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NOTE

The Course on Dispute Settlement in International Trade, Investment and Intellectual Property consists of forty modules.

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WHAT YOU WILL LEARN

The *Agreement on Trade-Related Aspects of Intellectual Property Rights* (“TRIPS Agreement”) is the first WTO agreement requiring Members to establish a relatively detailed set of substantive norms within their national legal systems, as well as requiring them to establish enforcement measures and procedures meeting minimum standards. The *TRIPS Agreement* is sometimes referred to as the first WTO agreement that prescribes “positive law”. This factor alone might account for a more than typical level of controversy as Members deal, in many cases, with adopting rather far-reaching changes to their national legal systems.

However, added to the uniquely “positive” aspect of the *TRIPS Agreement* is a negotiating history that for a long time was highly contentious, particularly as between developed and developing Members, and the fact that the *TRIPS Agreement* touches upon sensitive and important social issues. In the final analysis, it should not be surprising that the TRIPS Agreement has generated a considerable amount of controversy among WTO Members, even if to date much of that controversy has not resulted in formal dispute settlement proceedings.

The TRIPS Agreement addresses a wide range of intellectual property subject matter areas (copyright, trademark, patent, and so forth). It also covers competitive markets, enforcement measures, dispute settlement, and transitional arrangements. This Module provides an introduction to these various aspects of the TRIPS Agreement, and seeks to focus on the kinds of questions that should be asked when approaching dispute settlement. In some areas, the questions are answered, but the entire field of intellectual property rights protection, including enforcement measures, cannot be covered in a single Module or short course. Moreover, the questions will change along with the technologies that form the subject matter of intellectual property rights protection. The objective of this Module is to provide sufficient background so that as specific issues arise, the diplomat or lawyer understands how to approach them.

This Module begins by discussing some general principles or concepts applicable to the field of TRIPS dispute settlement. It then deals with the various substantive subject matter areas covered by the agreement. It turns to enforcement measures, and afterwards to specific aspects of the WTO dispute settlement process. Finally, the existing WTO jurisprudence is described.

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