

# WORLD TRADE ORGANIZATION

RESTRICTED

**IP/C/W/31**

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**Council for Trade-Related Aspects  
of Intellectual Property Rights**

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## PROPOSAL BY THE UNITED STATES FOR THE NOTIFICATION OF COMPLIANCE WITH ARTICLES 3, 4 AND 5 OF THE TRIPS AGREEMENT

The United States delegation has requested that the following proposal, made at the meeting of the Council for TRIPS that took place from 22 to 25 July 1996, be circulated.

Article 63.2 of the TRIPS Agreement requires all WTO Members to notify to the TRIPS Council all laws and regulations pertaining to the obligations set out in the Agreement. The national treatment and most-favored-nation treatment required by Article 3, 4 and 5 of the TRIPS Agreement arise for developed and developing countries one year after the entry into force of the WTO Agreement, or on 1 January 1996. As a result, developed and developing country Members must notify their compliance with these provisions to the TRIPS Council.

This notification can take the form of a complete notification of all laws and regulations concerning intellectual property, which notifications are already obligated to be made by developed countries. We note, however, that this form of notification may prove burdensome to those members who have elected to take advantage of a transitional period prior to amending their national laws to conform to the other provisions of the TRIPS Agreement, as well as to the WTO Secretariat in collecting, copying and distributing these laws at this time. We also note that notifying the specific provisions of laws and regulations that implement the obligations set out in Articles 3, 4 and 5 may prove difficult since they do not easily lend themselves to specific legislative notification.

Accordingly, the United States suggests that in complying with this notification obligation, developing countries have the choice of:

- (1) notifying all the laws and regulations in their intellectual property protection regime;  
or
- (2) completing a form consisting of a general statement that the Member's laws and regulations provide to nationals of other WTO Members at least the level of intellectual property protection that it provides to its own nationals, and that it extends unconditionally to nationals of each WTO Member every advantage, favor, privilege or immunity that is granted to the nationals of any other country. In this option, any exceptions to this general statement would be specifically notified, whether established through a provision of national law or an international agreement. Additionally, to the extent possible, the relevant national and most-favored-nation treatment provisions of the relevant laws and regulations would be notified.