

# TRIPS Agreement – General Principles

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# TRIPS Norms-

Art 2 application of IP conventions

Art 3 national treatment

Art 4 most favoured nation

Art 7 objectives

Art 8 principles

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## Article 2.1

- ...Members shall comply with Articles 1 through 12, and Article 19, of the Paris Convention (1967).

# Paris Convention

- Article 1: Establishment of the Union; Scope of Industrial Property
- Article 2: National Treatment for Nationals of Countries of the Union
- Article 3: Same Treatment for Certain Categories of Persons as for Nationals of Countries of the Union
- Article 4: A. to I. *Patents, Utility Models, Industrial Designs, Marks, Inventors' Certificates*: Right of Priority.— G. *Patents*: Division of the Application
- Article 4<sup>bis</sup>: *Patents*: Independence of Patents Obtained for the Same Invention in Different Countries
- Article 4<sup>ter</sup>: *Patents*: Mention of the Inventor in the Patent
- Article 4<sup>quater</sup>: *Patents*: Patentability in Case of Restrictions of Sale by Law

# Paris Convention

Article 5:	<i>A Patents: Importation of Articles; Failure to Work or Insufficient Working; Compulsory Licenses. – B. Industrial Designs: Failure to Work; Importation of Articles. – C. Marks: Failure to Use; Different Forms; Use by Co–proprietors. – D. Patents, Utility Models, Marks, Industrial Designs: Marking</i>
Article 5 <sup>bis</sup> :	<i>All Industrial Property Rights: Period of Grace for the Payment of Fees for the Maintenance of Rights; Patents: Restoration</i>
Article 5 <sup>ter</sup> :	<i>Patents: Patented Devices Forming Part of Vessels, Aircraft, or Land Vehicles</i>
Article 5 <sup>quater</sup> :	<i>Patents: Importation of Products Manufactured by a Process Patented in the Importing Country</i>
Article 5 <sup>quinquies</sup> :	<i>Industrial Designs</i>

# Paris Convention

Article 6:	<i>Marks: Conditions of Registration; Independence of Protection of Same Mark in Different Countries</i>
Article 6 <sup>bis</sup> :	<i>Marks: Well-Known Marks</i>
Article 6 <sup>ter</sup> :	<i>Marks: Prohibitions concerning State Emblems, Official Hallmarks, and Emblems of Intergovernmental Organizations</i>
Article 6 <sup>quater</sup> :	<i>Marks: Assignment of Marks</i>
Article 6 <sup>quinquies</sup> :	<i>Marks: Protection of Marks Registered in One Country of the Union in the Other Countries of the Union</i>
Article 6 <sup>sexies</sup> :	<i>Marks: Service Marks</i>
Article 6 <sup>septies</sup> :	<i>Marks: Registration in the Name of the Agent or Representative of the Proprietor Without the Latter's Authorization</i>
Article 7:	<i>Marks: Nature of the Goods to which the Mark is Applied</i>
Article 7 <sup>bis</sup> :	<i>Marks: Collective Marks</i>

# Paris Convention

Article 8:	<i>Trade Names</i>
Article 9:	<i>Marks, Trade Names: Seizure, on Importation, etc., of Goods Unlawfully Bearing a Mark or Trade Name</i>
Article 10:	<i>False Indications: Seizure, on Importation, etc., of Goods Bearing False Indications as to their Source or the Identity of the Producer</i>
Article 10 <sup>bis</sup> :	<i>Unfair Competition</i>
Article 10 <sup>ter</sup> :	<i>Marks, Trade Names, False Indications, Unfair Competition: Remedies, Right to Sue</i>
Article 11:	<i>Inventions, Utility Models, Industrial Designs, Marks: Temporary Protection at Certain International Exhibitions</i>
Article 12:	<i>Special National Industrial Property Services</i>



## National Treatment - TRIPS Article 3

- Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property .....,

# Most-Favoured Nation Treatment - Art.4

- With regard to the protection of intellectual property, any advantage, favour, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members.

## Eg Australia – US Free Trade Agreement, 2004

2. Each Party affirms that it has ratified or acceded to the following agreements, as revised and amended:

(a) the *Patent Cooperation Treaty* (1970);

(b) the *Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite* (1974);

(c) the *Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks* (1989);

(d) the *Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure* (1980);

(e) the *International Convention for the Protection of New Varieties of Plants* (1991);

(f) the *Trademark Law Treaty* (1994);

## TRIPS Art 27.3(b)

- Members shall provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof.