

**Council for Trade-Related Aspects
of Intellectual Property Rights**

**THE RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND
THE CONVENTION ON BIOLOGICAL DIVERSITY**

SUMMARY OF ISSUES RAISED AND POINTS MADE

Note by the Secretariat

Corrigendum

*This document has been prepared under the Secretariat's own
responsibility and without prejudice to the positions of Members
and to their rights and obligations under the WTO*

The annex to document IP/C/W/368/Rev.1 should be replaced with the annex to this document.

¹ In English and Spanish only.

ANNEX

DOCUMENTS OF THE COUNCIL FOR TRIPS WITH RESPECT TO THE REVIEW OF THE PROVISIONS OF ARTICLE 27.3(B), THE RELATIONSHIP BETWEEN TRIPS AND THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE

The reports on the meetings of the Council for TRIPS held during the period January 1999 to January 2006 (IP/C/M/21-35, 36/Add.1, 37/Add.1, 38-40 and 42-49) reflect the work done so far in the Council for TRIPS with respect to three agenda items, namely, the review of the provisions of Article 27.3(b); the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD); and the protection of traditional knowledge and folklore (List A). The substantive discussions in the Council for TRIPS on these issues have been recorded in the reports of the meetings held from August 1999 to January 2006 (IP/C/M/24-35, 36/Add.1, 37/Add.1, 38-40 and 42-49).

Other documents that have been made available include:

- Members' submissions relating to specific issues. Over the period December 1998 to November 2005, 51 papers have been submitted by Members or groups of Members (List B).
- Information on national legislation, practices and experiences provided by eight Members (List C)
- Responses to the questionnaire on Article 27.3(b) from 25 Members (List D).
- Information provided on work in intergovernmental organizations (List E).
- Notes by the Secretariat on relevant issues under discussion in the Council for TRIPS (List F).

LIST A – Records of the work of the Council for TRIPS		
IP/C/M/21-35, 36/Add.1, 37/Add.1, 38-40 and 42-49	Minutes of the Council for TRIPS Meetings	22 January 1999 - 31 January 2006

LIST B - Members' submissions relating to the agenda items			
2005			
Bolivia, Brazil, Colombia, Cuba, India, and Pakistan	IP/C/W/459	The Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge - Technical Observations on US Submission IP/C/W/449	18 November 2005
Peru	IP/C/W/458	Analysis of Potential Cases of Biopiracy	7 November 2005
United States	IP/C/W/449	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore	10 June 2005
Peru	IP/C/W/447	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	8 June 2005
Switzerland	IP/C/W/446	The Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore and the Review of Implementation of the TRIPS Agreement under Article 71.1	30 May 2005
Brazil, India	IP/C/W/443	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the Protection of Traditional Knowledge: Technical Observations on Issues Raised in a Communication by the United States (IP/C/W/434)	18 March 2005
Bolivia, Brazil, Colombia, Cuba, Dominican Republic, Ecuador, India, Peru, Thailand	IP/C/W/442	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the Protection of Traditional Knowledge - Elements of the Obligation to Disclose Evidence of Benefit-Sharing under the Relevant National Regime	18 March 2005
Peru	IP/C/W/441/Rev.1	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	19 May 2005
Peru	IP/C/W/441	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	8 March 2005

LIST B - Members' submissions relating to the agenda items			
Dominican Republic	IP/C/W/429/Rev.1/Add.3	Request of the Dominican Republic to be added to the List of Sponsors of Document IP/C/W/429/Rev.1	10 February 2005
Colombia	IP/C/W/429/Rev.1/Add.2	Request of Colombia to be added to the List of Sponsors of Document IP/C/W/429/Rev.1	20 January 2005
2004			
Bolivia, Brazil, Cuba, Ecuador, India, Pakistan, Peru, Thailand, Venezuela	IP/C/W/438	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD), and the Protection of Traditional Knowledge - Elements of the Obligation to Disclose Evidence of Prior Informed Consent under the Relevant National Regime	10 December 2004
United States	IP/C/W/434	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD, and the Protection of Traditional Knowledge and Folklore	26 November 2004
Switzerland	IP/C/W/433	Further Observations by Switzerland on its Proposals regarding the Declaration of the Source of Genetic Resources and Traditional Knowledge in Patent Applications	25 November 2004
Bolivia	IP/C/W/429/Rev.1/Add.1	Request from Bolivia to be added to the List of Sponsors of document IP/C/W/429/Rev.1	14 October 2004
Brazil, Cuba, Ecuador, India, Pakistan, Peru, Thailand and Venezuela	IP/C/W/429/Rev.1	Revised Version of Document IP/C/W/429 and Request from Cuba and Ecuador to be added to the List of Sponsors	27 September 2004
Brazil, India, Pakistan, Peru, Thailand and Venezuela	IP/C/W/429	Elements of the Obligation to Disclose the Source and Country of Origin of Biological Resources and/or Traditional Knowledge Used in an Invention	21 September 2004
Switzerland	IP/C/W/423	Additional Comments by Switzerland on its Proposal Submitted to WIPO Regarding the Declaration of the Source of Genetic Resources and Traditional Knowledge in Patent Applications	14 June 2004
Bolivia	IP/C/W/420/Add.1	Request of Bolivia to be added to the List of Sponsors of Document IP/C/W/420	5 March 2004
Brazil, Cuba, Ecuador, India, Peru, Thailand and Venezuela	IP/C/W/420	The Relationship Between the TRIPS Agreement and the Convention on Biological Diversity (CBD) - Checklist of Issues	2 March 2004

LIST B - Members' submissions relating to the agenda items			
2003			
African Group	IP/C/W/404	Taking Forward the Review of Article 27.3(b) of the TRIPS Agreement	26 June 2003
Bolivia, Brazil, Cuba, Dominican Republic, Ecuador, India, Peru, Thailand, Venezuela	IP/C/W/403	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity and the Protection of Traditional Knowledge	24 June 2003
Switzerland	IP/C/W/400/ Rev.1	Article 27.3(b), the Relationship between the TRIPS Agreement and the Convention on Biological Diversity, and the Protection of Traditional Knowledge	18 June 2003
Switzerland	IP/C/W/400	Article 27.3(b), the Relationship between the TRIPS Agreement and the Convention on Biological Diversity, and the Protection of Traditional Knowledge	28 May 2003
United States	IP/C/W/393	Access to Genetic Resources Regime of the United States National Parks	28 January 2003
2002			
European Communities and member States	IP/C/W/383	Review of Article 27.3(B) of the TRIPS Agreement, and the Relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the Protection of Traditional Knowledge and Folklore	17 October 2002
Peru	IP/C/W/356/ Add.1	Request of Peru to be added to the List of Sponsors of Document IP/C/W/356	1 November 2002
Brazil, China, Cuba, Dominican Republic, Ecuador, India, Pakistan, Thailand, Venezuela, Zambia and Zimbabwe	IP/C/W/356	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity and the Protection of Traditional Knowledge	24 June 2002
United States	IP/C/W/341	Technology Transfer Practices of the US National Cancer Institute's Departmental Therapeutics Programme	25 March 2002
2001			
Australia	IP/C/W/310	Communication from Australia: Review of Article 27.3(b)	2 October 2001

LIST B - Members' submissions relating to the agenda items			
EC	IP/C/W/254	Review of the Provisions of Article 27.3(b) of the TRIPS Agreement: Communication from the European Communities and their Member States	13 June 2001
Norway	IP/C/W/293	Communication from Norway: Review of Article 27.3(b) of the TRIPS Agreement: The Relationship between the TRIPS Agreement and the Convention on Biological Diversity	29 June 2001
Switzerland	IP/C/W/284	Communication from Switzerland: Review of Article 27.3(b): The View of Switzerland	15 June 2001
United States	IP/C/W/257	Communication from the United States - Views of the United States on the Relationship between the Convention on Biological Diversity and the TRIPS Agreement	13 June 2001
2000			
Brazil	IP/C/W/228	Review of Article 27.3(b) - Communication from Brazil	24 November 2000
India	IP/C/W/195	Communication from India	12 July 2000
India	IP/C/W/196	Communication from India	12 July 2000
India	JOB(00)/6091	Non-paper by India: Issues for Discussion under the Review of the Provisions of Article 27.3(b) of the TRIPS Agreement	5 October 2000
Japan	IP/C/W/236	Review of the Provisions of Article 27.3(b) - Japan's View	11 December 2000
Mauritius	IP/C/W/206	Communication from Mauritius on behalf of the African Group	20 September 2000
Singapore	JOB(00)/7853	Non-paper by Singapore - Article 27.3(b)	11 December 2000
United States	IP/C/W/209	Review of the Provisions of Article 27.3(b) - Further Views of the United States - Communication from the United States	3 October 2000
1999			
Andean Group	IP/C/W/165	Review of the Provisions of Article 27.3(b) - Proposal on Protection of the Intellectual Property Rights Relating to the Traditional Knowledge of Local and Indigenous Communities - Communication from Bolivia, Colombia, Ecuador, Nicaragua and Peru	3 November 1999
Canada, EC, Japan and the United States	IP/C/W/126	Review of the Provisions of Article 27.3(b) - Communication from Canada, the European Communities, Japan and the United States	5 February 1999
Brazil	IP/C/W/164	Review of the Provisions of Article 27.3(b) - Communication from Brazil	29 October 1999

LIST B - Members' submissions relating to the agenda items			
Cuba, Honduras, Paraguay and Venezuela	IP/C/W/166	Review of Implementation of the Agreement under Article 71.1: Proposal on Protection of the Intellectual Property Rights of the Traditional Knowledge of Local and Indigenous Communities	5 November 1999
India	IP/C/W/161	Review of the Provisions of Article 27.3(b) - Communication from India	3 November 1999
African Group	IP/C/W/163	Review of the Provisions of Article 27.3(b) - Communication from Kenya on behalf of the African Group	8 November 1999
Norway	IP/C/W/167	Review of the Provisions of Article 27.3(b) - Communication from Norway	3 November 1999
United States	IP/C/W/162	Review of the Provisions of Article 27.3(b) - Communication from the United States	29 October 1999
1998			
Mexico	Job No. 6957	Non-paper from Mexico: Application of Article 27.3(b)	8 December 1998

LIST C – Information on national legislation, practices and experiences			
2006			
Norway	IP/C/M/49, para. 120	Minutes of the Council for TRIPS Meeting	31 January 2006
Peru	IP/C/M/49, paras. 81-84	Minutes of the Council for TRIPS Meeting	31 January 2006
2005			
Peru	IP/C/W/458	Analysis of Potential Cases of Biopiracy	7 November 2005
India	IP/C/M/48, paras. 57-59	Minutes of the Council for TRIPS Meeting	15 September 2005
Norway	IP/C/M/48, para. 81	Minutes of the Council for TRIPS Meeting	15 September 2005
Peru	IP/C/W/447	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	8 June 2005
Peru	IP/C/W/441/ Rev.1	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	19 May 2005
Peru	IP/C/M/47, paras. 16-23	Minutes of the Council for TRIPS Meeting	3 June 2005
Peru	IP/C/W/441	Article 27.3(b), Relationship between the TRIPS Agreement and the CBD and Protection of Traditional Knowledge and Folklore	8 March 2005
Australia	IP/C/M/46, para. 63	Minutes of the Council for TRIPS Meeting	11 January 2005

LIST C – Information on national legislation, practices and experiences			
2004			
Peru	IP/C/M/45, para. 31	Minutes of the Council for TRIPS Meeting	27 October 2004
Chinese Taipei	IP/C/M/43, para. 58	Minutes of the Council for TRIPS Meeting	7 May 2004
EC	IP/C/M/43, para. 39	Minutes of the Council for TRIPS Meeting	7 May 2004
Norway	IP/C/M/43, para. 54	Minutes of the Council for TRIPS Meeting	7 May 2004
EC	IP/C/M/42, para. 108	Minutes of the Council for TRIPS Meeting	4 February 2004
United States	IP/C/M/42, para. 110	Minutes of the Council for TRIPS Meeting	4 February 2004
2003			
Norway	IP/C/M/40, paras. 87-88	Minutes of the Council for TRIPS Meeting	22 August 2003
Norway	IP/C/M/39, para. 121	Minutes of the Council for TRIPS Meeting	21 March 2003
Peru	IP/C/M/38, para. 245	Minutes of the Council for TRIPS Meeting	5 February 2003
United States	IP/C/W/393	Access to Genetic Resources Regime of the United States National Parks	28 January 2003
2002			
India	IP/C/M/37/ Add.1, para. 253	Minutes of the Council for TRIPS Meeting	8 November 2002
New Zealand	IP/C/M/37/ Add.1, para. 248	Minutes of the Council for TRIPS Meeting	8 November 2002
Peru	IP/C/M/36/ Add.1, para. 204	Minutes of the Council for TRIPS Meeting	10 September 2002
United States	IP/C/W/341	Technology Transfer Practices of the US National Cancer Institute's Departmental Therapeutics Programme - Communication from the United States	25 March 2002
2001			
Australia	IP/C/W/310	Communication from Australia: Review of Article 27.3(b)	2 October 2001
Peru	IP/C/W/246	Communication from Peru: Peru's Experience of the Protection of Traditional Knowledge and Access to Genetic Resources	14 March 2001
2000			
India	IP/C/W/198	Protection of Biodiversity and Traditional Knowledge - The Indian Experience	14 July 2000

LIST D - Information on Review of the Provisions of Article 27.3(b)			
2004			
Moldova	IP/C/W/125/Add.24	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	26 January 2004
2002			
Lithuania	IP/C/W/125/Add.23	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	22 July 2002
2001			
Czech Republic	IP/C/W/125/Add.8/Suppl.1	Review of the Provisions of Article 27.3(b) - Information from Members - Supplement	18 September 2001
Thailand	IP/C/W/125/Add.22	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	10 August 2001
Hong Kong, China	IP/C/W/125/Add.21	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	10 July 2001
Estonia	IP/C/W/125/Add.20	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	2 July 2001
2000			
Iceland	IP/C/W/125/Add.19	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	17 July 2000
1999			
Slovak Republic	IP/C/W/125/Add.18	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	27 July 1999
Norway	IP/C/W/125/Add.17	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	19 May 1999
South Africa	IP/C/W/125/Add.16/Corr.1	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum - Corrigendum	25 May 1999
South Africa	IP/C/W/125/Add.16	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	21 April 1999
Switzerland	IP/C/W/125/Add.15	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	13 April 1999
Morocco	IP/C/W/125/Add.14	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	20 April 1999
Australia	IP/C/W/125/Add.13	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 March 1999
Canada	IP/C/W/125/Add.12	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	12 March 1999
Poland	IP/C/W/125/Add.11	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	12 March 1999
Slovenia	IP/C/W/125/Add.10	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 February 1999
Korea	IP/C/W/125/Add.9	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 February 1999
Czech Republic	IP/C/W/125/Add.8	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 February 1999
Japan	IP/C/W/125/Add.7	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	12 March 1999
Romania	IP/C/W/125/Add.6	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 February 1999

LIST D - Information on Review of the Provisions of Article 27.3(b)			
United States	IP/C/W/125/Add.5	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	20 April 1999
European Communities	IP/C/W/125/Add.4	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	10 February 1999
Zambia	IP/C/W/125/Add.3	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	10 February 1999
New Zealand	IP/C/W/125/Add.2	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	12 February 1999
Hungary	IP/C/W/125/Add.1	Review of the Provisions of Article 27.3(b) - Information from Members - Addendum	16 February 1999
Bulgaria	IP/C/W/125	Review of the Provisions of Article 27.3(b) - Information from Members	3 February 1999

LIST E - Information on the work of intergovernmental organizations			
2002			
UPOV	IP/C/W/347/Add.3	Review of the Provisions of Article 27.3(b), Relationship between the TRIPS Agreement and the Convention on Biological Diversity and Protection of Traditional Knowledge and Folklore	11 June 2002
UNCTAD	IP/C/W/347/Add.2	Review of the Provisions of Article 27.3(b), Relationship between the TRIPS Agreement and the Convention on Biological Diversity and Protection of Traditional Knowledge and Folklore	10 June 2002
CBD	IP/C/W/347/Add.1	Review of the Provisions of Article 27.3(b), Relationship between the TRIPS Agreement and the Convention on Biological Diversity and Protection of Traditional Knowledge and Folklore	10 June 2002
FAO	IP/C/W/347	Review of the Provisions of Article 27.3(b), Relationship between the TRIPS Agreement and the Convention on Biological Diversity and Protection of Traditional Knowledge and Folklore	7 June 2002
2001			
WIPO	IP/C/W/242	Statement by the World Intellectual Property Organization (WIPO) on Intellectual Property, Biodiversity and Traditional Knowledge	6 February 2001
2000			
UNCTAD	IP/C/W/230	Document Prepared by the UNCTAD Secretariat for the Expert Meeting on Systems and National Experiences for Protecting Traditional Knowledge, Innovations and Practices which took place from 30 October to 1 November 2000 in Geneva: Outcome of the Expert Meeting	14 December 2000

LIST E - Information on the work of intergovernmental organizations			
International Bureau of WIPO	IP/C/W/218	Document Prepared by the International Bureau of WIPO for the Meeting on Intellectual Property and Genetic Resources, which took place on 17 and 18 April 2000 in Geneva: Intellectual Property and Genetic Resources - An Overview	18 October 2000
International Bureau of WIPO	IP/C/W/217	Document Prepared by the International Bureau of WIPO for the Roundtable on Intellectual Property and Traditional Knowledge, which took place on 1 and 2 November 1999 in Geneva: Protection of Traditional Knowledge: A Global Intellectual Property Issue	18 October 2000
1999			
CBD	IP/C/W/130/Add.1	Review of the Provisions of Article 27.3(b) - Information from Intergovernmental Organizations - Addendum	16 March 1999
FAO	IP/C/W/130/Add.2	Review of the Provisions of Article 27.3(b) - Information from Intergovernmental Organizations - Addendum	12 April 1999
UPOV	IP/C/W/130	Review of the Provisions of Article 27.3(b) - Information from Intergovernmental Organizations	17 February 1999

LIST F - Notes by the Secretariat		
2003		
IP/C/W/273/Rev.1	Review of the Provision of Article 27.3(b): Illustrative List of Questions Prepared by the Secretariat - Revision	18 February 2003
2002		
IP/C/W/370	The Protection of Traditional Knowledge and Folklore - Summary of Issues Raised and Points Made	8 August 2002
IP/C/W/369	Review of the Provisions of Article 27.3(b) - Summary of Issues Raised and Points Made	8 August 2002
IP/C/W/368	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity - Summary of Issues Raised and Points Made	8 August 2002
JOB(02)/60	The Protection of Traditional Knowledge and Folklore - Summary of Issues Raised and Points Made	18 June 2002
JOB(02)/59	Review of the Provision of Article 27.3(b) - Summary of Issues Raised and Points Made	18 June 2002
JOB(02)/58	The Relationship between the TRIPS Agreement and the Convention on Biological Diversity - Summary of Issues Raised and Points Made	18 June 2002
2001		
Job No. 2689 IP/C/W/273	Review of the Provisions of Article 27.3(b): Synoptic Tables of Information provided by Members - Informal Note by the Secretariat	5 June 2001

LIST F - Notes by the Secretariat		
2000		
JOB(00)/7517	The Relationship between the Convention on Biological Diversity and the TRIPS Agreement: Checklist of Points Made - Note by the Secretariat	23 November 2000
1999		
Job no. 2627	UPOV-WIPO-WTO Joint Symposium on the Protection of Plant Varieties under Article 27.3(b) of the TRIPS Agreement: Texts of presentations	7 May 1999
1998		
IP/C/W/122	Illustrative Questions: Review of the Provisions of Article 27.3(b)	22 December 1998
