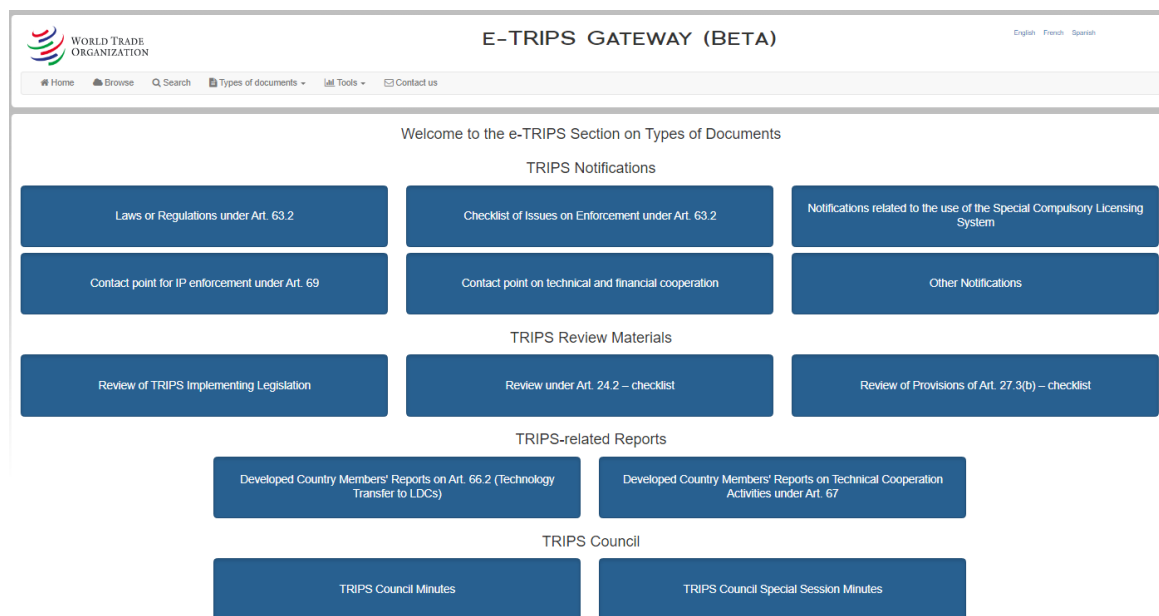


Figure A1.3 Screenshot of WTO Documents Online at docs.wto.org

The screenshot shows the WTO Documents Online search interface. At the top left is the WTO logo. A navigation bar contains links: Recent documents, Commonly-consulted documents, Documents for meetings, By topic, Notifications, GATT, Search, Guide to Documentation, and Help. On the right, there is a 'Please Sign in' link and a breadcrumb trail: home > wto document. The main search area is titled 'Search' and 'Search more fields'. It contains several input fields: Document symbol, Document number, Document date from (with a calendar icon), Document date to (with a calendar icon), Document title, Country/territory concerned, Country/territory mentioned, Topic (with a dropdown icon), Document type (with a dropdown icon), Summary, and Full text search criteria. Each field has a magnifying glass icon to its right. At the bottom left of the search area is a 'Clear the form' button, and at the bottom right is a 'Search' button.

IP laws and regulations are also available on the WIPO Lex search facility for national laws and treaties on IP, available at wipo.lex.wipo.int.

C TRIPS Notifications

1 Notification of laws and regulations under Article 63.2

(a) What is notified?

Article 63.2 of the TRIPS Agreement, in conjunction with Article 63.1, requires members to notify the laws and regulations made effective pertaining to the subject matter of the Agreement (the availability, scope, acquisition, enforcement and prevention of the abuse of IP rights) to the TRIPS Council in order to assist it in its review of the operation of the Agreement. The basic procedures for the notification of national laws and regulations under Article 63.2 are set out in an early decision of the Council, published as document [IP/C/2](#).¹ These guidelines distinguish between two general categories of laws and regulations:

- 'main dedicated intellectual property laws and regulations' include the main laws and regulations on the availability, scope and acquisition of each of the categories of IP covered by the TRIPS Agreement, together with other main laws

¹ Further procedures can be found in [IP/C/4](#) and [IP/C/5](#).

and regulations dedicated to IP, such as laws on border enforcement of IP rights.

- These legal texts must be notified in one of the WTO's working languages (English, French or Spanish). Where an authentic national text of a main dedicated law or regulation is not available in one of these languages, copies of the authentic text of that law or regulation in a national language must also be notified, in addition to the translation into a WTO language.
- 'other laws and regulations' include all national laws and regulations which are not dedicated to IP rights as such but which nonetheless pertain to the availability, scope, acquisition, enforcement and prevention of abuse of intellectual property rights (notably laws and regulations in the areas of enforcement and the prevention of abusive practices) as well as those laws and regulations dedicated to intellectual property which are not considered 'main laws and regulations'.
 - These legal texts can be notified in a member's national language, although members increasingly choose to provide them in translation as well.

(b) What information have members provided?

Following members' actual practice since the establishment of these guidelines in 1995, it has become clear that there is no firm dividing line between 'main dedicated' and 'other' laws and regulations, discussed in the preceding section. Given also the greater general availability of translations of such laws, the default approach has been to notify laws in the 'main dedicated' category unless this is clearly inappropriate (for instance, a members' national constitution, or its entire corpus of judicial or criminal procedure).

In practice, members have generally provided the types of information presented in Table A1.1 below when notifying their laws specifically on IP subject matter.

Table A1.1 Information generally provided when notifying a law or regulation under Article 63.2

| Information type | Suggestion |
|---|---|
| Subject matter | The IP subject matter covered by the law being notified, for instance copyright, protection of undisclosed information or trademarks. |
| Notification status | Whether the legal text notified is notified for the first time, an amendment of a notified law, or a consolidated legal text incorporating an amendment. |
| Previous notifications referred to (if known) | Increasingly over time, notifications concern amendments to laws or consolidations which refer back to laws that have been notified earlier. Thus it is more frequent to include a link back to the previous notification, to facilitate transparency. |
| Title of law or regulation | The full formal title of the law in one of the WTO working languages. |
| Nature of notification | Whether a 'main dedicated' or 'other' law or regulation, as discussed above. |
| Brief description of notified legal text | An optional short description of the legal text to facilitate understanding of its significance (including its relation to previously notified material). |
| Date of entry into force | If there are multiple dates of entry into force, the most significant is given. Other dates can be provided in one of the following fields. |
| Other date | Possible other procedural date, such as the date of parliamentary adoption or presidential approval. |
| Other information | For instance, a description of the effect(s) of the legal text, or a relevant website address. |
| Contact information of agency or authority responsible | Contact information for inquiries, including the name of the department, ministry or agency responsible (and also, where appropriate, the specific functional unit or division concerned), with contact details such as a website link and an e-mail address. |

Once a law is notified, two categories of information relating to the law are circulated to WTO members and made available to the general public:

- the metadata (details concerning the name, category, dates and so on of the notified law), which is circulated in an official WTO document in the IP/N/1/-series; and

- the text of the law itself which is now accessible via a stable and permanent URL, provided in the notification document and in the e-TRIPS Gateway.²

Figure A1.4 is an example of a document illustrating how the metadata and the hyperlink to the text of the law are circulated. These are readily available public documents. Figure A1.5 is a screenshot of the record of the same law as available on the online e-TRIPS Gateway.

² The actual text of the laws was also included in WTO documents in the IP/N/1/- series until the current updated system for access was established in 2015. These legal texts are now also available on the e-TRIPS Gateway at e-trips.wto.org.

Figure A1.4 WTO document informing the TRIPS Council of a legal text notified by a WTO member under Article 63.2 of the TRIPS Agreement



IP/N/1/CAN/27
IP/N/1/CAN/T/8

19 December 2019

(19-8801)

Page: 1/2

Council for Trade-Related Aspects of
Intellectual Property Rights

Original: English/French

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE TRIPS AGREEMENT**

CANADA: TRADE-MARKS ACT

| | |
|---|--|
| Notifying Member | CANADA |
| Details of the notified legal text | |
| Title | Trade-marks Act |
| Subject matter | Trademarks |
| Nature of notification | <input checked="" type="checkbox"/> Main dedicated intellectual property law or regulation <input type="checkbox"/> Other law or regulation |
| Link to legal text* | https://ip-documents.info/2019/IP/CAN/19_7247_00_e.pdf |
| Notification status | <input type="checkbox"/> First notification <input type="checkbox"/> Amendment or revision to notified legal text <input checked="" type="checkbox"/> Replacement or consolidation of notified legal text(s) |
| Previous notification(s) referred to | IP/N/1/CAN/24 , IP/N/1/CAN/C/8 , IP/N/1/CAN/P/15 , IP/N/1/CAN/T/7 ; IP/N/1/CAN/22 , IP/N/1/CAN/T/6 |
| Brief description of the notified legal text | |
| <p>The consolidated version of the Trade-marks Act incorporates amendments made by Bill C- among other things:</p> <ul style="list-style-type: none"> • Add bad faith as a ground of opposition to the registration of a trademark and for the invalidation of a trade-mark registration; • Prevent the owner of a registered trade-mark from obtaining relief for certain acts during the first three years after the trademark is registered unless the trademark was in use in Canada during that period or special circumstances exist that excuse the absence of use; • Clarify that certain prohibitions of the Act do not apply with respect to a badge, crest, emblem or mark that was the subject of a public notice of adoption and use as an official mark if the entity that made the request for the public notice is not a public authority or no longer exists; and • Modernize the conduct of various proceedings before the Registrar of Trade-marks, including by providing the Registrar with additional powers in such proceedings. <p>Bill C-86 also makes certain housekeeping amendments to provisions of the Trade-marks Act that are enacted by the Economic Action Plan 2014 Act, No. 1 and the Combating Counterfeit Products Act.</p> | |

link to the text of the law as provided by Canada

document symbols and links to related earlier notifications by Canada

brief account of significant legal developments contained in the notified law

| | |
|---|--|
| Language(s) of notified legal text | English, French |
| Entry into force | 13 December 2018 |
| Other date | |
| Notification details | |
| Submission date of notification | 27 September 2019 |
| Other information | <p>IP/N/1/CAN/T/7 (Bill C-86) amends the Trade-marks Act</p> <p>Bill C-86 (see subsection B of Division 7 of Part 4): https://www.parl.ca/DocumentViewer/en/42-1/bill/C-86/royal-assent</p> <p>Trade-marks Act (as amended): https://laws-lois.justice.gc.ca/eng/acts/t-13/FullText.html</p> |
| Agency or authority responsible | <p>Innovation, Science and Economic Development Canada Copyright and Trademark Policy Directorate</p> <p>235 Queen Street Ottawa, Ontario K1A 0H5 Canada Telephone: 343-291-3163</p> |

date the law was provided to the WTO Secretariat for processing

further background and links relating to the law

* Links are provided to texts of laws and regulations notified under the TRIPS Agreement in the form supplied by the Member concerned; the WTO Secretariat does not endorse or revise their content.

Figure A1.5 Screenshot of the e-TRIPS Gateway database record of the same notification illustrated in Figure A1.4

WORLD TRADE ORGANIZATION **E-TRIPS GATEWAY (BETA)** English French Spanish

Home Browse Search Types of documents Tools Contact us

Laws and Regulations under TRIPS Art. 63.2 - View details of the document English French Spanish

Expand/Collapse Go back

Main information

Document symbol: [IP/N/1/CAN/27_IP/N/1/CAN/T/8](#) Distribution date: 19/12/2019

1. Notifying Member

Notifying Member: Canada On behalf of group:

On behalf of other Members:

2. Subject matter

Copyright and related rights
 Enforcement
 Industrial property (general)
 Geographical indications
 Industrial designs
 Layout-designs (topographies) of integrated circuits
 Patents (including plant variety protection)
 Trademarks
 Undisclosed information
 Other

3. Notification status

First notification
 Amendment or revision to notified legal text(s)
 Replacement or consolidation of legal text(s)

Previous notification(s) referred to if known ?

A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures (IP/N/1/CAN/24, IP/N/1/CAN/C/8, IP/N/1/CAN/P/15, IP/N/1/CAN/T/7 - 16/10/2019) x

Bill C-79, An Act to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership between Canada, Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam (IP/N/1/CAN/22, IP/N/1/CAN/T/6 - 03/07/2019) x

4. Title of law or regulation

Trade-marks Act

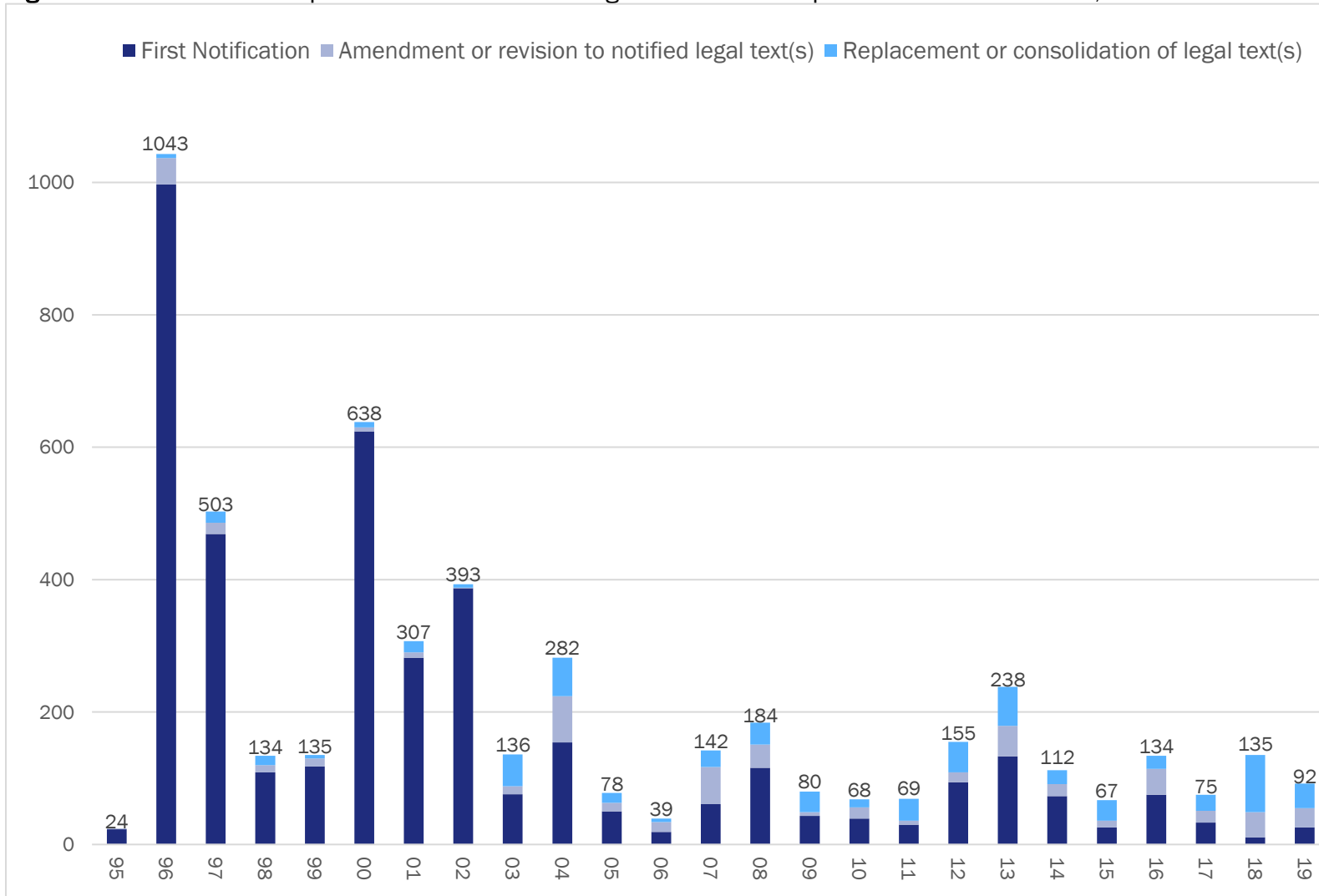
(c) When are laws notified?

Once a member is obliged to apply a provision of the TRIPS Agreement, the corresponding laws and regulations must be notified without delay (normally within 30 days, except where otherwise provided by the TRIPS Council) (IP/C/2). Of the original members of the WTO (those which were already members when the WTO was created in 1995), developed country members had to make their initial notification of their TRIPS legislation at the end of their transition period in 1996, and developing country members when their transition period concluded in 2000. Newly-acceded members are to notify their TRIPS implementing legislation as of the time they are to start to apply the provisions of the Agreement in accordance with their accession protocol (in the course of acceding, a member will have already provided detailed information about its IP laws and regulations, so this typically facilitates the preparation of formal TRIPS notifications).

Any subsequent amendments of a member's laws and regulations must be notified without delay after their entry into force (normally within 30 days where no translation is required and within 60 days where translation is necessary).

The graph in Figure A1.6 illustrates the rate and composition of laws notified between 1995 and 2019. There is an initial spike in activity in 1996, as developed country members made their first notifications. Then, in 2000 and following years developing countries made their initial notifications. Acceding members contributed over this period depending on their date of accession. Since the mid-2000s, notifications have increasingly included updates, revisions and amendments of existing laws, as members comply with their obligation to notify ongoing developments.

Figure A1.6 Rate and composition of IP laws and regulations notified pursuant to Article 63.2, March 1995-December 2019



(d) **WIPO-WTO cooperation on IP laws and regulations**

Cooperation between WIPO and the WTO plays an important part in the management of notifications of laws and regulations. Article 2 of the 1995 WIPO–WTO cooperation agreement covers notification procedures and the translation of and making available of laws and regulations. Under Article 2(4) of this agreement, the WTO Secretariat transmits to WIPO a copy of the laws and regulations notified to the WTO Secretariat by WTO members under Article 63.2 of the TRIPS Agreement in the language or languages and in the form or forms in which they were received, and WIPO places these copies in its collection. The IP laws notified to WIPO are made available through its WIPO Lex database (available at wipolex.wipo.int).

Article 63.2 of the TRIPS Agreement refers to the possibility of minimizing the burden on members relating to notification obligations through the establishment of a common register in cooperation with WIPO. The provisions on close cooperation between the two organizations in the current notification procedures and in the WIPO–WTO cooperation agreement reflect this intention to streamline the administration of notifications. This cooperation led to the establishment of the WIPO–WTO Common Portal for the simultaneous submission of IP laws and regulations to both organizations. Notifications submitted to the WTO through the e-TRIPS Submission System are also automatically transmitted to WIPO.

2 Checklist of IP enforcement measures

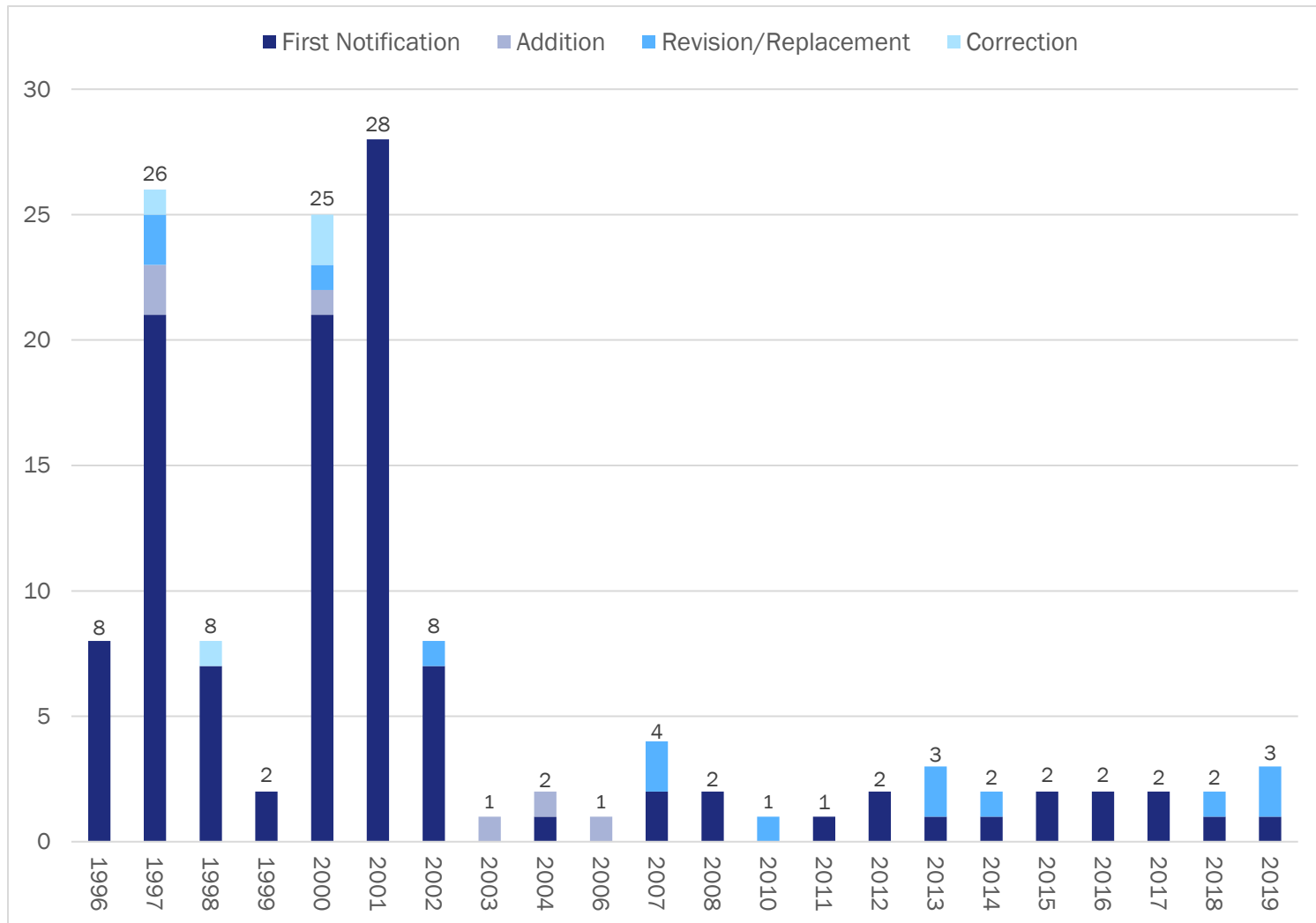
Part III of the TRIPS Agreement (see Module VIII) sets out detailed provisions for the enforcement of IP rights: it covers the role and procedures of the courts, customs authorities and criminal enforcement agencies, as well as remedies available. Notification of IP laws and regulations may not be enough to ensure full transparency as to how WTO members have given effect to these obligations. For example, in countries with a common law tradition, this area of law is often not codified but governed by case law. Recognizing the need for further information to meet the needs of transparency, the Council adopted a ‘Checklist of Issues on Enforcement’ ([IP/C/5](#)).

Closely following the structure of Part III of the Agreement, the Checklist comprises 25 questions covering aspects of civil and administrative procedures and remedies, provisional measures, border measures and criminal procedures. This information on enforcement measures, including national enforcement law and practices, is to be provided at the same time as the initial notifications to be made under Article 63.2 (discussed above), and should be subsequently updated or revised as needed.

In general, members have added to their responses to the Checklist a descriptive background concerning their national system for IP enforcement and its legal foundations.

Figure A1.7 illustrates the pattern of notifications using the enforcement Checklist. It shows an initial spike in initial notifications by developed country members from 1996 to 1997, and by developing country members from 2000 to 2002; the pattern since then comprises initial notifications by acceding members and, increasingly, amendments and updates of the earlier notifications as national IP systems continue to evolve and adapt to new developments.

Figure A1.7 Notifications of the 'Checklist of Issues on Enforcement', 1996-2019



3 Review of national laws implementing TRIPS

The initial notifications of laws and regulations made pursuant to Article 63.2 of the TRIPS Agreement form the basis for reviews of national implementing legislation carried out by the Council. Initially, the review exercise focused on those developed country members whose transition period expired on 1 January 1996. Their legislation was reviewed in 1996 and 1997 in four week-long meetings according to the following subject areas: copyright and related rights; trademarks, GIs and industrial designs; patents, layout-designs of integrated circuits, undisclosed information and the control of anti-competitive practices in contractual licences; and enforcement. The legislation of developing country members whose transition period expired on 1 January 2000 was reviewed in 2000 and 2001. The totality of the legislation of each member was reviewed at a single review meeting. The legislation of newly acceded members is reviewed as of the time that they start to apply the provisions of the TRIPS Agreement in accordance with their accession protocol. As of February 2019, the Council had completed 126 reviews.

The procedures for these reviews provide for written questions and replies prior to the review meeting, with follow-up questions and replies during the meeting. At subsequent meetings of the Council, an opportunity is given to follow up points emerging from the review session which delegations consider have not been adequately addressed.

After the completion of a review, the Secretariat produces a record which contains: the introductory statement of the member under review; questions put to the member by other members; and the responses of the member under review. The records of reviews are circulated in the IP/Q/-, IP/Q2/-, IP/Q3/- and IP/Q4/- series of documents.

This review function of the TRIPS Council remains open to new accessions and may also deal with subsequent developments in members' IP systems, given that major developments have taken place in many members' laws and regulations in the field of IP since their initial reviews.

4 Notifications of enforcement contact points

Article 69 of the TRIPS Agreement provides that members agree to cooperate with each other with a view to eliminating international trade in goods infringing IPRs and that, for this purpose, they shall establish and notify contact points in their administrations and be ready to exchange information on trade in infringing goods. They shall, in particular, promote the exchange of information and cooperation between customs authorities with regard to trade in counterfeit trademark goods and pirated copyright goods.

The Council agreed in 1995 to invite each member to notify information relating to their contact points, initially by 1 January 1996, with subsequent changes to the

information to be notified promptly. Members' notifications of contact points have generally provided the types of information presented in Table A1.2 below.

Table A1.2 Information generally provided when notifying a contact point under Article 69

| Information type | Suggestion |
|---------------------------------|---|
| Subject matter | For some members, the enforcement contact point differs depending on the type of IP, so there is scope to notify distinct contact points accordingly. |
| Competent administration | Generally the name of the responsible authority is provided – which may be the industrial property office, the copyright office, the ministry responsible for the legal system or specific authorities such as customs or police. |
| Job title | Specific contact points may be identified by their position, such as director of the relevant department. |
| Name | In some cases, individual officials' names are provided, and thus need to be updated as often as individuals move into new positions. |
| Contact Information | Practical contact details typically include email and postal addresses, website links, and telephone and fax numbers. |

5 Notifications regarding certain legal options under TRIPS

Members have several options regarding the substantive rights and obligations entered into under the Agreement. These concern such matters as eligibility to benefit from the protection provided under the Agreement and the application of non-discrimination principles. These are generally drawn from other international agreements in the field of IP, notably the Berne Convention. Any member wishing to avail itself of one of these possibilities needs to make a legal notification to that effect to the TRIPS Council. This section outlines each of these fields.

Articles 1.3 and 3.1: persons eligible for protection

Article 1.3 of the Agreement defines the persons that must be eligible for the protection to be made available by members under the Agreement. It refers to the criteria for eligibility as laid down in the Paris Convention, the Berne Convention, the Rome Convention and the Washington Treaty for the relevant areas of IP. Thus, the same criteria have to be applied among members as well, whether or not they are member States to any of the Conventions or Treaty themselves. Certain exceptions to these

criteria, notably those of the Berne Convention or the Rome Convention, are allowed on the condition that they are notified to the TRIPS Council, whether or not they have been separately notified under the Berne Convention or the Rome Convention themselves.

Article 3.1 of the Agreement requires national treatment to be given to persons eligible for protection under Article 1.3, subject to the exceptions allowed under the Conventions and Treaty mentioned above. Equally as under Article 1.3, certain exceptions under Article 3.1 are allowed on the condition that they are notified to the TRIPS Council.

Notification under Articles 1.3 and 3.1 is only required if a member wishes to avail itself of one of the exceptions. Document [IP/C/W/5](#) gives further details. These notifications are distributed in the IP/N/2/- series of documents. As of February 2019, 32 members had submitted such notifications.

Article 4(d): exceptions to MFN

In line with the most-favoured-nation (MFN) treatment provisions of Article 4 of the Agreement, each member has to ensure that any advantage, favour, privilege or immunity that is available in its territory to certain foreign right holders is accorded to persons eligible under Article 1.3 for protection under the Agreement.

Article 4 specifies permissible exceptions to the scope of MFN treatment. Paragraph 4(d) requires a notification where the advantage in question derives from an international agreement related to the protection of IP which entered into force prior to the entry into force of the WTO Agreement. The conditions for such exemptions are that the agreement in question is notified to the TRIPS Council and does not constitute an arbitrary or unjustifiable discrimination against persons from other members eligible under Article 1.3.

Notification under Article 4(d) is only required if a member wishes to avail itself of the exception. Notifications under Article 4(d) can be made at any time. However, at the meeting of the TRIPS Council in November 1995, the Chairman drew the attention of members to the need to make notifications by 1 January 1996 if they wished to have legal cover from that date for any exceptions to MFN treatment that they seek to justify by reference to the provisions of Article 4(d) (see [IP/C/M/4](#), paragraph 11).

These notifications are distributed in the IP/N/4/- series of documents. 28 members or groups of members submitted such notifications.

Article 6ter of the Paris Convention: official emblems

Article 6ter of the Paris Convention concerns the protection of state emblems, official hallmarks and the abbreviations and emblems of intergovernmental organizations against their registration or use as trademarks. Article 6ter applies in the TRIPS context

by virtue of Article 2.1 of the TRIPS Agreement and lays down procedures for the communication by members (and intergovernmental organizations) to other members of such emblems that they wish to prevent from being registered or used as trademarks and for the transmittal of objections to emblems communicated.

The application of the provisions of Article 6ter for the purposes of the TRIPS Agreement is addressed in Article 3 of the WIPO–WTO cooperation agreement and in the Decision of the TRIPS Council of 11 December 1995 (IP/C/7). Accordingly, the International Bureau of WIPO administers the communication procedures under Article 6ter for the purposes of the TRIPS Agreement in accordance with the procedures applicable under Article 6ter of the Paris Convention. State emblems are, therefore, notified under Article 6ter of the Paris Convention directly to the International Bureau of WIPO.

With the entry into force of the TRIPS Agreement, notifications made under Article 6ter of the Paris Convention are effective under the TRIPS Agreement for all WTO members (subject to transition periods under the TRIPS Agreement) whether they were parties to the Paris Convention or not. This concerns all past as well as future notifications. The arrangements apply both to the communication of emblems and to objections to emblems communicated. The WIPO Secretariat communicated, in January 1996, all emblems communicated before that date under Article 6ter of the Paris Convention to those WTO members which were not parties to the Paris Convention. Since January 1996, the practice has been that a newly acceded WTO member that is not party to the Paris Convention receives a set of emblems as communicated through the WIPO Secretariat under the provisions of Article 6ter of the Paris Convention before the date on which the WTO Agreement entered into force for the new member in question.

Signs for which protection was requested were earlier communicated individually and on paper. Since 2009, such communications have been replaced by a periodic (half-yearly) electronic communication that uses the WIPO ‘Article 6ter Express’ database.

All state emblems of WTO members and of parties to the Paris Convention, as well as emblems of international intergovernmental organizations, which benefit from the application of Article 6ter are available in the Article 6ter Express database. It contains some 2,500 individual records and is fully accessible and searchable online at www.wipo.int/ipdl/en/6ter.

Other Berne and Rome Convention notification requirements

A number of notification provisions of the Berne and the Rome Conventions are incorporated by reference into the TRIPS Agreement, without being explicitly referred to. These notifications are only required if a member wishes to avail itself of these options. No special procedures have been adopted by the Council in respect of these

notifications, which are distributed in the IP/N/5/- series of documents. The following summarizes the notification possibilities in question.³

Berne Convention Articles 14bis(2)(b) and 14bis(3): authors and directors of films

Article 14bis(2)(b) of the Berne Convention concerns the situation where national legislation includes among the owners of copyright in a cinematographic work (a film) authors who have brought contributions to the making of the work, and provides a presumption that these authors have consented, in the absence of any contract to the contrary, to certain ways in which the film may be exploited. The application of the Berne Convention through the TRIPS Agreement means that, if a WTO member's legislation requires that the consent of the authors must have been in writing, Article 14bis(2)(c) requires that member to notify that requirement.

Article 14bis(3) covers the situation where a national law does not make the presumption binding on the principal director of the film. In that case, the member concerned must notify this as well. The purpose of these notification requirements is to allow those concerned to know in what jurisdictions this presumption is applied in a restricted way and to make their arrangements accordingly.

Berne Convention Article 15(4): folklore

Article 15(4) of the Berne Convention, as applied through the TRIPS Agreement, effectively concerns the protection of folklore. It deals with unpublished works where the identity of the author is unknown, but where there is every ground to presume that he or she is a national of a given WTO member. In such a situation the member concerned may designate a competent authority to protect the interests of the author. Other members should be informed of this authority by means of a notification giving full information.

Berne Convention, Appendix: compulsory licences for developing countries

Article 9.1 of the TRIPS Agreement requires members to comply with the Appendix to the Berne Convention. The Appendix contains special provisions for developing countries and establishes several notification procedures:

- i. **Article I of the Appendix:** Paragraph 1 requires a developing country member wishing to avail itself of the possibilities provided in the Appendix to declare

³ Further details concerning these notification requirements can be found in a background note prepared by the Secretariat and circulated in [IP/C/W/15](#). At its meeting in February 1996, the Council invited each member wishing to make such notifications to make them to the TRIPS Council, even if the member in question had already made a notification under the Berne or the Rome Convention in regard to the same issue.

that it will avail itself of the faculty provided in Article II and/or Article III of the Appendix (compulsory licences for, respectively, translations and reproductions) by means of a notification. According to paragraph 2 such declarations can be made for renewable periods of ten years. Such a declaration may be renewed by means of another notification.⁴ Paragraph 5 deals with the possibility for a country to make notifications in respect of territories for which it has international responsibility.

- ii. **Article II(3)(b) of the Appendix** deals with the situation where a developing country member secures the agreement of all developed members, in which the same language is in general use as in that developing country member, to provide for a shorter period than the usual three years after publication for the application of compulsory licences to substitute for the exclusive right of translation. The provision requires such agreements to be notified.
- iii. **Article IV(2) of the Appendix** deals with the situation where an applicant for a compulsory licence of the types provided for in Articles II and III cannot find the owner of the right in question. In such a situation, he or she must send a copy of the application to any national or international information centre which may have been designated by the member in which the publisher of the work concerned is believed to have his principal place of business. The paragraph provides that such information centres must be designated in a notification by the member concerned.
- iv. **Article IV(4)(c)(iv) of the Appendix** allows developing country members to export copies of translations made under compulsory licence, provided that a number of conditions are met: the language of the translation must not be English, French or Spanish; the recipients are individuals who are nationals of the member whose competent authority has granted the licence, or organizations grouping such individuals; the copies must be sent for teaching, scholarship or research purposes; there must be no commercial purpose; and there must be an agreement between the member granting the licence and that to which the copies are sent. The provision requires that such agreements shall be notified by the member in which the licence has been granted.

⁴ At its meeting in July 1998, the TRIPS Council took note of a statement that its Chair made in the light of informal consultations with members on the calculation of renewable periods of ten years under the provisions of the Appendix to the Berne Convention, as incorporated by reference into the TRIPS Agreement, according to which the provisions of Article I(2) of the Appendix, as incorporated into the TRIPS Agreement, can be understood so that, for the purposes of the TRIPS Agreement, the relevant periods are calculated by reference to the same date, i.e. 10 October 1974, as for the purposes of the Berne Convention (see paragraphs 7-9 of the record of the meeting in [IP/C/M/19](#)).

- v. **Article V of the Appendix** provides that a developing country member may choose, by way of a declaration made at the time of ratification or accession, the 'ten-year régime' which appeared in the 1896 Act of the Berne Convention for translations instead of the compulsory licensing system provided for in Article II of the Appendix.

A notification under Article I(1) of the Appendix to the Berne Convention may be deposited at the time of depositing the instrument of ratification or accession, or any time thereafter. Other notifications stemming from the incorporation of the provisions of the Appendix into the TRIPS Agreement can be made at any time. The only exception in this regard is Article V(1) as incorporated into the TRIPS Agreement which requires that the choice provided in that paragraph has to be made at the time of ratification or accession.

Rome Convention Article 17: phonogram producers

Article 14.6 of the TRIPS Agreement allows a WTO member to avail itself of exceptions permitted under the Rome Convention. Article 17 of the Rome Convention allows a state which, on 26 October 1961, granted protection to producers of phonograms solely on the basis of the criterion of fixation to continue to do so, provided it makes a notification to this effect at the time of ratification, acceptance or accession.

Rome Convention Article 18: exceptions to phonogram & broadcast protection

Articles 1.3, 3.1 and 14.6 of the TRIPS Agreement relate to certain exceptions under the Rome Convention, the invocation of which require notification. Article 18 of the Rome Convention provides that any state which has invoked such an exception by means of notifications under Articles 5(3), 6(2), 16(1) or 17 of the Rome Convention may, by a further notification, reduce the scope of or withdraw the notification in question. A notification under Article 18 may be made at any time.

6 *Notification requirements for public health flexibilities*

The Doha Declaration on the TRIPS Agreement and Public Health ([WT/MIN\(01\)/DEC/2](#)) recognized that members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement. This led to agreement to create a new form of trade-related compulsory licence, specifically for the export of medicines,

now introduced into the TRIPS Agreement by amendment in the form of Article 31bis⁵ (discussed fully in Module X and at www.wto.org/tripshealth).

Article 31bis responds to the scenario in which pharmaceuticals would be produced under a compulsory licence in one country for export to another eligible country. It allows members, subject to certain conditions, to depart from the regular constraints that Article 31 applies to compulsory licensing for patents with respect to pharmaceutical products, namely:

- the requirement under Article 31(f) to limit compulsory licences predominantly to the domestic market;
- the requirement under Article 31(h) to provide adequate remuneration to the patent holder when it has already been paid in the exporting member for the same products; and
- the obligation under Article 31(f) for developing country or LDC members that are party to an RTA which includes LDCs as at least half its membership.

When members established this new mechanism, they required a dedicated page to be created on the WTO website to assist transparency of members' use of the system: this is now available at www.wto.org/phnotifs.

Model notifications and a Guide to Notifications under the system are available at: www.wto.org/medicinesnotifications, and this should be consulted when planning or undertaking a notification. The following section provides a brief description of the transparency mechanism for this system as background information.

(a) Types of notifications

The special compulsory licensing system specifies three types of notifications set forth in Table A1.3 below; these are notifications for transparency only and are not subject to approval by the Council or any other WTO body.

⁵ The minority of members who have yet to accept the Protocol Amending the TRIPS Agreement continue to operate on the basis of the 2003 General Council decision (2003 Decision) which established the system ([WT/L/540](http://www.wto.org/WT/L/540) and Corr.1).

Table A1.3 Notifications associated with the special compulsory licensing system

| Notification type | TRIPS provision | 2003 Decision |
|---|------------------|---------------|
| (1) Importing member's one-off general notification of intention to use the system (not required for LDC members) | Annex, para 1(b) | para 1(b) |
| (2) Importing member's specific notification of the pharmaceutical products needed | Annex, para 2(a) | para 2(a) |
| (3) Exporting member's notification of a compulsory licence for export | Annex, para 2(c) | para 2(c) |

Notification 1: importing member's one-off general notification of intention to use the system (not required for LDC members)

This one-off notification confirms in general that a member intends to use the special compulsory licensing system as an importer. LDC members are automatically entitled to import medicines under the special compulsory licensing system. Other developing countries need to file one simple notification indicating that they wish to use the system. Developed country members are excluded from using the system as importers. Suggested contents for this notification appear in the Table A1.4 below.

Table A1.4 Suggested contents for importing member's one-off general notification of intention to use the system (not required for LDC members)

| Information type | Suggestion |
|----------------------------------|--|
| Notification application details | The following suggested text has been provided for illustrative purposes: <i>This member intends to use the System set out in Article 31bis of the TRIPS Agreement, and the Annex and the Appendix to it, as an importing member.</i> |

| Information type | Suggestion |
|----------------------|--|
| Optional information | Eligible members are entitled to notify their intent to use the system 'in whole or in a limited way'. Several members have indicated they would only use it in situations of national emergency or other circumstances of extreme urgency, namely Hong Kong, China; Israel; Republic of Korea; Kuwait; Macao, China; Mexico; Qatar; Singapore; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Turkey; and the United Arab Emirates. There is no obligation to notify this or any other kind of limitation. |

Notification 2: importing member's specific notification of the pharmaceutical products needed

This is the importing member's specific notification of the details of the needed pharmaceutical products and other details required under the special compulsory licensing system. A notification must be made by or on behalf of an importing member each time it uses the special compulsory licensing system to import pharmaceutical products. No notification is needed when pharmaceutical products are imported from another member party to a regional trade agreement under the regional mechanism (see paragraph 3 of Article 31*bis* of the amended TRIPS Agreement/paragraph 6 of the 2003 Decision).

Making this notification does not commit a member to procure medicines under the special compulsory licensing system – it simply flags a member's needs which may ultimately be satisfied through other supply sources.

A notification can cover more than one importing member. A regional organization that satisfies the conditions in paragraph 3 of Article 31*bis* of the amended TRIPS Agreement (or paragraph 6 of the 2003 Decision) can also make a notification on behalf of its members, with their consent. Joint notifications should confirm that the members that they cover have consented.

Suggested contents for this notification appear in Table A1.5 below.

Table A1.5 Suggested contents for importing member's specific notification of the pharmaceutical products needed

| Information type | Suggestion |
|--|---|
| List of product(s) and quantities needed | The names and expected quantities of the pharmaceutical product or products needed. The expected quantity can, for example, be a number of doses or packs (e.g. '5 million doses of medicine X'). There is no need to state the name of a supplier, nor the expected timeframe of supply and use. |
| Determination of no or insufficient manufacturing capacities in the pharmaceutical sector | LDCs are assumed to lack sufficient manufacturing capacity and do not need to state anything about it. Other importing members must confirm that they have established that they have insufficient or no manufacturing capacities in the pharmaceutical sector for the product(s) in question, following the approach set out in the Appendix to the amended TRIPS Agreement. |
| Information on how the lack of (sufficient) manufacturing capacity in the pharmaceutical sector was established | The Chairman's statement read out when the Protocol Amending the TRIPS Agreement was adopted mentioned that it was understood that notifications would include information on how the member had established this point (WT/GC/M/100 , paragraph 29). |
| Is/are the product(s) needed protected by patent in the territory? | Where there is no patent for the pharmaceutical product(s) in the importing member, no mention is needed. The member may, however, choose to mention the absence of any patent. |
| If patent(s) in force, status of compulsory licensing | Where there is a patent for the product(s) in the importing member, the notification must advise whether a compulsory licence has been granted or is planned. Alternatively, LDCs may simply refer to their transitional period, which was last extended until 1 January 2033. |
| Authorized government official | Name and official position of the authorized government official submitting the notification. Notifications can be submitted by any authorized government official. |

Notification 3: exporting member's notification of a compulsory licence for export

This is the exporting member's notification of the grant of a compulsory licence for export, including the conditions attached to it, as required under the special compulsory licensing system. Any member that exports under the special compulsory licensing system must make this notification for every compulsory licence that it issues under the special compulsory licensing system prior to export. A notification is not required to export pharmaceutical products under the regional mechanism (see paragraph 3 of Article 31bis of the amended TRIPS Agreement/paragraph 6 of the 2003 Decision). If the medicines to be exported form part of production under a compulsory licence that is issued predominantly for the supply of the domestic market, then there is no need to use the special compulsory licensing system at all, and consequently no notification is needed.

Suggested contents for this notification appear in Table A1.6 below.

Table A1.6 Suggested contents for exporting member's notification of a compulsory licence for export

| Information type | Suggestion |
|--------------------------------------|---|
| Licensee information | The notification must include the name and address of the licensee. |
| Details of the product(s) for export | The notification must include: <ul style="list-style-type: none">i. the product for which the licence has been providedii. quantity(ies) for which the licence(s) has been grantediii. country(ies) where the product(s) is/are to be suppliediv. duration of the licence(s)v. website address where information on quantities being supplied to an importing country(ies) and distinguishing features of the product are posted.⁶ |
| Other optional details | <ul style="list-style-type: none">i. Any other licence conditionsii. Other information, such as the patent number(s) |

(b) When to notify?

Notification 1 - Importing member's one-off general notification of intention to use the system (not required for LDC members): A WTO member can make this notification at

⁶ The licensee may post this information on the dedicated WTO web page concerning the system (with assistance from the WTO Secretariat) or may use its own website.

any time prior to its first concrete use of the special compulsory licensing system as an importer, or at the same time as it first notifies specific needs under the system (see Notification 2). No notification is needed to import pharmaceutical products from another member party to a regional trade agreement under the regional mechanism (see paragraph 3 of Article 31*bis* of the amended TRIPS Agreement/paragraph 6 of the 2003 Decision).

Notification 2 - Importing member's specific notification of the pharmaceutical products needed: A member could make this notification when it wishes to signal concrete needs; for example, as part of the member's medicines procurement process. Ultimately, there would be no obligation to procure medicines under the special compulsory licensing system.

Notification 3 - Exporting member's notification of a compulsory licence for export: Any member that exports under the special compulsory licensing system must make this notification for every compulsory licence that it issues under the system prior to export.

These three types of notifications are circulated in the IP/N/8-10 series of documents, respectively, and can be consulted directly on the dedicated web page, or the e-TRIPS Gateway.

D Members' reports to the TRIPS Council

1 *Incentives for technology transfer to LDC members (Article 66.2)*

Article 66.2 of the TRIPS Agreement requires developed country members to provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to LDC members in order to enable them to create a sound and viable technological base. In its Decision on Implementation-Related Issues and Concerns, adopted on 14 November 2001, the Ministerial Conference reaffirmed that the provisions of Article 66.2 are mandatory, and instructed the TRIPS Council to put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question.

The TRIPS Council accordingly adopted a Decision on Implementation of Article 66.2 of the TRIPS Agreement on 20 February 2003 (IP/C/28). It established a mechanism for ensuring the monitoring and full implementation of the obligations in Article 66.2. Developed country members are required to submit annual reports on actions taken or planned in pursuance of their commitments under Article 66.2. To this end, they are to provide new detailed reports every third year and, in the intervening years, to provide updates to their most recent reports. These reports are to be submitted prior to the last Council meeting scheduled for the year in question. The Decision provides that the submissions shall be reviewed by the Council at its end-of-year meeting each year.

While no specific format has been agreed, and practice varies somewhat in the actual reports submitted since establishment of this mechanism, members have generally provided the types of information presented in Table A1.7 below.

Table A1.7 Types of information generally provided in reports on incentives for technology transfer to LDC members (Article 66.2)

| Information type | Suggestion |
|---|---|
| Introduction | A brief description of the general approach to providing incentives for technology transfer under Article 66.2. |
| Programme or project | Details of specific programme or project, such as the entity making the incentive available, the category of technology and the duration or timing. |
| Objective or purpose | The goal of the programme or project. |
| Entity making the incentive available | The government entity, or entities, in the developed country member providing the incentive. |
| Eligible enterprises or institutions in developed country member | Enterprises or institutions in the territory of the developed country member which are eligible for the incentive. This could be, for example, a description of the types of enterprises or institutions that are eligible for the incentive. |
| Beneficiary member(s) or observer(s) | The WTO member(s) or observer(s) targeted by the programme or project. |
| Beneficiary enterprises or institutions | The transferee enterprises or institutions, for example. |
| Nature of incentive measures | Identification of the type of incentive. |
| Financial implications | The budget of the programme or project, for example. |
| Field of technology | Description of the relevant sector. |
| Category of technology | Identification of the type of technology, such as biotechnology, sustainable technology, information and communications technology, or climate change mitigation technology. |
| Output or impact | The results, or anticipated results, of the programme or project. |
| Status of the programme or project | Whether the programme or project has been completed, is in progress, or is under development. |

| Information type | Suggestion |
|--|--|
| Duration and timing | The time span of the programme or project, especially the start date and scheduled year of completion. |
| Website for further information | A website or web page which contains additional details about the programme or project. |
| Contact point for further information | The name and contact details, such as an email address, of the institution to contact for further information. |

2 *Technical and financial cooperation (Article 67)*

Article 67 of the TRIPS Agreement requires developed country members to provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and LDC members, to facilitate the implementation of the Agreement. This assistance includes assistance in the preparation of laws and regulations on the protection and enforcement of IP rights as well as on the prevention of their abuse, and support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.

The TRIPS Council has generally agreed that developed country members be asked to submit their information (for the period since their last report) on technical and financial cooperation in time for review at the Council's last meeting of the calendar year, which normally takes place in October or November. While there is no agreed reporting format, and practice has varied somewhat over the decades since the first such reports, members have generally provided the types of information presented in Table A1.8 below.

Table A1.8 Types of information generally provided in reports on technical and financial cooperation (Article 67)

| Information type | Suggestion |
|---|--|
| Report information | A brief description of the member's general approach to TRIPS-related technical cooperation. |
| Title of programme or activity | The name of the programme or activity. |
| Date and end date | The start and end date of the programme or activity. |
| Beneficiary country or countries | The beneficiaries targeted by the programme or activity. |
| Brief description | A short explanation of the activity. |

| Information type | Suggestion |
|---------------------------------------|--|
| Beneficiary institution or audience | The institution or audience participating in the programme or activity. |
| Technical cooperation provider(s) | The entity(ies) or institution(s) delivering the training activity. |
| Outputs or impact | The results, or anticipated results, of the programme or activity. |
| Website for further information | The website or web page which contains additional details about the programme or activity. |
| Contact point for further information | The name and contact details, such as an email address, of the institution to contact for further information. |

3 Contact points for technical cooperation

The TRIPS Council agreed in 1996 that each developed country member should notify a contact point for technical cooperation on TRIPS, in particular for the exchange of information between donors and recipients of technical assistance. Developed country members were invited to notify contact points at the same time as they update information on their technical cooperation activities. They have generally provided the types of information presented in Table A1.9 below.

Table A1.9 Types of information generally provided in notifications of contact points for technical cooperation

| Information type | Suggestion |
|--------------------------|--|
| Subject matter | In some cases, the contact point differs according to the field of TRIPS subject matter the technical assistance deals with. |
| Competent administration | Name of the relevant office or agency, for instance the industrial property office, the copyright office, the relevant ministry, and customs and police authorities. |
| Job title | Job title of individual officials responsible. |
| Name | Individual officials' names. |
| Contact Information | Contact details, including email and postal addresses, website links, and telephone and fax numbers where appropriate. |

E TRIPS Council Reviews

1 *Geographical indications (Article 24.2)*

Article 24.2 of the Agreement requires the TRIPS Council to review the TRIPS provisions on geographical indications (GIs) (see Module XI). To progress this review, the Council has invited members to provide information on their national systems for the protection of geographical indications through checklists of questions ([IP/C/13](#) and Add.1). The checklists contain questions on general information about GI protection; definition and criteria for recognition; procedure for recognition; maintenance; scope of rights and use; relationship to trademarks; enforcement; and international agreements. Some members have supplemented their answers with a brief general description of their GI protection systems.

Following an initial submission, members are encouraged to submit an updated or revised version to reflect any new changes in their GI protection regime. The responses from members have been circulated in [IP/C/W/117](#), addenda, supplements and revisions; they are also more readily accessible online on the e-TRIPS Gateway. At the Council's request, the Secretariat has prepared a note summarizing these responses. Document [IP/C/W/253/Rev.1](#) is the most recent version of the summary (available on the WTO Documents Online database).

2 *Biotech patenting and plant variety protection (Article 27.3(b))*

The TRIPS Agreement requires members to review Article 27.3(b), which relates to how members protect biotechnology and plant varieties (described in detail in Module XI). As part of the review, the TRIPS Council invited members to respond to checklists which ask for information about members' biotechnology and plant variety protection frameworks. The Secretariat prepared an illustrative list of questions ([IP/C/W/122](#)), and the delegations of Canada, the European Union, Japan and the United States also proposed a list of questions ([IP/C/W/126](#)).

While the exact approach taken is discretionary, emerging best practice is for members to respond to both sets of questions in parallel. The checklists contain questions on aspects of patent protection of plant and animal inventions and protection of plant varieties. Some members have also chosen to provide a brief introduction or explanation of their biotech patenting and plant variety protection regimes. Following an initial submission, members are encouraged to submit an updated or revised version to reflect any new changes in biotechnology and plant variety protection regimes.

The responses from members have been circulated in [IP/C/W/125](#), addenda, supplements and revisions; they are also more readily accessible online on the e-TRIPS Gateway. At the Council's request, the Secretariat prepared a note summarizing these

responses. Document [IP/C/W/273/Rev.1](#) is the most recent version of the summary (available on the WTO Documents Online database).