

Trade and Investment Agreements and STI in Asia- Pacific

Based on the DRAFT paper " Trade and investment-related aspects of STI"
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Do provisions on science, technology and innovation (STI) appear in the trade and investment agreements the ESCAP Member States have ratified?

Do the trade and investment agreements that the ESCAP Member States are parties to support development of innovation as well as science, technology in these countries?

Or, are they curbing the development of STI?

Methodology

- Trade and investment agreements with a regional economic community as one part of the agreement, or, alternatively, with three or more countries as parts of the agreement, were studied.
- One of the parties of the agreement must have been an ESCAP Member State.
- For agreements in the ESCAP Asia-Pacific Trade and Investment Agreements Database meeting these criteria, agreements with status “in force since” were included. WTO Regional Trade Agreements Database was scanned for agreements meeting the same criteria as those in the ESCAP Database but not appearing in the ESCAP Database.
- As for the International Investment Agreements Navigator by UNCTAD’s Investment Policy Hub, agreements in the category “IIAs by Economy” / “Other Investment Agreements (Other IIAs)” meeting the same criteria as in the other two databases, not appearing in the other two databases, and with the column “date of entry into force” filled, were included.

Methodology

- In total 65 trade and investment agreements were examined for this report; 32 of these appeared in the ESCAP (28) and WTO (4) “trade agreements” databases, 33 in the UNCTAD “investment agreements” database.
- These included following types of agreements: Cooperation Agreements, Customs Unions, Free Trade Agreements (FTA), Framework Agreements, Free Trade Agreements & Economic Integration Agreements (FTA&EIA), Investment Agreements (IA), Partnership Agreements, Preferential Trade Agreements (PTA) and Trade and Investment Framework Agreements (TIFA).

Methodology

- Included agreements were first examined for content relating to science, technology, innovation and intellectual property rights.
- An agreement was ticked to include a provision on science, technology and/or innovation, respectively, only if it appeared separately from where it was defining a provision on IPR.
- A separate “tick” was granted for an agreement explicitly promoting transfer of technology.
- Agreements were also ticked for “including a provision on STI but not on IPR”, “including a provision on IPR but not on STI” and “including no provision on STI nor on IPR”.

Methodology

- Acknowledging the importance of provisions on intellectual property rights for the development of STI, included agreements were, in the second round, scanned for containing statements on ten (10) different types of general IP provisions.
- The third round of scanning the included agreements focused on specific categories of IP law.
- Categorization of types of general IP provisions and specific categories of IP law used in the WTO Staff Working Paper “Intellectual Property Provisions in Regional Trade Agreements: Revision and Update” by Valdés & McCann (2014) was applied.

STI and IPR Provisions in the Trade and Investment Agreements

- Six (6) agreements in the ESCAP+WTO “trade agreements” databases and 21 agreements in the UNCTAD “investment agreements” database contained a provision on science. This is in total 27 of 65 agreements.
- 15 agreements in the ESCAP+WTO “trade agreements” databases and 27 agreements in the UNCTAD “investment agreements” database contained a provision on technology. This is in total 42 of 65 agreements.
- Three (3) agreements in the ESCAP+WTO “trade agreements” databases and 11 agreements in the UNCTAD “investment agreements” database contained a provision on transfer of technology. This is in total 14 of 65 agreements.

STI and IPR Provisions in the Trade and Investment Agreements

- “Innovation” appeared in the included agreements much less frequently than “science”, “technology” and “transfer of technology”. Five (5) agreements in the ESCAP+WTO “trade agreements” databases and three (3) agreements in the UNCTAD “investment agreements” database contained a provision on innovation. This is in total eight (8) of 65 agreements.
- 16 agreements in the ESCAP+WTO “trade agreements” databases and 27 agreements in the UNCTAD “investment agreements” database contained a provision on Intellectual property rights (IPR). This is in total 43 of 65 agreements; one appearance more as for “technology”.
- Four (4) agreements in the ESCAP+WTO “trade agreements” databases and four (4) agreements in the UNCTAD “investment agreements” database contained a provision on STI but not on IPR. These were the ASEAN FTA, APTA PTA, SAFTA FTA and SPARTECA PTA (from the ESCAP+WTO “trade agreements” databases) and the ASEAN-EU Cooperation Agreement, China-EC Trade and Cooperation Agreement, GCC—India Framework Agreement and BIMSTEC Framework Agreement (from the UNCTAD “investment agreements” database)

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