

SECTION C - ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

ARTICLE 17.53 - General obligations

1. The Parties reaffirm their commitments under the TRIPS Agreement and in particular under its Part III. Each Party shall provide for the complementary measures, procedures and remedies referred to in this Section regarding the enforcement of intellectual property rights.¹
2. Each Party shall ensure that enforcement procedures as specified in this Section are available under its law so as to permit effective action against any act of infringement of intellectual property rights covered by this Chapter, including expeditious remedies to prevent infringements and remedies that constitute a deterrent to future infringements. Those procedures shall be proportionate and shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.²
3. For the purposes of this Section, each Party shall ensure that its procedures concerning the enforcement of intellectual property rights are fair and equitable. Those procedures shall not be unnecessarily complicated or costly, or entail unreasonable time-limits or unwarranted delays.
4. This Section does not create any obligation:
 - (a) to put in place a judicial system for the enforcement of intellectual property rights distinct from that for the enforcement of law in general, nor does it affect the capacity of each Party to enforce its law in general; or
 - (b) with respect to the distribution of resources between the enforcement of intellectual property rights and the enforcement of law in general.
5. In implementing this Section in its intellectual property system, each Party shall take into account the need for proportionality between the seriousness of the infringement of the intellectual property right and the applicable remedies and penalties, as well as, where applicable, if provided by the law of the Party, the interests of third parties.

¹ For the purposes of this Section, trade secrets covered by Article 17.49 (Civil judicial procedures and remedies as regards trade secrets) are excluded from the definition of "intellectual property rights".

² Article 48(1) of the TRIPS Agreement is incorporated into and made part of this Agreement, *mutatis mutandis*, and applies to enforcement procedures covered by this Section, *mutatis mutandis*.

ARTICLE 17.54 - Persons entitled to apply for measures, procedures and remedies

Each Party shall recognise as persons entitled to seek application of the measures, procedures and remedies referred to in this Section and in Sections 1 to 4 of Part III of the TRIPS Agreement:

- (a) the holders of intellectual property rights in accordance with the law of the Party;
- (b) persons authorised to use those rights, in particular exclusive licensees, in so far as permitted by and in accordance with the law of the Party; and
- (c) federations and associations,¹ to the extent permitted by and in accordance with the law of the Party.

¹ The phrase "federations and associations" includes collective rights management bodies and, in the Union context, professional defence bodies which are regularly recognised as having a right to represent holders of intellectual property rights.