

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)

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Negotiating Group on Trade-Related Aspects  
of Intellectual Property Rights, Including  
Trade in Counterfeit Goods

COMMUNICATION FROM MEXICO

The following communication has been received from the Permanent Mission of Mexico with the request that it be distributed to members of the Group.

The Delegation of Mexico wishes to present a formal statement of its views concerning the elements that must be taken into account in the negotiations in order to contribute to the definition of multilateral mechanisms for the enforcement of intellectual property rights (IPRs).

I. General remarks

1. The protection of intellectual property rights plays a priority rôle in Mexico's industrial and trade policy. The importance of an appropriate intellectual property system as an element in attracting foreign investment and technological development is recognized.
2. Mexico accepts, and has raised in this Group, the need for an open discussion of intellectual property issues, with a view to clearly defining the aspects which distort or hinder international trade.
3. The negotiations should maintain a suitable balance between the need to protect intellectual property and the need to protect the public interest and economic and technological development objectives.

In this context, the delegation of Mexico submits the following views on issues of interest raised so far.

II. Applicability of the principles of the GATT and of other international agreements

Mexico supports consideration of general aspects or principles of the General Agreement related with trade issues of IPRs, in particular transparency, national treatment, most favoured nation, non-discrimination, international co-operation, consultation and dispute settlement.

With regard to transparency, Mexico supports the establishment of commitments concerning the divulcation of laws and regulations concerning IPRs, as well as the powers and responsibilities of the agents who enjoy such protection (including surveillance provisions) so that a periodic evaluation of the level of protection provided may be made.

National treatment is understood to mean that the protection of intellectual property available to foreigners shall be the same as that available to nationals of a contracting party.

Mexico considers it particularly important to adopt a dispute-settlement mechanism containing expeditious procedures both for the holding of consultations and for the binding settlement of disputes, on the basis of recommendations made by recognized experts in the field.

### III. Provision of adequate standards and principles concerning the availability, scope and use of IPRs

In the Uruguay Round the negotiations should seek to obtain results on general aspects which complement the specific aspects negotiated in WIPO. The negotiations should comprehensively cover standards on patents, trade marks, geographical indications, including appellations of origin, copyright, integrated circuits and trade secrets.

#### Patents

Patentability in principle may refer to procedures for the manufacture of a product and to the product itself. Nevertheless, transitional arrangements should be available to enable developing countries to adjust to the agreed standards and modalities. Likewise, it should be recognized that in exceptional cases the scope of this obligation may be restricted on grounds of domestic social objectives.

The term of protection should not exceed twenty years. However, the term for developing countries should be set with flexible criteria, establishing a general minimum term and taking account of the specific needs of each country.

#### Trade marks

Trade marks of products and services should be protected regardless of whether they are domestic or foreign. Foreign establishments must comply with the foreign investment regulations of the host country in accordance with the international guidelines in this field.

#### Copyright

Mexico considers that accession to the Berne Convention would suffice for protection of these rights.

Integrated circuits

Mexico supports the WIPO Agreement.

Trade secrets

There should be an agreement for the protection of trade secrets which establishes conditions of general legal security so as to encourage associations among enterprises and the transfer of technology between them.

IV. Provision of effective and appropriate means for the enforcement of intellectual property rights

Every country must have the essential legal self-determination for the implementation of its legislation. To that end, the negotiations must not seek to harmonize national laws but rather to establish agreed general principles to which participants must gradually adjust. In addition, enforcement measures must not be incompatible with the GATT.

V. Provision of effective and expeditious procedures for the prevention and settlement of disputes

The GATT dispute-settlement mechanism is a useful instrument that could be used in TRIPs in accordance with the procedures eventually agreed for the mechanism during the current Round.

VI. Transitional arrangements aiming at the fullest participation in the results of the negotiations

The negotiations must seek to achieve a set of principles which strike a balance between the interests of developed countries and those of developing countries. In particular, developing countries should have special and more favourable treatment in this field, allowing, for example:

- (i) A shorter term for the patent, with the possibility of extension.
- (ii) Transitional arrangements enabling them to adjust to the general standard agreed on.
- (iii) Legal technical assistance programmes for countries which so request for the improvement of their intellectual property systems.
- (iv) The channelling of financial resources to developing countries to enable them to modernize their trade mark and patent registration infrastructure, and the provision of technical assistance for training the necessary staff for this purpose.
- (v) Improvements in conditions of access for the use of IPRs.

VII. Counterfeit goods

Mexico is in favour of the establishment of a multilateral framework of principles and rules to eliminate trade in counterfeit goods.

In line with what is agreed multilaterally, each country should determine for itself the civil, administrative, judicial and criminal means it considers appropriate for eliminating trade in counterfeit goods. With regard to border measures, the customs measures stipulated must not be considered the sole or essential means of control, since both in law and in practice effective measures against unfair competition exist within the territory of contracting parties.

Mexico also favours the incorporation of this agreement in the GATT.