

Annex 9

Annex on Intellectual Property Rights

Under Article 27(1) of the Agreement

Article 1

Trade and Development

Tripartite Member States undertake to:

- (a) Promote, encourage and facilitate the generation, innovation, creation, development, use, exploitation, commercialization, and licensing of Intellectual Property Rights, as well as effective protection of Intellectual Property Rights (IPRs);
- (b) Promote and facilitate the mainstreaming of IPR into all policies, structures, systems, programs and activities of the Tripartite Member States;
- (c) Promote and encourage the mainstreaming of IP into the economic, industrial, technological, social and cultural policies, systems, structures, programmes and activities of the Tripartite Member States;
- (d) Take urgent measures to transform Tripartite Member States' economies from being 'raw material or resource-based economies' to 'knowledge-based and innovation-driven economies' so as to be more competitive in the global economy;
- (e) Encourage the creation of a supportive environment for innovation and creativity including providing incentives and funding of research and development activities, innovation, creativity and IPR education as well as the establishment of innovation or technology parks or Intellectual Property (IP) centres of excellence within the Tripartite Member States;
- (f) Increase the awareness and effective use of IPR within the region, particularly by the business community in sectors such as trade, industry, science, and technology;
- (g) Promote, encourage and facilitate the audit or assessment of the IPRs of the Tripartite Member States and their contribution to the growth and economic development of Tripartite Member States;
- (h) Encourage innovation and creativity at all levels of economic activities of the Tripartite Member States as a pre-condition for accelerating cultural, social and economic development;
- (i) Build capacity in institutions and human resources required for IP innovation and creativity; and
- (j) Enhance the capacity of policy and decision makers to fully appreciate the potential benefits of IPR in cultural, social and economic development and play an active role in the unfolding global IPR arena.

Article 2 Trade Negotiations

Tripartite Member States undertake to:

- (a) Effectively participate in the negotiations where IPR issues are considered, whether at the international, regional or other levels in order to ensure pro-development outcomes for the region;
- (b) Facilitate the increase in regional trade in IPR-intensive products and the free flow of IPRs using all the available flexibility in international and regional instruments on IPRs;
- (c) Develop an effective IPR promotion and protection system in the Member States so as to create incentives for innovation and creativity as well as for foreign direct investment;
- (d) Promote and encourage joint ventures, alliances or licensing of technology as a way of facilitating technology transfer to the Tripartite Member States;
- (e) Design programmes to promote creative input or IPR value chain in the goods produced in the region including branding and marketing using IPR;
- (f) Promote the use of IPR in business strategies by the firms or business community in the region in order to be competitive globally and boost export income;
- (g) Promote the effective use and exploitation of the opportunities created by information and communications technology such as internet and e-commerce in the selling, branding and marketing of goods both within and outside of the region; and
- (h) Promote collaboration in the fight against production, manufacturing and trade in counterfeit and pirated goods within the region.

Article 3 Cultural and Creative Industries

Tripartite Member States undertake to:

- (a) Adopt effective policy and legal frameworks to promote and protect cultural and creative industries, and derive the maximum benefits from these industries;
- (b) Improve and strengthen Tripartite Member States capacities for creating, producing, distributing, marketing, branding and exhibiting cultural industry goods or products as well as facilitating better access to foreign markets;
- (c) Reduce dependence on the copyright and cultural industries products and goods produced outside the region;
- (d) Encourage the establishment of galleries of cultural industries goods such as art and handicrafts within the region as well as other venues outside the region and facilitate better access to foreign markets;

- (e) Ensure the competitiveness of the Tripartite Member States' copyright and cultural and industries in the global trade;
- (f) Conduct assessment or audit of firms or organizations involved in creating, producing, dissemination and marketing of cultural products or goods and services in Tripartite Member States and sector by sector (such as book publishing, audio-visual, crafts and visual arts, recording industries, tourism) with a view to evaluating the contribution of cultural industries to social and economic development and poverty reduction in Tripartite Member States;
- (g) Create fora for exchange of ideas and interaction by stakeholders in the cultural and creative industries such as policy makers, artists, craftsmen, creators, business community, private sector, and co-operating partners;
- (h) Encourage the setting up or establishment of collective management organizations or societies in the copyright and cultural and creative industries; and
- (i) Promote co-operation and collaboration within and outside the region on issues regarding cultural and creative industries.

Article 4 Traditional Knowledge

Tripartite Member States undertake to:

- (a) Promote the use of traditional knowledge (TK), genetic resources (GR) and folklore including the recognition of the rights of TK, GR and Folklore holders and actively ensure they are duly rewarded;
- (b) Secure the protection of TK, GR and Folklore through IP or sui generis systems, to prevent misappropriation, misuse, and exploitation;
- (c) Create systems to govern protection, promotion, utilization and further development of TK, GR and Folklore such as creation of databases, development of guidelines for access benefit sharing (ABS), and Prior Informed Consent (PIC);
- (d) Ensure the acknowledgment and recognition of the sources of TK, GR and Folklore by the users as well as obtaining PIC from the holders of TK, GR and Folklore;
- (e) Create forums for exchange of ideas and interaction by stakeholders in TK, GR and Folklore such as policy makers, scientists, research and development institutions, business community, private sector, local communities, intergovernmental organizations, and co-operating partners;
- (f) Utilise advantages created by biotechnology to exploit and enhance TK and GR within the Tripartite Member States, and where necessary through joint ventures, alliances or technology transfer and licensing;
- (g) Support and participate in the on-going regional and international negotiations on the protection of TK, GR and Folklore;

- (h) Encourage the Tripartite Member States to ratify or accede to and effectively implement international treaties such the Convention on Biodiversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) that promote the protection of TK and GR; and
- (i) Co-operate and collaborate within and outside the region on issues regarding TK, GR and Folklore.

Article 5
Information and Communications Technology

Tripartite Member States undertake to:

- (a) Adopt policy and legal measures to promote the use of ICT by the business community, micro small and medium enterprises in branding, marketing and selling of goods or services locally and globally;
- (b) Mainstream ICT into the cultural, social and economic activities of the Tripartite Member States; and
- (c) Encourage the Member States to take measures to create competition and reduce the cost of ICT so as to promote access.

Article 6
Copy Rights

Tripartite Member States undertake to:

- (a) Take policy and legislative measures to promote and protect copyright and related works while bearing in mind the balance that exists between copyright owners or holders and the users of the rights;
- (b) Promote and encourage the Tripartite Member States to audit copyright works and copyright industries in order to assess their contribution to the cultural, social and economic development of the region;
- (c) Promote and encourage collaboration in protection and enforcement of copyright works within the region including fight against trade in pirated copyright works such as music, film or audio-visual products within the region.
- (d) Encourage Tripartite Member States to utilize and exploit to the full the flexibilities or limitations provided in IP international treaties so as to facilitate access to copyrighted works; and
- (e) Develop awareness campaigns about copyright rights for artists, agents, studio managers, consumers, business community, policy makers and enforcement agencies.

Article 7
Industrial Property

Tripartite Member States undertake to:

- (a) Take policy and legislative measures to promote and protect industrial property rights so as to derive maximum benefits;
- (b) Promote and encourage the Tripartite Member States to audit industrial property rights in order to assess their contribution to the cultural, social and economic development;
- (c) Promote and encourage collaboration in protection and enforcement of industrial property, particularly the fight against production, manufacture and trade in counterfeit goods within the region.
- (d) Encourage Tripartite Member States to utilize and exploit to the full the flexibilities provided in IPR international treaties such as the Doha Declaration on the TRIPS Agreement and Public Health so to facilitate access to medicines for all people particularly the marginalised of society; and
- (e) Promote harmonization of industrial property legislation within the region.

Article 8
Intellectual Property Audits

Tripartite Member States undertake to:

- (a) Encourage companies within the region to undertake audit and valuation of their IPRs, and promote the use of IPR as one of the key tools for raising finance; and
- (b) Conduct audit of IPR use and creation in the Tripartite Member States with a view of assessing their contribution to cultural, social and economic welfare of Tripartite Member States.