Developing Countries—Compliance with the TRIPS Agreement

Updated Version

International Trademark Association
TRIPS 2000 Subcommittee, Treaty Analysis Committee
October 1999

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Developing Countries’ Compliance with the TRIPs Agreement
International Trademark Association
TRIPs 2000 Subcommittee, Treaty Analysis Committee
July 1999

Introduction

On 1 January 1995, the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) came into effect. The Agreement provides rules concerning trade-related intellectual property rights, covering basic principles of previous intellectual property conventions, standards regarding availability, scope, and use of intellectual property rights, effective and appropriate enforcement, multilateral dispute settlement procedures, and transitional arrangements for developing nations.

The Agreement is administered by the World Trade Organization (WTO), the successor organization to the General Agreement on Tariffs and Trade (GATT). The WTO is endowed with some capacity to enforce the TRIPs Agreement through administrative panels and dispute resolution mechanisms. As of 10 February 1999, there were 134 member states in the WTO and 36 observer governments.

In recognition of the difficulties adherence would require in some of the signatory countries, deadlines for compliance with the Agreement were adjusted according to the stage of a country’s economic development. Countries identified as developed were required to comply by 1 January 1996. Member states of the WTO participated in a process, administered by the TRIPs Council, through which these countries were questioned as to their compliance and were given an opportunity to show how their laws meet the TRIPs standards. The WTO Countries identified by the United Nations as least developed were given the longest transitional period and are not required to be in full compliance until 2006. The majority of the WTO member states fall into the category of developing countries, which were given until 1 January 2000 to comply with TRIPs.

TRIPs compliance is an issue of great concern to the member companies of INTA. Trademark owners want to be assured that when their company makes an investment in a market, its valuable intellectual property rights will be protected. Through a survey of some of its members in developed countries, INTA helped identify areas of non-compliance or ambiguity in the laws dealing with trademarks, geographical indications, and enforcement of intellectual property rights in those countries and made this information available to governments participating in the TRIPs Council review process.

In order to create an effective way of reviewing and monitoring TRIPs compliance in the developing countries, INTA’s Treaty Analysis Committee formed the TRIPs 2000 Subcommittee in May of 1998. This subcommittee was comprised of 12 members from around the world and was chaired by Marjorie Goux of Finnegan, Henderson, Farabow, Garrett & Dunner in Palo Alto, California. Building on the work completed by previous INTA subcommittees and task
forces, the TRIPs 2000 Subcommittee was asked to prepare an assessment of the level of TRIPs compliance in over 60 jurisdictions.

**Methodology**

The Subcommittee’s first task was to refine a template for TRIPs compliance which had been created for use in the analysis of the laws of the developed countries. The template covered trademarks, geographical indications, and enforcement (Part II, Articles 15-24 and Part III) and asked respondents to highlight any areas of the law which were not in compliance with TRIPs or where compliance was unclear.

The next step was to contact trademark professionals in each of the developing countries to ask them to complete the template vis-à-vis the laws in their jurisdiction. At the 1998 INTA Annual Meeting in Boston, the subcommittee was able to conduct many personal interviews with counsel from around the world. After the meeting, contact with these individuals was continued by fax and e-mail until templates could be completed for each country. In order to improve the accuracy of the final report, subcommittee members were then asked to find a second trademark professional in each country to verify the information provided by the first. A list of the individuals who participated in the project is provided as Appendix B to this report.

This process continued throughout the 1998-1999 INTA Committee year and a final set of completed templates was collected in the spring of 1999. From the completed templates, brief summaries were created for each country highlighting any aspects of non-compliance or ambiguity. The summaries are attached as Appendix A to this report. The full set of completed templates may be obtained by contacting INTA.

**Results**

On the whole, the subcommittee found that most countries were generally in compliance with the provisions of the TRIPs Agreement. Since the Agreement was signed, most countries have made amendments to their laws or are currently in the process of doing so.

However, nearly every country surveyed had at least one area where TRIPs compliance was deficient and most had multiple areas. Although the situations in each country vary greatly, there were some areas of non-compliance which were common to many countries.

**Trademarks**

In the field of trademarks, many countries lacked protection for service marks and for non-traditional trademarks such as alphanumeric marks and combinations of colors. Article 15 of TRIPs requires that any sign or combination of signs capable of distinguishing goods or services of one undertaking from those of other undertaking be eligible for registration as a trademark, including personal names, letters, numerals, figurative elements and combinations of colors.

Protection for well-known trademarks and service marks was also a problematic area for many countries. Article 16 of TRIPs requires that the protection of well-known marks afforded by
Article 6bis of the Paris Convention\(^1\) extend to service marks and apply to goods or services that are not similar to those in respect of which a trademark is registered, provided that use of that trademark would indicate a connection between those goods or services and the owner of the registered trademark and that the interests of the owner of the mark are likely to be damaged by such use. Article 16 also requires that in determining whether a mark is well-known, account must be taken of knowledge of the trademark in the relevant sector of the public, including knowledge obtained as a result of promotion of the trademark. Many countries do not offer such protection, leaving well-known trademarks and service marks vulnerable to practices which could diminish the distinctive character of their mark.

**Geographical Indications**

Many developing countries have uneven protection for geographical indications. More seriously from the perspective of trademark owners, some countries have chosen to protect geographical indications at the expense of pre-existing trademark rights. Article 24(5) of TRIPs requires that where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either before the date of application of the Agreement in the member country or before the geographical indication is protected in its country of origin; measures adopted to implement TRIPs shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.

**Enforcement**

Enforcement of intellectual property rights is often the most problematic area for developing countries and in many cases is the area of greatest concern to mark owners. It is also more difficult to assess than the other sections of the Agreement.

One area which the Subcommittee found to be problematic is Customs procedures. Many countries do not have a procedure that would allow a right holder who has valid grounds for suspecting that the importation of counterfeit trademarked goods may take place to lodge an application with Customs for the suspension of the release of the goods as per Article 51 of the Agreement.

Many countries also do not give the courts the authority to adopt provisional measures where appropriate without offering the defendant an opportunity to be heard, in particular where any delay is likely to cause irreparable harm to the right holder or where there is a demonstrable risk of evidence being destroyed, as per Article 50.

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\(^1\) Article 6bis of the Paris Convention states, “The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.”
Conclusion

The intention of this report is not to denounce those countries whose compliance is lacking or to advocate that administrative panels be convened or trade sanctions be levied at those countries. INTA’s intent is rather to point out areas where TRIPs compliance could be improved and where the countries themselves and international organizations should focus their attention.

INTA has many resources that could assist developing countries with strengthening their protection for trademarks. INTA Officers, staff, and committee leaders frequently meet with officials from developing countries to discuss issues of mutual concern. These meetings take place at INTA’s Annual Meeting or INTA’s offices in New York, in international forums such as WIPO meetings, and through visits to developing countries by INTA delegations.

INTA also has a number of Board resolutions and reports on various policy issues that are made available to governments. Significant among these is INTA’s Model Law Guidelines, a comprehensive set of baseline standards by which INTA can evaluate and comment on new trademark legislation, treaties, or regulations. INTA has also studied model legislation regarding enforcement such as the World Customs Organization Model and the WIPO Model Anti-Counterfeiting provisions.

The Subcommittee made every effort to verify the accuracy of the reports it received for each country throughout the 1998-1999 INTA Committee year. However, since many countries continue to amend their laws to meet the 1 January 2000 deadline, some of the information contained herein may have changed by the time of publication of this report. Irregularities may also have arisen due to differences in interpretation of the TRIPs provisions by the individuals who completed templates. The report is intended to be a working document and will be updated with new information from time to time. Anyone wishing to suggest revisions or corrections may contact INTA.

1998-1999 Treaty Analysis Committee

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Appendices:

A. **Summaries of TRIPs Non-Compliance (Reports completed by the INTA subcommittee in 1999):** Antigua, Argentina, Barbados, Botswana, Brazil, Brunei, Colombia, Cuba, Cyprus, Egypt, El Salvador, Fiji, Gabon, Guatemala, Guyana, Hong Kong (China), Indonesia, Israel, Ivory Coast, Malaysia, Malta, Mauritius, Mexico, Morocco, Namibia, Philippines, Swaziland, Thailand, Uruguay, Zimbabwe.

B. **Addendum:**

**Summaries of TRIPs Non-Compliance (Reports completed in 2000) for the following countries:** Chile, Estonia, India, Jamaica, Kenya, Korea, Kuwait, Nicaragua, Nigeria, Pakistan, Paraguay, Poland, Qatar, Turkey, St. Lucia, Saint Vincent, UAE.
APPENDIX A
SUMMARIES OF TRIPS NON-COMPLIANCE
(Reports Completed in 1999)

Antigua

- Service marks can only be applied for on the basis of a previous UK application covering the same services.
- No provisions on well-known marks.
- Assignment of a trademark must be made with the transfer of the business.
- Registration of trademarks for wines or spirits consisting of geographical indications cannot be invalidated or refused for not having the origin indicated.
- Pre-existing trademarks are not protected against usurpation by geographical indications.
- Customs does not have to notify the importer of the suspension of the release of goods.

Argentina

- Pre-existing trademarks are not protected against usurpation by geographical indications.
- The courts do not have the authority to order a party to desist from an infringement or to prevent imported goods from entering the channels of commerce.
- Seizure of goods by Customs may not be available.

Barbados

- The law is unclear as to whether use of a trademark is encumbered by special requirements.
- No specific procedures exist for lodging an application with Customs for suspending the release of infringing goods.
- Criminal remedies do not include seizure, forfeiture and destruction of infringing goods or the materials used to commit and infringement.

Botswana

- Well-known marks are protected, but it is not clear whether knowledge of the mark in the relevant sector of the public and knowledge obtained as a result of promotion are considered.
- Pre-existing trademarks are not protected against usurpation by geographical indications.
- There is no provision stipulating that the materials used to create infringing goods can be ordered to be disposed of outside the channels of commerce without compensation to the infringer.
- No specific procedures exist for lodging an application with Customs for suspending the release of infringing goods.
Brazil

- Registration of personal names is prohibited without consent.
- Protection for well-known marks is limited to goods that are similar to those in respect of which the mark is registered or used.

Brunei

- Color combinations are not registrable.
- No provisions on well-known marks except for defensive usage.
- No protection for service marks
- No provisions on geographical indications except under defensiveness.

Colombia

- Knowledge of a mark obtained as a result of promotion is not considered when determining if a mark is well-known.
- Pre-existing trademarks are not protected against usurpation by geographical indications.
- Seizure of goods by Customs is not available.

Cuba

- An application can be refused because intended use has not taken place within three years from the application date.
- Knowledge of a mark obtained as a result of promotion is not considered when determining if a mark is well-known.
- Use with another trademark is required.
- It is not clear if pre-existing trademarks are protected against usurpation by geographical indications.
- Procedures can entail unreasonable time limits or unwarranted delays.
- It is not clear whether judicial authorities can order the opposing party to produce evidence.
- It is not clear whether judicial authorities can order that infringing goods or materials used for their creation are put outside the channels of commerce or destroyed.
- Judicial authorities cannot order provisional measures.

Cyprus

- Not any sign is eligible for registration.
- The nature of the goods or services can be an obstacle to registration.
- Circumstances independent of the will of the trademark owner are not recognized as valid reasons for non-use.
- Legal means are not available to prevent the use of or to refuse or invalidate misleading geographical indications.
- Legal means are not available to prevent the use of geographical indications identifying wines or spirits not originating in the place indicated.
• Pre-existing trademarks are not protected against usurpation by geographical indications.
• No specific procedures exist for lodging an application with Customs for suspending the release of infringing goods.
• It is not clear whether criminal procedures are applied in cases of willful trademark counterfeiting on a commercial scale.

Egypt

• Protection for well-known marks is limited to goods that are similar to those in respect of which the mark is registered or used.
• Use of a trademark by another person is not taken into account for the purposes of maintaining the registration.
• Use with another trademark is required.
• Assignment of a trademark must be made with the transfer of the business.
• Procedures for enforcement of IP rights are unnecessarily complicated and decisions on the merits of a case can be given on evidence in respect of which the parties have not been heard.
• No specific procedures exist for lodging an application with Customs for suspending the release of infringing goods.

El Salvador

• Pre-existing trademarks are not protected against usurpation by geographical indications.
• Judicial authorities do not have the authority to order the opposing party produce any relevant evidence to support the other party’s claims.
• Law is ambiguous with respect to payment of damages to the right holder. Damages are expressly provided for patents, industrial designs, copyrights and trade secrets but not trademarks.
• In order to dispose infringing goods outside the channels of commerce, a bond must be paid.
• Applicable law provides for injunctions, but such measures are ineffective due to the timing and opportunity in which they are ordered by judges.

Fiji

• Registrable subject matter is unclear
• No protection for service marks
• No provisions on well-known marks except for distinction based on promotion.
• Registration is not renewable indefinitely.
• Licensing of trademarks may be compulsory.
• Provisions for protection of geographical indications have unclear application.
• Interim injunctions may substitute for seizure rights.

Gabon

• No provision for the determination of well-known marks except case-by-case treatment
• Geographical indications are protected under reciprocity agreements only.
• Evidentiary burdens, injunctions and damages have not been precedented.
• No provisions for border measures.

Guatemala

• Pre-existing trademarks are not protected against usurpation by geographical indications.
• Seizure of infringing goods by Customs is not available.
• Applicable law provides for injunctions, but such measures are ineffective due to the timing and opportunity in which they are ordered by judges.

Guyana

• Protection is not extended to well-known service marks.
• There are ambiguities in the law as to the circumstances under which a trademark may be cancelled for non-use.
• Procedural delays are frequently encountered in enforcing intellectual property rights.
• There is no statutory basis for the judicial authorities to order infringing goods or the materials used to make them to be disposed of outside the channels of commerce or destroyed.
• No specific procedures exist for lodging an application with Customs for suspending the release of infringing goods.
• No criminal procedures and penalties apply to willful trademark counterfeiting on a commercial scale.

Hong Kong, China

• Unfair competition based on geographical indication is unclear.
• It is unclear whether pre-existing trademarks are protected against usurpation by geographical indications.

Indonesia

• Use is a condition for filing an application.
• An application may be refused based on lack of intended use.
• No provisions for protection of well-known marks.
• No provisions for protection of geographical indications.
• Seizure of infringing goods by Customs is not available.

Israel

• No provisions regarding well-known marks.
• Protection for geographical indications of wines but not spirits.
• Evidentiary burdens are unclear.
Ivory Coast

- Provisions for well-known marks are unclear
- There is no third party means to invalidate a geographical indication.

Malaysia

- Color combinations are not registrable.
- Well-known service marks must be registered in conjunction with goods to receive protection.
- No provision for preventing misleading geographical indications for wines and spirits other than general deceptiveness.
- No provision for the suspension of release of goods by Customs.

Malta

- Service marks are not registrable.
- Not clear whether color combinations are registrable.
- No provisions regarding well-known marks.
- Assignment of a trademark must be made with the transfer of the business.

Mauritius

- Service marks are not registrable.
- No protection for well-known marks.
- No specific protection for geographical indications.
- No anti-counterfeiting provisions.

Mexico

- Colors can only be registered if combined with or accompanied by elements such as signs, designs or names.
- Infringers will not be required to pay the right owner’s court costs or attorney’s fees.
- Defendants must always be heard, although this may occur simultaneously with an inspection of the premises.
- No provision for the suspension of release of goods by Customs.

Morocco

- Publication of the Official Gazette is irregular.
- No provisions for opposition.
Namibia

- No provisions regarding well-known marks.
- Pre-existing trademarks are not protected against usurpation by geographical indications.
- Proceedings before the Registrar can be slow.
- No provisions for destruction of materials used in the creation of infringing goods.
- No provision for the suspension of release of goods by Customs.

Philippines

- Continuous use for five years is required for registrability.
- Protection for geographical indications for wines and spirits is unclear.
- It is unclear whether importer and applicant are promptly notified of suspension of the release of goods by Customs.

Singapore

- Protection of well-known marks limited to trademark registered in Singapore in respect of goods.
- No provisions directly addressing geographical indications.
- No provision for the suspension of release of goods by Customs.

Swaziland

- Not possible to assess court decision since there is very little IP-related litigation.
- Not clear if suspension of release of goods by Customs is available.

Thailand

- It is not clear if color combinations are registrable.
- Well-known marks are protected, but it is not clear whether knowledge of the mark in the relevant sector of the public and knowledge obtained as a result of promotion are considered.
- It is not clear if pre-existing trademarks are protected against usurpation by geographical indications.
- Destruction of infringing goods available only under criminal law.

Uruguay

- Procedures for enforcement often entail unreasonable time limits and unwarranted delays.
- There are often delays in making decisions on the merits of a case available to the parties.
- Confidential information is not protected in civil judicial procedures.
- No provision for the suspension of release of goods by Customs.
Zimbabwe

- No protection for well-known service marks or trademarks.
- Use of the mark by anyone other than the registered user does not count for the purpose of maintaining the registration.
- Judgements from the courts are often delayed.
- Ambiguous on the promptness of notification to the importer and applicant of the suspension of the release of goods by Customs.
- Counterfeit goods subject to forfeiture and seizure, but not destruction.
APPENDIX B: ADDENDUM
SUMMARIES OF TRIPS NON-COMPLIANCE
(Reports completed in 2000)

Chile

- Protection of well-known marks only granted for the same class of goods or services, but recent precedents have also given protection when goods or services are in different classes when a connection exists.
- No use requirements although this will change soon.
- No Protection of geographical indications.
- No additional protection for geographical indications for wines and spirits.
- No protection of pre-existing trademarks against usurpation by geographical indications.
- No protection of signs that are not inherently distinctive. Trademarks shall be inherently distinctive.
- Civil procedures are very rare because criminal procedures are much more convenient.
- Protection of confidential information is ambiguous.
- Disclosure of evidence not available in the Chilean legal system.
- Very low damages are normally awarded.
- Very low expenses are recognized.
- No special requirements related to border measures.

Estonia

- Ambiguous provision concerning the protection of figurative elements and combinations of colors.
- Ambiguous provision concerning the determination of a well-known mark.
- The registration of a trademark may be cancelled if the owner did not have any “justified reasons” for non-use, but “justified reasons” are not commented in the TM Act.
- Decisions on the merits of a case are not made available to the parties of the proceeding with undue delay.
- Ambiguous provision concerning the preservation of relevant evidence in regard to the alleged infringement.
- Ambiguous provision concerning adoption of provisional measures by the authorities.
- Ambiguous provision concerning the suspension of release by customs authorities.
- Ambiguous provision concerning the notice of suspension.

India

- No specific requirement concerning use as a condition for filing an application.
- No specific requirement concerning nature of goods / services as obstacle for registration
- Ambiguous provision concerning the fact that licensing should not be compulsory
- Registrability does not depend on use
Jamaica

- No registrability of figurative elements.
- Protection of well-known marks does not apply to goods and services that are not similar to those in respect of which a trademark is registered.
- Use of trademark by another person not recognized as use of a TM for purpose of maintaining registration.
- Registrability does not depend on use.
- Procedures for enforcement of IP rights entail long delays (due to Court schedule, a case may take 1 to 5 years to be tried).
- Ambiguous provision concerning criminal procedures and penalties applied in cases of willful TM counterfeiting.

Kenya

- No specific provisions for the protection of well-known marks. The common actions of passing off and unlawful competition are unlikely to protect a well-known mark which has not been used in Kenya.
- No specific provisions relating to geographical indications for wines and spirits, although misleading or mis-descriptive terms are enjoined.
- Delays are severe in the issue of judicial decisions.
- Unlikely that use by an unregistered user would be sufficient to maintain the registration.

Korea

- Decisions on the merits of a case are not made available to the parties of the proceeding with undue delay.

Kuwait

- Kuwait is not a member of the Paris Convention therefore no protection of well-known marks.
- Registrations are not renewable indefinitely.
- Recordal of licensing is not applicable.
- Wines and spirits are not registrable.
- No protection of pre-existing trademarks against usurpation by geographical indications.
- Decisions on the merits of a case are not in writing and reasoned and are not made available to the parties of the proceeding with undue delay.

Nicaragua

- No provisions in the law in relation to well-known marks.
- No provisions in the Law requiring use.
• Ambiguous provision concerning the protection of pre-existing trademarks by usurpation.
• No provisions in the Law that should allow for fair and equitable judgments, but there are no special Courts for IP matters, and judges in general have no knowledge on intellectual property.
• Civil procedures are slow and allow for unnecessary delays.
• No provisions concerning the evidence of proof.
• Judicial authorities do not have the authority to order prompt and effective provisional measures. They are in theory ordered by administrative authorities.
• No legal provisions concerning the suspension of release by customs authorities.
• No legal provision concerning the notice of suspension of release of goods by customs authorities.

Nigeria

• No registrability of combinations of colors.
• No provisions for protection of services.
• No protection of well-known service marks.
• No statutory protection of well-known marks.
• No provisions in the Act for the protection of well-known marks. Protection possible in the common law under unfair competition chapter.
• Ambiguous provision concerning article 19(2).
• No specific provisions concerning additional protection for geographical indications for wines and spirits.
• Procedures for enforcement are generally fair and not too complicated although they can be expensive. While proceedings before the Courts are reasonably expeditious, there can be substantial delays in proceedings before the Registrar.

Pakistan

• No registrability of personal names and combinations of colors.
• Service marks are not yet registrable, but new legislation is proposed.
• No protection of well-known service marks.
• Clarification needed for compliance with Articles 15(3) and 16(3), 16(2), 20.
• No protection for well-known marks.
• Licensing is compulsory in some cases.
• No protection for geographical indication.
• No protection of pre-existing trademarks against usurpation by geographical indications.
• Civil judicial procedures do not protect confidential information.
• Judicial authorities do not have the authority to preserve relevant evidence in regard to the alleged infringement.
Pakistan’s Trade Marks Law does not presently comply with TRIPS in several significant respects. Verification and clarification of some points is still needed. Status of proposed changes to the law should be ascertained.

Paraguay

- Under the new Trade Mark Law which entered into force on October 1, 1998, Paraguay is in compliance with the TRIPs provisions. However, the following points need clarification:
- It is not clear that use by another person, subject to the control of the owner, is recognized as use of the trademark for the purposes of maintaining the registration [19(2)].
- Judicial decisions can sometimes be slow in issuing.
- It is not clear whether there are civil judicial procedures available which provide protection for confidential information.

Poland

- TM registrations are not renewable indefinitely.
- Currently regulations do not stipulate any possibility of appealing against the decision of the Patent Office to Court. Only under special conditions the President of the Patent Office (not the parties) may bring an extraordinary appeal to the Supreme Court.
- Some of the articles were not commented.

Qatar

- Use is not a condition for filing an application.
- No registrability of alcoholic drinks (class 32 & 33).
- Registration not renewable indefinitely.
- Reason of non-use will not be considered.
- Recordal of license agreement is compulsory.
- Trademark assignment is possible only with the business enterprise.
- Wines and spirit are not protected in Qatar.
- Some provisions concerning geographical indications are not covered.

Turkey

- No ex-officio cancellation is possible after the registration (only upon court order and decision).
- No import restrictions to have such a restrictive effect in the matter of non-use as far as trademarks are concerned.
- No additional protection addressing specifically to wines and spirits.
- No registrability of signs that are not inherently distinctive with proof of acquired distinctiveness.
St Lucia

- TM registration not renewable indefinitely.
- Use is not required therefore information on trademark use was not available.
- No protection of geographical indications.
- No additional protection for geographical indications for wines and spirits.
- No protection of pre-existing trademarks against usurpation by geographical indications.
- No registrability of signs that are not inherently distinctive.
- No provisions to ease the identification and protection of confidential information. (It may be contrary to existing constitutional requirements)
- No provisions for seizure of infringing goods.
- No provisions for destruction of materials used in the creation of infringing goods.
- No special requirements related to border measures.
- No criminal procedures.

Saint Vincent

- The mark would have to be in use to warrant protection under the unregistered system. (Common law)
- Registration is sufficient notice to the world. Trademarks are never published unless required.
- Renewal of registration is dependent on the situation.
- Ambiguous provision concerning what is considered as being an obstacle to the use of a trademark.
- Provisions concerning additional protection for geographical indications for wines and spirits depend on the U.K legislation.
- Ambiguous provisions concerning criminal procedures and penalties applied in cases of willful trademark counterfeiting.

UAE

- Personal names are registrable with the consent of the person.
- An application may be solely refused based on lack of intended use.
- No provisions concerning the use requirements. The usual practice is to register the mark in the same form in which it is used.
- Recordal of licensing is compulsory.
- Some provisions concerning geographical indications are not covered.
- Wines and spirits are not registrable.
- No provisions concerning the Evidence of Proof.
- No provisions for seizure of infringing goods.
- No provisions for destruction of materials used in the creation of infringing goods.