

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/TJK/10

27 February 2004

(04-0861)

**Working Party on the Accession
of the Republic of Tajikistan**

Original: English

ACCESSION OF TAJIKISTAN

Implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The following information on the Implementation of the WTO Agreement on TRIPS is being circulated at the request of the Delegation of the Republic of Tajikistan.

Implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

TRIPS Agreement	
General Obligations	IP Agreements to which Tajikistan adheres
	<p>INDUSTRIAL PROPERTY</p> <p>On 14 February 1994, Tajikistan deposited a declaration of continued application in Tajikistan of:</p> <ul style="list-style-type: none"> – the Convention Establishing the World Intellectual Property Organization (WIPO), – the Paris Convention for the Protection of Industrial Property, – the Madrid Agreement Concerning the International Registration of Marks, – the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, – the Locarno Agreement Establishing an International Classification for Industrial Designs, – the Patent Cooperation Treaty (PCT), – the Strasbourg Agreement Concerning the International Patent Classification, – the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and – the Nairobi Treaty on the Protection of the Olympic Symbol.
Compliance with Articles 1 through 12 and Article 19 of the Paris Convention for the Protection of Industrial Property in respect of Parts II, III, and IV of the TRIPS Agreement. TRIPS Article 2.	<p>The Republic of Tajikistan is a member of the Paris Union.</p> <p>CONSTITUTION OF TAJIKISTAN (adopted by the government of Tajikistan on 6 November 1994)</p> <p>Article 10. The Constitution of Tajikistan has supreme legal authority and its norms have direct application. Laws and other legal acts that run counter to the constitution are of no legal validity. The state and all its bodies, officials, citizens, and their associations are duty bound to observe and implement the constitution and laws of the republic. International legal documents recognized by Tajikistan are a constituent part of the legal system of the republic. If republican laws do not conform to the recognized international legal documents, the norms of the international documents apply. International laws and documents recognized by Tajikistan apply following official publication.</p> <p>Article 40. Every person has the right freely to take part in the cultural life of society; artistic, scientific, and technical creation; and to use their achievements. The state protects cultural and spiritual riches. Intellectual property is protected by law.</p>

TRIPS Agreement	
Under Paris, Article 1(2), industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.	<p>CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN (draft of Part III.)</p> <p>Article 1126. Objects of intellectual property right The objects of intellectual property right shall be: 1) the results of intellectual creative activity: - literary artistic and scientific works, including computer programs and data bases; - performances, phonograms, transmissions of broadcasting and cable distribution organization; - inventions, utility models and industrial designs; - selection achievements; - lay out designs of integrated circuits; - information constituting a trade secret; 2) means of individualization of the legal entities, products and implemented works or services: - trade names; - trademarks and service marks; - appellations of origin and indications of source; 3) other results of intellectual activity and equated to them means of individualization, protected in accordance with the laws and international agreements of the Republic of Tajikistan.</p> <p>Law of The Republic of Tajikistan on Inventions Article 4. Titles of protection The right in an invention shall be protected by the State and shall be certified by a patent or petty patent (hereinafter “titles of protection”).</p> <p>Law of The Republic of Tajikistan on Industrial Designs Article 6. Legal protection of an industrial design The right in an industrial design shall be protected by the State and shall be certified by a patent.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 2. Legal protection of a trademark 1. Legal protection of a trademark in the Republic of Tajikistan shall be effected on the basis of its registration in accordance with the procedure established by this Law or by virtue of the international treaties of which Tajikistan is a member. 2. The right in a trademark shall be protected by the State. 3. A trademark may be registered in the name of a legal entity, as well as of a natural person engaged in entrepreneurship.</p> <p>Article 3. Certificate for a trademark 1. A certificate shall be granted for a registered trademark. Draft Law of The Republic of Tajikistan on Geographical Indications</p>

TRIPS Agreement	
	<p>Article 2. Provision of legal protection to geographical indications</p> <p>1. Legal protection of the appellation of origin in the Republic of Tajikistan shall be provided on the basis of its registration before the National Center for Patents and Information under the Ministry of Economy and Trade of the Republic of Tajikistan (hereinafter “patent office”) in order established by this Law or by virtue of the international agreements of the Republic of Tajikistan. On the basis of registration a certificate for the right to use an appellation of origin is granted.</p> <p>CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN</p> <p>Article 55. Name and location of a legal entity</p> <p>1. A legal entity shall have its own name containing an indication of its organizational form. {...}</p> <p>2. {...}</p> <p>3. {...}</p> <p>4. A legal entity which is a commercial organization must have a trade name. A legal entity a trade name of which is registered in a prescribed procedure shall have an exclusive right to use it. The procedure of registration and use of trade names shall be established by the legislation in accordance with this Code. A person illegally using a trade name, on demand of the owner of the right in a trade name, shall be obliged to stop its use and to compensate for the losses incurred.</p> <p>Suppression of unfair competition is carried out in accordance with the law “On competition and restriction of monopoly activity on commodity markets”.</p>
<p>In Paris. Article 1(3), industrial property applies not only to industry and commerce proper, but to agricultural and extractive industries and to all manufactured or natural products, e.g., wines, grain, tobacco leaf, fruit, cattle, minerals, mineral waters, beer, flowers, and flour.</p>	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 6. Conditions for patentability of an invention</p> <p>A technical solution shall be recognized as an invention and granted legal protection, if it is new, involves an inventive step and is industrially applicable.</p> <p>{...}.</p> <p>{...}.</p> <p>{...}.</p> <p>An invention shall be considered industrially applicable, if it can be used in industry, agriculture, healthcare and other fields of human activity</p>

TRIPS Agreement	
Under Paris, Article 2, nationals of Members are to enjoy in other Members the advantages that their respective laws grant to nationals, and shall have the same protection and the same legal remedy against any infringement of their rights if they conform to the conditions and formalities imposed upon the Member's nationals.	<p>Law of The Republic of Tajikistan on Industrial Designs Article 33. Rights of foreign natural persons and legal entities Foreign natural persons and legal entities shall enjoy those rights granted by this Law on a par with natural persons and legal entities of the Republic of Tajikistan in accordance with international agreements to which Tajikistan is a party or on the basis of reciprocity.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 34. Rights of foreign legal entities, foreign citizens and stateless persons Foreign legal entities, as well as foreign citizens and stateless persons shall enjoy the rights accorded by this Law and other relevant legislative acts of the Republic of Tajikistan equally with the legal entities and natural persons of the Republic of Tajikistan, unless this Law or any other act of the current legislation provide otherwise.</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications Article 21. The rights of foreign citizens, persons without citizenship, and foreign legal persons Foreign citizens, persons without citizenship, and foreign legal persons shall enjoy the rights provided for by this Law and other legal acts of the Republic of Tajikistan in the field of protection of geographical indications and shall be equally liable with natural persons and legal entities of the Republic of Tajikistan unless otherwise stipulated by the legislative acts of the Republic of Tajikistan and international agreements.</p>
Paris. Article 3, requires that nationals of non-Member countries domiciles or that have "real and effective" industrial or commercial establishments in a Member country be treated as nationals of a Member country.	<p>CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN Article 7. Civil legislation and norms of international law 1. Universally recognized principles and a norm of international law and international agreements of Tajikistan are, in accordance with the Constitution of the Republic of Tajikistan, a constituent part of the legal system of the Republic of Tajikistan. 2. International agreements of the Republic of Tajikistan apply to the relations indicated in Part 1 and 5 of Article 1 of this Code directly, except for the cases where for its implementation an issuance of the interstate act is required. If an international agreement of the Republic of Tajikistan establishes rules different from those provided for by civil legislation, the rules of the international agreement shall apply.</p>

TRIPS Agreement	
Under Paris, Article 4.a right of priority is to be given an applicant for a patent, for registration of a utility model, an industrial design, or of a trademark who has filed the equivalent of a regular national filing under the domestic legislation of a Member country. The periods of priority are to be 12 months for patents and utility models, and 6 months for industrial designs and trademarks. The Article discusses the technical details of granting priority in depth.	<p>Law of The Republic of Tajikistan on Inventions Article 18. Convention-priority Priority may be determined by the filing date of the first application for an invention filed in a State party to the Paris Convention for the Protection of Industrial Property, provided that the application is filed with the Patent Office within 12 months of that date (convention priority). Where owing to circumstances beyond the applicant's control the application claiming convention priority could not be filed within the above time limit, the latter may be extended by a period not exceeding three months.</p> <p>Law of The Republic of Tajikistan on Industrial Designs Article 17. Convention-priority Priority may be determined by the filing date of the first application filed in a State party to the Paris Convention for the Protection of Industrial Property (convention priority), provided that the application is filed with the Patent Office within 6 months of that date. Where owing to circumstances beyond the applicant's control the application claiming convention priority could not be filed within the above time limit, the latter may be extended by a period not exceeding two months.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 10. Priority of a trademark 1. {...}. 2. The priority of a trademark may be determined on the filing date of the first application for the trademark in a foreign country party to the Paris Convention for the Protection of Industrial Property (convention priority), provided that the application was filed with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trade and Service Marks within 6 months from the said date. If due to circumstances beyond applicant's control, the application claiming Convention priority could not have been filed within the mentioned period of time, the latter may be prolonged at the applicant's request, but for no longer than two months.</p>
Article 4bis states that patents obtained for the same invention in various members of the Paris Union are independent of each other.	The Law of The Republic of Tajikistan on Inventions does not set up any dependence of the validity of the granted patent on the availability and/or validity of another patent obtained for the same invention in other countries.

TRIPS Agreement	
Article 4ter requires that inventors have the right to be named as such in the patent.	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 4. Titles of protection</p> <p>The right in an invention shall be protected by the State and shall be certified by a patent or petty patent (hereinafter “titles of protection”).</p> <p>{...}.</p> <p>{...}.</p> <p>A title of protection for an invention shall certify the priority and authorship of, and an exclusive right to use the invention.</p> <p>Article 7. Author of an invention</p> <p>A natural person whose creative work resulted in the invention shall be recognized as the author thereof. Where an invention results from joint creative work of two or more natural persons, those persons shall be recognized as the joint authors thereof. The conditions for exercising author's rights shall be determined by an agreement between them.</p> <p>{...}.</p> <p>The authorship right shall be an inalienable personal right and shall be protected perpetually.</p> <p>Article 23. Publication of information on an application and grant of a title of protection</p> <p>{...}.</p> <p>{...}.</p> <p>Within six months of the day of making a decision to grant a title of protection for an invention the Patent Office shall publish information about the granted title of protection in the Official Bulletin.</p> <p>The published particulars must include the names of the author(s) (with their consent) and patent owner(s), the title and the claims of the invention.</p> <p>Article 25. Registration of an invention and grant of a title of protection</p> <p>Within three months of the date of receipt of documents confirming payment of the fee for registration and grant of a title of protection, the Patent Office shall enter an invention in the State Registers of Inventions and shall grant the patent owner a title of protection.</p> <p>Where a title of protection was sought in the names of several persons, they shall all be issued a single patent or petty patent. The Patent Office shall grant to the author(s) of the invention, other than the patent owner, an official certificate confirming his authorship.</p>
Under Article 4quater restrictions or limitations on the sale of a patented product or a product produced by a patented process cannot be the grounds for refusing a patent or invalidating one already issued.	The Law of The Republic of Tajikistan on Inventions does not contain such grounds for refusal of a patent or invalidation of the one already issued.
Under Article 5(A)(1), importation of a patented product manufactured in a Paris Union country cannot be the basis of forfeiture of the patent.	This Law does not put the effect of rights resulting from the granted patent into dependence on importation by the patentee of articles manufactured in any of the countries of the Paris Union.

TRIPS Agreement	
<p>Article 5(A)(2) and (3) authorize countries to use compulsory licensing as a means to prevent abuses, such as the failure to work, but they may not forfeit a patent unless the grant of a compulsory license would not be sufficient to prevent the abuse. Proceedings for forfeiture or revocation cannot be institute until two years after the grant of the first compulsory license.</p> <p>Article 5(A)(4) prohibits application for a compulsory license for failure to work until four years have passed since the application was filed or three years from date of grant and no compulsory license is to be granted if the patentee justifies the failure to work. Licenses are to be non-exclusive, and may not be transferred except with the enterprise or goodwill that exploits the license.</p>	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 28. Compulsory license</p> <p>The patent owner shall be obliged to use the invention. In the event that an invention remains unused or insufficiently used by the patent owner for five years after the date of publication of the grant of a title of protection, any person willing and ready to use the invention may, if the patent owner refuses to enter into a license contract with such party on such terms and conditions as are consistent with prevailing practice, go to court to demand the grant thereto of a compulsory license to use such invention.</p> <p>If the owner of a title of protection fails to prove that he made no or insufficient use of the invention for a valid reason, the court shall make a decision on the grant of a compulsory license</p> <p>Where a compulsory license is granted on the basis of a court finding, such license shall set limits on the use of the invention the title of protection for which is owned by the other person to the extent which may be necessary to use the invention owned by the person who demanded that grant of such compulsory license, and shall prescribe the amount of royalties, as well as time periods and procedures for their payment.</p> <p>{...}</p> <p>A compulsory license shall be non-exclusive; it may not be reassigned to another person. Disputes arising as a result of such use shall be settled by the court.</p>
<p>Article 5(B) prohibits forfeiture of industrial designs for failure to work or for importing articles corresponding to those that are protected.</p>	<p>The Law of The Republic of Tajikistan on Industrial Designs does not provide for the forfeiture of industrial designs for failure to work or for importing articles corresponding to those that are protected.</p> <p>Law of The Republic of Tajikistan on Industrial Designs</p> <p>Article 27. Opposition of the patent</p> <p>A patent may be contested and invalidated, fully or partially, at any time during its term in the following circumstances:</p> <ul style="list-style-type: none"> - the patented industrial design does not comply with the patentability criteria prescribed by this Law; - the material features of an industrial design include such features as were absent from the original documents of the application;; - the letters of the patent wrongly names the author(s) or the patent owner(s).

TRIPS Agreement	
Article 5(C) prohibits cancellation of a mark for unjustified non-use before a reasonable period of time has passed and permits the proprietor to use differing elements that do not diminish the distinctive character of a mark without invalidating the registration or diminishing the protection granted the mark. Concurrent use of the mark by co-proprietors is permitted so long as the public is not mislead.	<p>Law of The Republic of Tajikistan on Trade And Service Marks</p> <p>Article 24. Use of a trademark and consequences of its non-use</p> <p>1. Use of a trademark shall be understood to mean its use on the goods in respect of which it has been registered or on packaging thereof by the owner of a trademark or a person to whom such right has been conferred under a license agreement in accordance with Article 27 of this Law.</p> <p>Use may also be understood to mean the use of a trademark in advertising, printed publications, on signboards, on exhibits displayed at exhibitions and fairs organized in the Republic of Tajikistan, where there are valid reasons for non-use of the trademark on goods or packaging thereof.</p> <p>2. Legal entities or natural persons engaged in commercial intermediation shall have the right to use their own trademarks along with that of the producer of goods or services, or instead of the trademark of the latter, on the basis of the agreement between them.</p> <p>3. The registration of a trademark may be invalidated prematurely in whole or in part on the ground of the Court's decision made on a petition of an interested legal entity or natural person, in connection with non-use of the trademark for a continuous period of five years counted from the date of registration, or for a period of five years preceding the filing of such a petition. On resolving the question of the premature invalidation of the registration of a trademark in connection with its non-use the proof presented by the owner of a trademark of the fact that the trademark was not used on the circumstances beyond his control may be taken into consideration.</p> <p>The opportunity to use the mark, with slight changes, is not provided.</p> <p>The TML does not provide for co-ownership of the trademark.</p>
Under Article 5(D), protection of patents, registered trademarks, and industrial designs cannot be conditioned upon indication or mention of such patent, trademark registration, or industrial design protection.	Legislation of the Republic of Tajikistan on industrial property does not require any indication or mention of the patent, trademark registration, or industrial design certificate as a condition for patent, registered trademark, or industrial design protection.

TRIPS Agreement	
Article 5bis requires that a grace period of at least six months be provided for the payment of maintenance fees for industrial property, but a surcharge is permissible. Countries are authorized to restore patents that lapsed for non-payment of fees.	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 33. Early termination of the validity of a title of protection</p> <p>The title of protection shall be terminated early</p> <ul style="list-style-type: none"> - {...}; - {...}; - in the event of failure to pay, within the prescribed time limit, the fee for maintenance of the title of protection in force. <p>Article 34. Reinstatement of the validity of a title of protection. Right of consequent use</p> <p>The validity of the title of protection, terminated early in accordance with paragraph three of part one of Article 32 of this Law, may be reinstated on a request by the patent owner, within three years of the expiry of the time period prescribed for payment of a fee for maintenance of a title of protection, provided that the applicant gives good reasons for the delay and provides proof of payment in the prescribed amount of a fee for patent reinstatement.</p> <p>Law of The Republic of Tajikistan on Industrial Designs</p> <p>Article 28. Early termination of the patent</p> <p>The patent shall be terminated early</p> <ul style="list-style-type: none"> - {...}; - {...}; - {...}; - in the event of failure to pay, within the prescribed time limit, the fee for maintenance of the patent in force. <p>Article 29. Restoration of validity of the patent The right of consequent use</p> <p>The validity of the patent terminated on the ground indicated in paragraph four of part four of Article 28 of this Law, may be reinstated on a request by the patent owner, within 18 months of the expiry of the time period prescribed for payment of a fee for maintenance of a patent, provided that the applicant gives good reasons for the delay and provides proof of payment in the prescribed amount of a fee for patent reinstatement..</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 16. Duration of registration</p> <ol style="list-style-type: none"> 1. {...}. 2. The period of validity of a trademark registration may be renewed at the request of the owner filed within the final year of the period of validity, each time for another ten years. <p>Upon request of the owner for renewal of the registration of a trademark he may be granted a grace period of six months counted from the expiration date of the registration of the trademark, provided that the prescribed additional fee has been paid.</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications</p> <p>Article 8. Period of validity of a certificate</p> <ol style="list-style-type: none"> 1. {...}. 2. {...}. 3. The period of validity of a certificate may also be extended at the request of the holder, submitted within six months of the expiry of the certificate's period of validity, provided that an additional fee has been paid.

TRIPS Agreement	
Article 5ter allows a Paris Member to make use of patented devices aboard a vessel, aircraft, or land vehicle temporarily or accidentally in the territory of the Member.	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 30. Actions not recognized as an infringement of an exclusive right</p> <p>The following actions shall not be deemed infringements of a patent owners' exclusive right:</p> <ul style="list-style-type: none"> - use of the devices incorporating inventions protected by patents or petty patents in the construction or operation of (land, air, water) vehicles of other countries if such vehicles entered the territory of the Republic of Tajikistan on a temporary basis or by accident and such devices are used for the needs of a vehicle. No such action shall be deemed to constitute an infringement of the patent owner's exclusive rights, provided that the vehicles concerned are owned by natural persons or legal entities of countries granting reciprocal rights to vehicle owners of the Republic of Tajikistan. <p>Law of The Republic of Tajikistan on Industrial Designs</p> <p>Article 25. Actions not recognized as an infringement of an exclusive right</p> <p>The following actions shall not be deemed infringements of a patent owners' exclusive right:</p> <ul style="list-style-type: none"> - use of the devices incorporating industrial designs protected by patents or petty patents in the construction or operation of (land, air, water) vehicles of other countries if such vehicles entered the territory of the Republic of Tajikistan on a temporary basis or by accident and such devices are used for the needs of a vehicle. No such action shall be deemed to constitute an infringement of the patent owner's exclusive rights, provided that the vehicles concerned are owned by natural persons or legal entities of countries granting reciprocal rights to vehicle owners of the Republic of Tajikistan.
Article 5quater requires that process patent owners have all the rights against an imported product produced by the patent process that they would have with respect to products manufactured at home.	<p>Law of The Republic of Tajikistan on Inventions</p> <p>Article 26. Rights of a patent owner</p> <p>A patent owner shall have an exclusive right to use the invention protected by a patent or a petty patent including the right to manufacture, use, import, sell and in any other way put in commercial use, or store for this purpose a product containing the invention protected by a patent or petty patent, the right to apply a process protected by a patent or petty patent for the invention, and also the right to prohibit use of the above inventions by other persons, except in the cases where such use, in accordance with this Law, does not constitute an infringement of the patent owner's exclusive right.</p> <p>A product shall be deemed incorporating an invention protected by a patent or a petty patent and a process protected by a patent or a petty patent for invention shall be deemed used, if the product incorporates and the process uses every feature of such invention included in its independent claim or an equivalent feature, which became known as such in the given area of technology, respectively, prior to the use date.</p>
Article 5quinquies requires that Paris Members protect industrial designs.	<p>Law of The Republic of Tajikistan on Industrial Designs</p> <p>Article 4. Conditions of patentability of an industrial design</p> <p>In accordance with this Law an artistic and design solution of an article, defining its outward appearance shall be protected as an industrial design. An article shall mean an object of industrial or handicraft manufacturing.</p> <p>An industrial design shall be granted legal protection if it is new and original</p>
Article 6 makes the conditions for filing and registration of trademarks subject to domestic legislation but also makes filing and registration independent of those in other countries, including the country of origin.	<p>The conditions for the filing and registration of trademarks are determined by the Law of the Republic of Tajikistan on Trademarks And Service Marks.</p> <p>The Law does not make the filing and registration of trademarks dependent to those in other countries, including the country of origin.</p>

TRIPS Agreement	
Article 6bis requires parties, ex officio if legally possible or at the request of an interested party, to refuse to register or, for a period of at least 5 years, to cancel the registration of a trademark confusingly similar to a well-known mark. No time limit is placed on a mark used in bad faith.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 7. Other grounds for refusal of registration</p> <p>1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:</p> <ul style="list-style-type: none"> - trademarks earlier registered or applied for registration in the Republic of Tajikistan in the name of another person in respect of similar goods; - trademarks of other persons protected without registration by virtue of international treaties of which Tajikistan is a member; - trade names (or part thereof) owned by other persons who have been granted the rights in these names on the basis of earlier filed applications for trademarks in respect of similar goods; - appellations of origin protected in the Republic of Tajikistan, except for the cases where they are incorporated as a non-protected element in a trademark being registered in the name of a person entitled to use such appellation. <p>2. The following designations shall not be registered if they reproduce:</p> <ul style="list-style-type: none"> - industrial designs the rights in which belong to other persons in the Republic of Tajikistan; - titles of the works of science, literature and art well-known in the Republic of Tajikistan or quotations therefrom; works of art or fragments thereof, without the consent of the copyright owner or that of the appropriate competent authority; - family names, given names, pseudonyms and their derivatives, portrays and facsimiles of famous persons, without the consent of such persons, their heirs or a appropriate competent authority. <p>Article 29. Recognition of the registration of a trademark as invalid</p> <p>1. The registration of a trademark may be declared invalid in whole or in part at any time during the term of its duration if the trademark has been registered in violation of Articles 2 and 6 of this Law, or within five years of the date of publication of the information about the registration of a trademark in the Official Gazette on the grounds provided for in Article 7 of this Law.</p>
Article 6ter requires Members to refuse to register or to invalidate the registration that includes, without authorization, armorial bearings, flags, state emblems, official signs and hallmarks, etc. An exception is provided for owners of rights acquired in good faith before the Convention entered into force for that country.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 6. Absolute grounds for refusal of registration</p> <p>1. No registration shall be allowed for the trademarks consisting only of designations:</p> <ul style="list-style-type: none"> - {...}; - that represent armorial bearings, flags and emblems; official names of states; emblems, denominations or abbreviations of denominations of international intergovernmental organizations; official signs and hallmarks of control and warranty; seals and stamps; decorations; religious and other distinguishing signs. Such designations may be included as unprotected elements in the trademark provided the consent of the appropriate competent authority or that of the trademark owner has been obtained;

TRIPS Agreement	
Article 6quater makes the assignment of a mark valid if the portion of the business or goodwill of the business together with the exclusive right to manufacture and sell the goods bearing the mark are also transferred.	<p>The Law of the Republic of Tajikistan on Trade And Service Marks does not contain such restriction in assignment of trademark.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 26. Assignment of a trademark</p> <p>A trademark may be assigned by the owner of the trademark to a natural person or legal entity under an agreement in respect of all or part of the goods for which it has been registered.</p> <p>Assignment of a trademark shall not be allowed if it can be a reason for deception of consumers in respect of the good or its manufacturer.</p> <p>Article 27. Grant of a license for the use of a trademark</p> <p>The right to use a trademark may be granted by the owner of a trademark (the licensor) to another person (the licensee) under a license agreement.</p> <p>A license agreement must contain a clause that the quality of the goods of the licensee will not be lower than the quality of the goods of the licensor, and that the licensor shall exert control over the observation of this clause.</p>

TRIPS Agreement	
Article 6quinquies requires that trademarks duly registered in a Member be accepted for filing in other Members, with certain reservations, and establishes the conditions under which a trademark may be denied registration or may be invalidated.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 6. Absolute grounds for refusal of registration</p> <p>1. No registration shall be allowed for the trademarks consisting only of designations:</p> <ul style="list-style-type: none"> - that are devoid of distinctive features or have descriptive character; - that represent armorial bearings, flags and emblems; official names of states; emblems, denominations or abbreviations of denominations of international intergovernmental organizations; official signs and hallmarks of control and warranty; seals and stamps; decorations; religious and other distinguishing signs. Such designations may be included as unprotected elements in the trademark provided the consent of the appropriate competent authority or that of the trademark owner has been obtained; - that have become customary as designations of the goods of a certain kind; - that constitute generally accepted symbols and terms; - that designate the kind, quality, quantity, intended purpose, value, as well as the place and time of their production or sale. <p>2. No registration as trademarks or their elements shall be allowed for the designations:</p> <ul style="list-style-type: none"> - containing false or misleading information about the manufacturer or its goods; - being, by their content, contrary to public interests, principles of humanity and morality. <p>Article 7. Other grounds for refusal of registration</p> <p>1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:</p> <ul style="list-style-type: none"> - trademarks earlier registered or applied for registration in the Republic of Tajikistan in the name of another person in respect of similar goods; - trademarks of other persons protected without registration by virtue of international treaties of which Tajikistan is a member; - trade names (or part thereof) owned by other persons who have been granted the rights in these names on the basis of earlier filed applications for trademarks in respect of similar goods; - appellations of origin protected in the Republic of Tajikistan, except for the cases where they are incorporated as a non-protected element in a trademark being registered in the name of a person entitled to use such appellation. <p>2. The following designations shall not be registered if they reproduce:</p> <ul style="list-style-type: none"> - industrial designs the rights in which belong to other persons in the Republic of Tajikistan; - titles of the works of science, literature and art well-known in the Republic of Tajikistan or quotations therefrom; works of art or fragments thereof, without the consent of the copyright owner or that of the appropriate competent authority; - family names, given names, pseudonyms and their derivatives, portrays and facsimiles of famous persons, without the consent of such persons, their heirs or a appropriate competent authority.

TRIPS Agreement	
Article 6sexties states that Paris Members undertake to protect service marks without being required to provide for their registration.	<p>According to the Law of the Republic of Tajikistan on Trade And Service Marks a trademark and a service mark are equated in the legal regime</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 1. Trademark and service mark</p> <p>A trademark and a service mark (hereinafter referred to as "trademark") shall be designations, registered in accordance with the established procedure, capable of distinguishing the goods and services of some legal entities or natural persons from the similar goods and services (hereinafter referred to as "goods") of other legal entities or natural persons.</p> <p>Article 2. Legal protection of a trademark</p> <p>1. Legal protection of a trademark in the Republic of Tajikistan shall be effected on the basis of its registration in accordance with the procedure established by this Law or by virtue of the international treaties of which Tajikistan is a member.</p> <p>2. The right in a trademark shall be protected by the State.</p> <p>3. A trademark may be registered in the name of a legal entity, as well as of a natural person engaged in entrepreneurship.</p>
Article 6septies requires that trademark owners be able to oppose or request cancellation of a registration of their trademarks applied for by their agent or representative without their authorization unless the agent or representative justifies his action.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 29. Recognition of the registration of a trademark as invalid</p> <p>1. The registration of a trademark may be declared invalid in whole or in part at any time during the term of its duration if the trademark has been registered in violation of Articles 2 and 6 of this Law, or within five years of the date of publication of the information about the registration of a trademark in the Official Gazette on the grounds provided for in Article 7 of this Law.</p> <p>Any legal entity or natural person may file, within the aforesaid period of time, an opposition against the registration of a trademark with the Appeal Board.</p> <p>2. An opposition against a trademark registration shall be examined within six months from the date of its receipt. Both the person submitted the opposition and the owner of the trademark shall have the right to take part in its consideration.</p> <p>3. The decision of the Appeal Board may be appealed juridically within six months of the date on which it has been made.</p>
Article 7 states that the nature of the goods to which a trademark is applied may in no case be an obstacle to the registration of the trademark. (Duplicate language is in TRIPS Article 15.4.)	The Law of the Republic of Tajikistan on Trade And Service Marks does not restrict the registration of a trademark on the grounds of the nature of the goods to which a trademark is applied.

TRIPS Agreement	
Article 7bis requires that Members permit registration of collective marks belonging to associations the existence of which is not contrary to the law of the country of origin, even where the association is not established in the country where protection is being sought.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 22. Right in a collective mark</p> <p>1. A collective mark shall be a trademark of a union, association of manufacturers or traders, concern, or any other voluntary association of enterprises (hereinafter referred to as "association") intended to designate the goods, produced or distributed by them, possessing uniform qualitative or other common characteristics.</p> <p>Article 23 Registration and use of a collective mark</p> <p>1. An application for a collective mark shall be accompanied by the Charter of the collective mark, which contains the name of the association authorized to register the collective mark in its own name, a list of enterprises entitled to use the mark, purpose of the registration, a list of goods to be designated by the collective mark with description of their uniform qualitative or other common characteristics, conditions of its use, and the liability for violation of the Charter of the collective mark.</p> <p>2. In the Register and on the certificate for a collective mark in addition to the information provided for in Article 15 of this Law there shall be entered the information about enterprises having the right to use the collective mark. This information and an extract from the Charter of the collective mark about uniform qualitative or other common characteristics of the goods in respect of which the collective mark has been registered shall be published by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks in the Official Gazette.</p> <p>3. The owner of a collective mark shall notify the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks about changes in the Charter of the collective mark.</p> <p>4. In the case of use of a collective mark on the goods, not possessing uniform qualitative or other common characteristics, the registration of this mark may be invalidated prematurely in full or in part on the basis of the Court's decision made on request of an interested legal entity or natural person.</p>
Article 8 requires that trade names be protected by Members without the necessity of registration, whether or not the names are part of a trademark.	<p>CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN</p> <p>Article 55. Name and location of a legal entity</p> <p>1. A legal entity shall have its own name containing an indication of its organizational form. {...}</p> <p>2. {...}</p> <p>3. {...}</p> <p>4. A legal entity which is a commercial organization must have a trade name. A legal entity a trade name of which is registered in a prescribed procedure shall have an exclusive right to use it. The procedure of registration and use of trade names shall be established by the legislation in accordance with this Code. A person illegally using a trade name, on demand of the owner of the right in a trade name, shall be obliged to stop its use and to compensate for the losses incurred.</p> <p>Law of the Republic of Tajikistan "On competition and restriction of monopoly activity on commodity markets"</p> <p>Article 7. Forms of unfair competition</p> <p>Unfair competition shall not be allowed including:</p> <p>{...};</p> <p>{...};</p> <p>{...};</p> <p>{...};</p> <p>unauthorized use of a trademark, trade name or marking, as well as reproducing packaging, external appearance of the good of the other producer;</p>

TRIPS Agreement	
Article 9 requires seizure on importation or exclusion of goods bearing a trademark or trade name without authorization, unless a country's laws provide for neither remedy, in which case domestic actions and remedies must be available.	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 4. Exclusive right in a trademark {...}.</p> <p>2. Any unsanctioned action referred to in Article 24 (1) of this Law , as well as importation, offering for sale and other introduction into the market of the goods designated by a trademark protected in the Republic of Tajikistan, shall be recognized as infringement of the right of the trademark owner.</p> <p>Article 24. Use of a trademark and consequences of its non-use</p> <p>1. Use of a trademark shall be understood to mean its use on the goods in respect of which it has been registered or on packaging thereof by the owner of a trademark or a person to whom such right has been conferred under a license agreement in accordance with Article 27 of this Law.</p> <p>Use may also be understood to mean the use of a trademark in advertising, printed publications, on signboards, on exhibits displayed at exhibitions and fairs organized in the Republic of Tajikistan, where there are valid reasons for non-use of the trademark on goods or packaging thereof.</p> <p>Article 32. Responsibility for violation of the rights of the owner of a trademark</p> <p>1. The use of a trade mark in violation of this Law, or the use of a designation similar to a trademark in respect to similar goods, or any other actions detrimental to its owner or to consumers shall entail civil responsibility in accordance with the current legislation.</p> <p>2. A person illegally using a trademark, on demand of the owner of the trademark shall be obliged to stop its use and to compensate for the losses incurred.</p> <p>Criminal Code of the Republic of Tajikistan</p> <p>Article 275. Illegal use of a trademark</p> <p>1) Illegal use of a trademark, service mark, trade name, appellation of origin, marking of the goods of the competitor or similar designation in respect of similar goods and services, if this action has been performed recurrently after inflicting an administrative punishment or caused great damage - shall be punishable by a fine of 1000 to 2000 minimum wages, or corrective labour for a term of up to one year, or imprisonment of up to six months.</p> <p>2) Illegal use of preventive marking in respect of the trademark or appellation of origin not registered in the Republic of Tajikistan, if this action has been performed recurrently after inflicting an administrative punishment or caused great damage, - shall be punishable by a fine of 1000 to 2000 minimum wages, or with corrective labour for a term of up to two years, or imprisonment of up to six months.</p>

TRIPS Agreement	
Article 10 applies the obligation of Article 9 to the direct or indirect use of false indications of source of goods, or false indication of the producer, manufacturer, or merchant of such goods.	<p>Law of the Republic of Tajikistan on Trade And Service Marks Article 32. Responsibility for violation of the rights of the owner of a trademark 1. The use of a trade mark in violation of this Law, or the use of a designation similar to a trademark in respect to similar goods, or any other actions detrimental to its owner or to consumers shall entail civil responsibility in accordance with the current legislation.</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications Article 2. Provision of legal protection to geographical indications 1. {...}. 2. {...}. 3. Legal protection of an indication of source shall be provided on the basis of the use of the indication Legal protection of an indication of source shall consists in non-admission of the use of deceptive (false) indications of source and also of indications that are capable of confusing consumers in respect of true origin of the good. Article 13. Use of a geographical indication 1. {...}. 2. The use of a registered appellation by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "sort", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the user as regards the place of origin and special features of the good shall not be allowed.</p>
Article 10bis requires Members to provide protection against unfair competition, including against acts that create confusion of various kinds about the goods or activities of a competitor, that consist of false allegations about a competitor, or that are apt to mislead the public regarding a competitor's goods.	<p>Law of the Republic of Tajikistan "On competition and restriction of monopoly activity on commodity markets". Article 7. Forms of unfair competition Unfair competition shall not be allowed including: {...}; deception of consumers in respect of the nature, process and place of manufacturing, consumer's properties and quality of the good; {...}; {...}; unauthorized use of a trademark, trade name or marking, as well as reproducing packaging, external appearance of the good of the other producer;</p>

TRIPS Agreement	
Article 10ter requires that Members undertake to assure to foreign nationals effective legal remedies to repress actions referred to in Articles 9, 10 and 10bis, and to allow federations and associations representing foreign businesses, on the basis of reciprocity, to take action in court and before administrative authorities to repress such acts.	<p>Law of The Republic of Tajikistan on Inventions Article 37. Consideration of disputes Disputes over the infringement of the legal protection of inventions shall be considered by the Appeal Board within the limits of its competence. In the event of disagreement with the decision of the Appeal Board any party shall have the right to apply to the court.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 31. Bodies considering disputes Disputes connected with trademarks shall be considered by Court, except for the disputes attributed to the competence of the Appeal Board, in accordance with Articles 14 and 30 of this Law.</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications Article 16. Invalidation of a registration of an appellation of origin and a certificate 1. {...}. 2. {...}. 3. {...}. 4. Any person on the ground provided for in paragraphs 1, 2 and subparagraph 3.1 of paragraph 3 of this article, may file an appeal to the Appeals Board on invalidation of registration of an appellation of origin and of a certificate. The procedure for consideration of appeals shall be established by the Patent Office. The decision of the Appeals Board may be challenged in the Supreme Economic Court of the Republic of Tajikistan within six months of from the date of its receipt.</p>

TRIPS Agreement	
Article 11 requires that temporary protection, consistent with domestic legislation, be afforded to patentable inventions, utility models, industrial designs and trademarks in respect of goods exhibited at official or officially recognized international exhibitions held in their territory.	<p>Law of The Republic of Tajikistan on Inventions Article 24. Provisional legal protection of an invention {...}.</p> <p>An invention, exhibited at an official or officially recognized international exhibition, shall be granted provisional legal protection from the date on which it is displayed at the exhibition up to the date of the first publication of information concerning the grant of a title of protection, provided that the application for this invention has been filed with the Patent Office not later than six months from the date of its display at the exhibition. The provisional legal protection shall be considered never to have existed where a decision to refuse the grant of a title of protection has been made and the possibilities of appeal have been exhausted.</p> <p>Law of The Republic of Tajikistan on Industrial Designs Article 17. Convention priority {...}.</p> <p>The priority of an industrial design may be determined on the date of placing the industrial design at an official or officially recognized international exhibition, provided that the application on which the priority was claimed has been filed with the Patent Office within six months following the date of the display of the industrial at the exhibition.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 10. Priority of a trademark 1. {...}.</p> <p>2. {...}.</p> <p>3. The priority of a trademark placed on exhibits at officially recognized international exhibitions organized in the territory of one of the countries-members of the Paris Convention for the Protection of Industrial Property (exhibit priority) may be determined on the date of the beginning of the open display of the exhibits at the exhibition, provided the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks received the application for a trademark within six months from the said date.</p> <p>4. An applicant wishing to exploit the right to convention or exhibition priority must state so while filing the application for a trademark or within two months following receipt of the application by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks, and attach the necessary documents confirming the lawfulness of such claim or furnish these documents within three months from the date of receipt of the application in the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.</p>

TRIPS Agreement	
Article 12 requires Members to establish industrial property offices for patents, utility models, industrial designs and trademarks for the communication to the public through publication of a periodic journal of the names of patent owners with a brief designation of their inventions, and the reproduction of trademarks.	<p>The National Center for Patents and Information - referred to in abbreviated form as NCPI - is an external bureau of the Ministry of Economy and Trade of the Republic of Tajikistan and was set up by the Government Decree No. 242 of May 28, 1993. One of the main tasks delegated to the NCPI was protection of state interests with regard to inventions, industrial designs, trademarks, service marks and other industrial property objects in the Republic or abroad, as well as coordination of the work of inventors.</p> <p>NCPI carries out its activity as a specialized government body having sole authority over the territory of Tajikistan in ensuring the protection of industrial property according to the national legislation in this field and to the provisions of the international conventions and treaties where Tajikistan is a party.</p> <p>The Official Gazette («Навиди Патенти») is published quarterly. The first issue (№1, 1996) contained all the legislative acts and documents related to Industrial Property Protection in Tajikistan. Since 1998 the Official Bulletin has been published in three languages: Tajik, Russian and English.</p> <p>Law of The Republic of Tajikistan on Inventions Article 3. State body for the protection of industrial property objects The State body for the protection of industrial property objects (hereinafter the Patent Office) shall implement a unified State policy in the area of legal protection of industrial property objects, receive applications for industrial property objects, examine those applications, perform the State registration and official publication of information on industrial property objects, issue titles of protection and also carry out other duties, in accordance with the relevant Statute.</p> <p>Law of The Republic of Tajikistan on Industrial Designs Article 3. The State body for protection of industrial property objects The State body for protection of industrial property objects (hereinafter referred to as “Patent office”) shall provide implementation of a consistent state policy on legal protection of industrial property objects, in particular, industrial designs, receive applications for industrial designs, conduct their examination, carry out state registration and official publication of information about industrial property objects, grant patents for industrial designs, and also perform other tasks entrusted to it.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 8. State Service for Protection of Inventions and Registration of Trademarks and Service Marks of the Republic of Tajikistan The State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks shall accept for consideration applications for registration of trademarks, conduct their examination, issue certificates for trademarks valid in all the territory of the Republic of Tajikistan, keep the State Register on trademarks and service marks of the Republic of Tajikistan, exert control over the observation of the trademark legislation, generalize the practice of its implementation, interpret the provisions of this Law, offer professional help and services with regard to these issues, carry out informational work on trademarks, and perform activities relating to the international registration of trademarks.</p>

TRIPS Agreement	
Article 19 authorizes Members to enter into separate and special industrial property agreements among themselves, so long as those agreements do not contravene the provisions of Paris.	International agreements of the Republic of Tajikistan in the field of industrial property do not contravene the provisions of the Paris Convention.
National treatment, with exceptions allowed in the Paris, Berne and Rome Conventions. Article 3.	<p>Law of The Republic of Tajikistan on Industrial Designs Article 33. Rights of foreign natural persons and legal entities Foreign natural persons and legal entities shall enjoy those rights granted by this Law on a par with natural persons and legal entities of the Republic of Tajikistan in accordance with international agreements to which Tajikistan is a party or on the basis of reciprocity.</p> <p>Law of the Republic of Tajikistan on Trade And Service Marks Article 34. Rights of foreign legal entities, foreign citizens and stateless persons Foreign legal entities, as well as foreign citizens and stateless persons shall enjoy the rights accorded by this Law and other relevant legislative acts of the Republic of Tajikistan equally with the legal entities and natural persons of the Republic of Tajikistan, unless this Law or any other act of the current legislation provide otherwise.</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications Article 21. The rights of foreign citizens, persons without citizenship, and foreign legal persons Foreign citizens, persons without citizenship, and foreign legal persons shall enjoy the rights provided for by this Law and other legal acts of the Republic of Tajikistan in the field of protection of geographical indications and shall be equally liable with natural persons and legal entities of the Republic of Tajikistan unless otherwise stipulated by the legislative acts of the Republic of Tajikistan and international agreements.</p>
Most favoured nation treatment, with enumerated exceptions. Article 4.	At present, the MFN treatment (with exception in respect of some advantages granted to Russian Federation in accordance with bilateral Notes) is not provided by any bilateral agreements.
Copyright and Neighbouring Rights	Citation to appropriate law or laws
Compliance with Articles I through 21 of the Berne Convention with the exception of Article 6bis, Article 9.1.	Since 2000, the Republic of Tajikistan has been a member of the Bern Convention on Protection of Literary and Artistic Works.
Article 2 defines "literary and artistic works" as "every production in the literary, scientific and artistic domain whatever may be the mode or form of its expression," giving examples. Limitations related to speeches are provided in Article 2bis.	<p>Law on Copyright and Related Rights No.726 of November 13, 1998 Article 5 Objects of Copyright. General Provisions</p> <p>Copyright extends to scientific, literary and artistic works that are the product of creative work, regardless of the purpose, the merit and the manner of expression thereof. The works must be expressed in an objective form, namely: written form (manuscript, typewritten text, musical score, etc.); oral form (public recitation, public performance, etc.);</p>

TRIPS Agreement	
	<p>oral form (public pronouncement, public performance, etc.); sound or visual recording (mechanical, magnetic, digital, optical, etc.); figurative form (drawing, sketch, painting, plan, industrial design, still picture from a cinematographic or television or video film, photograph, etc.); three-dimensional form (sculpture, model, mock-up, structure, etc.); any other form. In any forms permitting perceiving of the works. Ideas, methods, processes, systems, means, concepts, principles, discoveries and facts may not be protected by copyright. The copyright in a work is independent of the ownership of the material object in which the work is expressed. The transfer of the ownership of the material object shall not in itself constitute transfer of any copyright to the work embodied in that object.</p> <p>Article 6 Works Protected by Copyright</p> <p>The following are protected by copyright: oral works (speeches, lectures, reports, etc.) literary works (belles-lettres, scientific, educational, publicistic, etc., including computer programs both source text and objective code); dramatic or dramatico-musical works and other works with a scenario; garden design; photographic works and works obtained by choreographic and mimed works; musical works with or without accompanying text; audiovisual works; works of painting and sculpture, graphic and design works, cartoon strips and other works of figurative art; works of architecture, urban planning and park and processes analogous to photography; geographical, geological and other maps, plans and sketches, and also three-dimensional works relating to geography, topography and other sciences; derived works (translations, adaptations, annotations, analyses, summaries, reviews, stage adaptations, arrangements and other transformations of scientific, literary and artistic works); collections (encyclopaedias, anthologies, data bases) and other composite works which, by reason of the selection or arrangement of their contents, constitute the result of creative effort. Derived works and composite works shall be protected by copyright whether or not the works on which they are based, or which they themselves include, are protected by copyright.</p>

TRIPS Agreement	
Article 3 requires that protection be provided to the works of authors who are nationals of Berne Union members and to works of nationals of non-Union countries if those works are published in a Union member simultaneously with publication in the non-Union country.	<p>Law on Copyright and Related</p> <p>Article 4. Scope of Copyright</p> <p>By virtue of this Law, copyright extends to works: authors of which are nationals of the Republic of Tajikistan or have permanent place of residence within the territory of the Republic of Tajikistan; first published within the territory of the Republic of Tajikistan (including the works first published in other country within 30 days of its first publication within the Republic of Tajikistan) or unpublished but existing in an objective form within the territory of the Republic of Tajikistan irrespective of nationality or permanent place of residence of their authors; that is granted protection under international treaties to which the Republic of Tajikistan is party.</p>
Article 4 requires that protection be provided cinematographic works not falling under Article 3 if the maker has a headquarters or habitual residence in a Union member and to works of architecture or artistic works incorporated into a building or structure in a Union member.	<p>Law on Copyright and Related Rights</p> <p>Please refer to the Article 4 of the Law on Copyright and Related Rights above.</p> <p>Article 13. Copyright in Audiovisual Works</p> <p>The following shall be recognized as authors of an audiovisual work: the director or maker; the author of the scenario; the author of the musical work (with or without words) that has been specially created for that audiovisual work (composer). The conclusion of a contract for the making of an audiovisual work shall constitute assignment, by the authors of the work to the producer thereof, of the exclusive rights of reproduction, public performance, communication to the public by cable, broadcasting, or any other public communication of the work, and also the exclusive subtitling and dubbing rights, unless otherwise provided in the contract. The said rights shall operate throughout the period of validity of the copyright in the audiovisual work. The producer of the audiovisual work shall have the right to mention his name or to demand such mention whenever the work is exploited. In the case of public performance of the audiovisual work, the author of the musical work (with or without words) shall retain the right to remuneration for the public performance of his musical work. The authors of the works constituting the audiovisual work, whether pre-existing (for instance, the author of the novel from which the scenario is taken) or created in the making of the audiovisual work (for instance, the camera director or artistic director), shall each enjoy copyright in his work.</p>

TRIPS Agreement	
Article 5 requires that authors enjoy the rights required by Berne and any other rights a country provides works on a national treatment basis without being subject to any formalities.	<p>Article 9. Origin of Copyright. Presumption of Authorship</p> <p>1. A scientific, literary or artistic work is eligible for copyright by virtue of the mere fact of its creation. The origin and exercise of copyright shall not require either registration of the work or the performance of any other act or formality. In order to have his rights recognized, the owner may use a copyright notice which should be placed on every copy of the work and should consist of the following three elements:</p> <ol style="list-style-type: none"> 1) a circled capital letter C: (C); 2) the name of the owner of the exclusive rights; 3) the year of first publication of the work. <p>In the absence of proof to the contrary, the person named as the author on the original or on a copy of the work shall be deemed the author thereof.</p> <p>Where a published work is anonymous or pseudonymous (unless the author's pseudonym leaves his identity in no doubt), the publisher named on the work shall be presumed, in the absence of proof to the contrary, to represent the author and, in that capacity, shall be empowered to defend and exercise the author's rights. This provision shall remain in force until such time as the author of the work reveals his identity and claims authorship of the work.</p> <p>Entity possessing copyright or any persons having any exclusive right to the work may realise registration of the work within the duration of the copyright in the order determined by an agency authorized by the Government of the Republic of Tajikistan in the field of the protection of copyright and related rights (hereinafter - authorized agency) for giving of certification about authorship to published or unpublished work, about the fact and the date of publishing of the work or agreements concerning copyright.</p> <p>A person possessing material object in which the work is embodied may not block entity possessing copyright to register his work.</p>
Article 7 requires that the term of protection for copyright be 50 years following the death of the author. Special terms are authorized for cinematographic works, anonymous or pseudonymous works, photographic works and works of applied art. Article 8 gives authors of protected works the exclusive right to make or authorize the making of translations of the work.	<p>Article 16. Economic Rights of Authors</p> <p>The author shall enjoy the exclusive right to exploit his works in any form and by any way. It means the right to perform or authorize the following acts:</p> <ul style="list-style-type: none"> reproduction of the work (right of reproduction); distribution of copies of the work by any means, including sale, rental and other ways (right of distribution); importation of copies of the work for the purposes of distribution, including that of copies made with the permission of the owner of exclusive rights (right of importation); presentation of the work in public (right of public presentation); performance of the work in public (right of public performance); communication of the work to the public (including showing, performance or broadcasting) by broadcasting or rebroadcasting (right of broadcasting); communication of the work to the public (including showing, performance or broadcasting) by cable, wire or comparable means (right of communication to the public by cable); translation of the work (right of translation); adaptation, arrangement or other transformation of the work (right of adaptation). <p>The exclusive rights of the author in relation to the project for a design work, an architectural work, a work of urban planning</p>

TRIPS Agreement	
	<p>or a work of park or garden design shall extend also to the practical realization of the project. Unless otherwise provided by contract, the author of an accepted architectural project shall have the right to demand that the party who commissioned the work allow him to take part in the realization of his project at the stage of the production of the documentary material relating to the construction or at the stage of the actual construction of the building or other structure.</p> <p>Where copies of a lawfully published work have been put into circulation by means of sale, their subsequent distribution shall not require authorization by the author or other owner of copyright and shall not give rise to the payment of remuneration to the author.</p> <p>The right to distribute copies of the work such as audiovisual works, computer programs, data bases, musical works in musical score and phonograms by means of rental shall belong to the author without regard to the ownership of the said copies.</p> <p>The amount and the manner of payment of remuneration to the author for each form of exploitation of the work shall be determined by the author's contract and by the contracts that organizations for the collective administration of economic rights conclude with users.</p> <p>The rights of authors specified in part 2 of this Article shall be subject to the limitations specified in Article 19 to Article 21, 24 and 39 of this Law, which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author.</p> <p>Article 17. Term of Copyright</p> <p>1. Copyright shall have effect throughout the lifetime of the author and for 50 years after his death and it is transferable by succession except as provided in this Article.</p> <p>The author's right to claim authorship of his work, his right to be named as such and his right to protection for his reputation shall be protected without limitation in time.</p> <p>The author may, according to legislative order, specify the person to whom he entrusts the protection of the right of authorship, the right to be named and the right to protection for his reputation after his death. That person shall fulfil his mandate throughout his life.</p> <p>Where no such person has been named, the protection of the right of authorship, the right to be named as author and right to protection for the author's reputation shall be ensured either by his heirs, in case of absence of heirs or after lapsing the heirs' copyright it shall be ensured by authorised agency.</p> <p>The copyright in a work of joint authorship shall have effect until the death of the last surviving coauthor and for 50 years thereafter.</p> <p>The copyright in an anonymous or pseudonymous work shall have effect for 50 years following the date of the lawful disclosure thereof. If, in the course of that period, the author of the anonymous or pseudonymous work reveals his identity, or if that identity is no longer in doubt, the provisions of the first part of this Article shall be applicable.</p> <p>Copyright in a work first published during thirty years after his death shall have effect for 50 years following the lawful publication of the work.</p> <p>Any period under this Article shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period.</p>

TRIPS Agreement	
Article 9 requires that authors be given the exclusive right to authorize reproduction of the work in any manner or form with only limited exceptions that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author	Please refer to the Article 16 of the Law on Copyright and Related Rights above.
Articles 10 and 10bis define certain authorized "free uses of works".	<p>Article 21. Use of a Work without the Author's Consent and Without Payment of Remuneration</p> <p>It shall be permissible, without the consent of author or other entity possessing copyright and without payment of remuneration: the reproduction, broadcasting or communication to the public by cable of architectural works, photographic works and works of fine art permanently located in a public place shall be permissible without the author's consent and without payment of remuneration, except where the presentation of the work constitutes the main feature of the said reproduction, broadcast or communication to the public by cable, if it is used for commercial purposes; the public performance of musical works in the course of official or religious ceremonies and at funerals to the extent justified by the nature of the said ceremonies; the reproduction of works for the purposes of judicial proceedings, to the extent justified by the said purposes; making by a broadcasting organization an ephemeral recording of the work for which it has obtained the right of broadcasting, on condition that the organization makes the recording with its own equipment and facilities and for the purposes of its own broadcasts. The broadcasting organization is obliged to destroy the recording within six months after it was made, except where a longer period has been agreed upon with the author of the work recorded. The recording may be preserved in official archives without the author's consent if it is of purely documentary character.</p> <p>Article 22. Right of Access to Works of Fine Art. Resale Royalty</p> <p>The author of a work of fine art shall have the right to demand of the owner of the work that he allow him to exercise the right of reproduction of his work (right of access), provided that the owner of the work may not be bound to deliver the work to the author to that end.</p> <p>The transfer of ownership of a work of fine art (whether for consideration or free of charge) from the author to a third party shall constitute the first sale of that work.</p> <p>For each public resale of a work of fine art (sale by auction or at an art gallery or exhibition, in a shop, etc.), the seller shall pay the author remuneration representing 5% of the resale price (resale royalty). That right is inalienable and transferable only to the author's legal heirs throughout the duration of the copyright.</p>

TRIPS Agreement	
Articles 11, 11bis, and 11ter require that authors of dramatic, dramatico-musical and musical works and any translation thereof and authors of literary and artistic works, the exclusive right to authorize the public performance of their works, including by broadcast, public recitation and any communication to the public.	Please refer to the Article 16 of the Law on Copyright and Related Rights above.
Article 12 requires that authors of literary or artistic works have the exclusive right to authorize adaptations, arrangements and other alterations of their works.	Please refer to the Article 16 of the Law on Copyright and Related Rights above.
Article 13 authorizes countries to impose reservations and conditions on the exclusive right granted authors of musical works or written works that are recorded.	<p>Article 2. Legislation of the Republic of Tajikistan on Copyright and Related Rights</p> <p>The legislation of the Republic of Tajikistan on copyright and related rights is based on the Constitution of the Republic of Tajikistan and consists of this Law, other legislative texts of the Republic of Tajikistan that are enacted pursuant to this Law, as well as international agreements recognized by Tajikistan.</p>
Articles 14 requires that authors of literary and artistic works have the exclusive right to authorize the cinematographic adaptation and reproduction of their works and the distribution, public performance and communication to the public of the adaptation or reproduction, without the limitations authorized under Article 13(1).	Please refer to the Articles 13 and 16 of the Law on Copyright and Related Rights above.
Article 14bis specifies that a cinematographic work is to be protected as an original work without prejudice to any work that is adapted or reproduced and the author of the cinematographic work is to enjoy the same rights as the author of any other work.	Please refer to the Articles 13 and 16 of the Law on Copyright and Related Rights above.
Article 14ter requires "droit de suite" in connection with subsequent sales works of art and manuscripts.	Please refer to the Article 22of the Law on Copyright and Related Rights above.

TRIPS Agreement	
Article 15 requires that ownership of a work, for purposes of litigation, be presumed to be that which appears on the work in the usual manner.	<p>Article 8. Subjects of copyright</p> <p>A subject of copyright is an author.</p> <p>A natural person named when publishing of the work whose name is marked on the manuscript or on the original of the work shall be considered the author.</p> <p>Article 33. Related Rights Notice</p> <p>The origin and exercise of related rights shall not be subject to compliance with any formality. The producer of a phonogram and the performer may, in order to publicize their rights, make use of a reserved related rights notice which should be placed on every copy or on every sleeve or inlay card of the phonogram and should consist of the following three elements:</p> <ol style="list-style-type: none"> 1) a circled capital letter P: (P); 2) the name of the owner of the exclusive rights; 3) the year of first publication of the phonogram.
Article 16 requires that infringing copies of a work be subject to seizure whether domestically produced or imported.	<p>Law on Copyright and Related Rights</p> <p>Article 47</p> <p>Violations of Copyright and Related Rights. Counterfeit Copies of Works and Phonograms</p> <p>Copies of a work or phonogram that are manufactured or distributed in violation of copyright or related rights shall be deemed counterfeit copies.</p> <p>Copies of works or phonograms protected in the Republic of Tajikistan under this Law that are imported into the Republic of Tajikistan from a State in which the said works or phonograms have never been protected or have ceased to be protected shall also constitute counterfeit copies.</p> <p>Any natural persons or legal entities that do not meet the requirements of this Law bear the responsibility according to the legislation.</p> <p>Article 48</p> <p>Sanctions for the Protection of Copyright and Related Rights</p> <p>The owners of exclusive rights, whether copyright or related rights, may demand of the infringer of his rights:</p> <ol style="list-style-type: none"> 1) recognition of the said rights; 2) restoration of the situation obtaining prior to the infringement of the said rights and the cessation of the acts that infringe or are liable to infringe them; 3) payment of damages, including loss of earnings; 4) the surrender, in place of the payment of damages, of revenue derived by the infringer from the infringement; 5) the adoption of such other measures provided for in legislative texts as are recognized for the defense of his rights. <p>The choice between the measures referred to in paragraph 3 - 4 of this Article shall be made by the owner of the copyright or related rights.</p> <p>Counterfeit copies of the work or phonogram, may be handed over on request to the owner of the copyright or related rights.</p>

TRIPS Agreement	
	<p>Counterfeit copies of the work or phonogram shall be destroyed if the owner of the copyright or related rights has not demanded that they be handed over to him.</p> <p>The Customs Code of the Republic of Tajikistan of 4 November 1995, Article 278 Removal of goods and means of transport across the customs border of the Republic of Tajikistan with the fraudulent use of document and means of identification</p> <p>The removal of goods and means of transport across the customs border of the Republic of Tajikistan with the handing to the customs agency of the Republic of Tajikistan as documents necessary for the customs purposes, the forged, invalid documents or those got illegally or containing the inauthentic data or referred to other goods and means of transport as well as the use of false means of identification or authentic means of identification referred to other goods and means of transport except cases provided by Articles 279 and 282 of the present Code, entails the imposition of a fine from one hundred to three hundred percent of the cost of goods and means of transport being direct objects of the breaking of the law, with their confiscation or recovery of the cost of these goods and means of transport.</p>
Article 18 requires that copyright protection be applied to all works which, at the moment Berne becomes effective, have not fallen into the public domain in the country of origin through the expiry of the term of protection.	<p>The Constitution of the Republic of Tajikistan of 6 November 1994 Article 10</p> <p>Article 10. The Constitution of Tajikistan shall have supreme legal force authority and its norms have direct affect. Laws and other legal acts that contradict the Constitution shall be of no legal validity. State and all its bodies, officials, citizens, and their association shall observe and comply wit the Constitution and laws of the republic.</p> <p>International legal documents recognized by Tajikistan shall be a component part of the legal system of the republic In case the republican laws do not stipulate to the recognized international legal documents, the rules of the international documents shall apply.</p> <p>Laws and international documents recognized by Tajikistan shall come into force after their official publication.</p> <p>Law on Copyright and Related Rights Please also refer to the Article 2.</p>
Article 19 authorizes Union members to provide greater protection than that required by the Convention.	
Article 20 authorizes Union members to enter into special agreements among themselves to provide more extensive rights than those provided by Berne.	

TRIPS Agreement	
Protect computer programs, whether in source or object code, as literary works under the Berne Convention. Protect compilations of data, whether in machine readable or other form are to be protected as intellectual creations if they constitute such. Article 10.	Please refer to Article 6 of the Law on Copyright and Related Rights above.
Provide rental rights at least for computer programs and cinematographic works with certain exceptions. Article 11.	Please refer to Article 16 of the Law on Copyright and Related Rights above.
Provide a term of protection of fifty years from the death of the author (Berne Article 7.1 and TRIPS Article 9.1) or, for works the term of which is not measured by the life of the author, a term of 50 years from the end of the calendar year of authorized publication, or, if not published within fifty years from making, fifty years from the end of the calendar year of making. Article 12.	Please refer to Article 17 of the Law on Copyright and Related Rights above.
Confine limitations and exceptions to exclusive rights to certain special cases, which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the right holder's legitimate interests. Article 13.	<p>Article 19 Reproduction of the Work for Personal Purposes without the Author's Consent and Without Payment of Remuneration</p> <p>The reproduction of a lawfully published work for exclusively personal purposes which shall apply insofar as the uses in question do not unjustifiably prejudice the normal exploitation of the work and do not without valid reason violate the legitimate interests of the author shall be authorized without need for the author's consent or payment of remuneration, except in the cases provided for in Article 39 of this Law.</p> <p>The provisions of paragraph 1 of this Article shall not apply:</p> <ol style="list-style-type: none"> 1) to the reproduction of works of architecture in the form of comparable buildings and structures; 2) to the reproduction of data bases or substantial parts of data bases; 3) to the reproduction of computer programs, except in the cases provided for in Article 24 of this Law; 4) to the reproduction of books (in their entirety) and musical scores. <p>The full text of the Law of RoT can be obtained from the WTO Secretariat (see document WT/ACC/TJK/6/Add.1)</p> <p>Article 20 Use of a Work without the Author's Consent and Without Payment of Remuneration but provided that the name of the author and the source of the borrowing are mentioned</p> <p>The following shall be authorized without the author's consent and without payment of remuneration, but provided that the name of the author whose work is used and the source of the borrowing are mentioned:</p>

TRIPS Agreement	
	<p>1) the quotation, in the original language or in translation, for scientific or for research, polemic, critical or informational purposes and to the extent justified by the intended purpose, of extracts from lawfully published works, including the reproduction of extracts from newspaper and magazine articles in press reviews;</p> <p>2) the use of lawfully published works and of extracts from such works for the purpose of illustration in publications, radio or television broadcasts or sound or visual recordings of educational character, and to the extent justified by the intended purpose;</p> <p>3) the reproduction in newspapers, the broadcasting or communication to the public by cable of articles lawfully published in newspapers or magazines on economic, political, social or religious topics, or of broadcast works of the same nature, insofar as the author has not expressly prohibited such reproduction, broadcast or cable communication;</p> <p>4) the reproduction in newspapers, the broadcasting or communication to the public by cable of political speeches, addresses, lectures and other works of the same nature given in public, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish those works in collections;</p> <p>5) the reproduction or communication to the public, in connection with the reporting of current events by means of photography, broadcasting or public cable communication, of works that are seen or heard in the course of such events, to the extent justified by an informational purpose. The author shall nevertheless retain the right to publish such works in collections;</p> <p>6) the reproduction in Braille or by other special means for the benefit of the blind, done without gainful intent, of lawfully published works, with the exception of works created especially for such means of reproduction.</p> <p>7) reprographic reproduction in one copy and without gainful intent:</p> <p>a) of a lawfully published work insofar as the reproduction is the work of a library or archive service and its purpose is to restore or replace lost or damaged copies, or to place copies at the disposal of other libraries that for any reason have lost works from their own collections if it is impossible to get the copy by other way;</p> <p>b) of isolated articles or succinct works lawfully published in collections, newspapers or other periodical publications, or of short extracts from lawfully published written works (with or without illustrations), if the reproduction is the work of a library or archive service and it is done to meet the requirements of natural persons who will make use of the copies so obtained for study or research purposes;</p> <p>c) of isolated articles or succinct works lawfully published in collections, newspapers or other periodical publications, or of short extracts from lawfully published written works (with or without illustrations), if the reproduction is the work of an educational establishment and the copy obtained is intended for classroom use.</p> <p>Please refer to Article 21 of the Law on Copyright and Related Rights above.</p> <p>Article 41 Limits of the Rights of the Performer, the Phonogram Producer and the Broadcasting or Cable Distribution Organization</p> <p>Notwithstanding the provisions of Article 34 to Article 37 and 40 of this Law, it shall be permissible, without consent from the performer, the phonogram producer and the broadcasting or cable distribution organization, and without payment of remuneration, to make use of the performance or the broadcast or cabled program or the recording thereof, and to reproduce phonograms:</p> <p>1) for the inclusion in a report on current events of short extracts from the performance, the phonogram or the broadcast or</p>

TRIPS Agreement	
	<p>cabled program;</p> <p>2) for the sole purposes of teaching or scientific research;</p> <p>3) as a means of quoting, in the form of short extracts, from the performance, the phonogram or the broadcast or cabled program, on condition that the quotation is for information purposes and on the understanding that a broadcasting or cable distribution organization may only, for the purposes of a broadcast or cabled program make use of copies of a phonogram published for commercial purposes if the provisions of Article 40 of this Law are respected;</p> <p>4) in the other cases provided for in Article 19 to 21 of this Law for the limitation of the economic rights of the authors of literary, scientific and artistic works.</p> <p>Notwithstanding the provisions of Article 34 to Article 37 and 40 of this Law, it shall be permissible, without consent from the performer, the phonogram producer and the broadcasting or cable distribution organization to make use of the broadcast or cabled program or a recording thereof, and also to reproduce the phonogram for personal purposes. Reproduction of the phonogram shall be permissible against payment of remuneration under Article 39 of this Law.</p> <p>The provisions of Article 34 to 37 of this Law concerning the authorization of the performer, the phonogram producer and the broadcasting organization shall not be applicable to the making of an ephemeral recording of a performance or program, to the reproduction of that recording or to the reproduction of a phonogram published for commercial purposes if the ephemeral recording or the reproduction is made by a broadcasting organization using its own equipment and facilities and for the purposes of its own broadcasts, on condition that:</p> <p>1) the broadcasting organization has obtained prior authorization to broadcast the performance or the program of which an ephemeral recording is made or performed;</p> <p>2) the ephemeral recording is destroyed within the period laid down for ephemeral recordings of literary, scientific and artistic works made by broadcasting organizations under the provisions of paragraph 4, Article 21 of this Law; however, a single copy may be preserved in official archives if it is of purely documentary character.</p> <p>The application of the limitations provided for in this Article shall not prejudice either the normal exploitation of the phonogram, the performance or the program broadcast or transmitted by cable, or recordings thereof, or the normal exploitation of the literary, scientific or artistic works incorporated therein, and it shall likewise not prejudice either the legitimate interests of the performer, the phonogram producer or the broadcasting or cable distribution organization or those of the authors of the works in question.</p>

TRIPS Agreement	
Provide performers with the right for 50 years from the date of a performance to prevent unauthorized fixation of their unfixed performances and of reproductions of such fixations and to prevent the unauthorized broadcast by wireless means and communication to the public of their live performances. Article 14.1 and 5.	<p>Article 42 Term of related Rights</p> <p>The rights of the performer under this Law shall have effect for 50 years following the first performance. The performer's rights to be named and to have the performance protected against any distortion or other derogatory act, laid down in Article 34 of this Law, shall be protected without limitation in time, but are not inheritable. The rights of the phonogram producer under this Law shall have effect for 50 years following the first publication of the phonogram, or for 50 years following the first recording thereof if it has not been published in the course of that period. The rights of the broadcasting organization under this Law shall have effect for 50 years following the date of the first broadcast effected by the organization. The rights of a cable distribution organization under this Law shall be protected for 50 years following the date of the first cable transmission made by the organization. Any period under this Law shall be calculated as from January 1 of the year following that in which the legal act occurred that marks the starting point of the period. The right to authorize the use of the performance, phonogram or broadcast or cabled program and the right to remuneration shall pass to the heirs (in the case of a legal entity, to the successors in title) of the performer, phonogram producer or broadcasting or cable distribution organization for the duration of the non-elapsed portion of the terms specified in this Article.</p>
Provide phonogram producers with the right for 50 years from the date of first authorized fixation to prohibit unauthorized reproduction of their phonograms, directly or indirectly, and to prohibit rental of copies of their phonograms once sold or otherwise distributed. Article 14.2, .4, and .5.	<p>Article 35 Rights of the Phonogram Producer</p> <p>Except as provided in this Law, the phonogram producer shall enjoy the exclusive right to exploit his phonogram in any form, including the right to remuneration for every such form of use. The exclusive right to exploit the phonogram shall mean the right to perform or authorize the following acts: 1) reproduction of the phonogram; 2) adaptation or any other transformation of the phonogram; 3) distribution of copies of the phonogram, for instance by sale or rental; 4) importation of copies of the phonogram for the purposes of distribution, including copies made with the authorization of the producer of the phonogram in question. Where copies of a lawfully published phonogram have been placed on the market by sale, their subsequent distribution may take place without the consent of the producer of the phonogram and without payment of remuneration. The right to distribute copies of the phonogram by rental shall belong to the phonogram producer independently of the ownership of the said copies. The phonogram producer may assign or license the exclusive rights under paragraph 2 of this Article to third parties by contract.</p> <p>Please also refer to the Article 42 of the Law on Copyright and Related Rights above.</p>

TRIPS Agreement	
Providing broadcasting organizations with the exclusive rights for 20 years of fixation, reproduction of fixations, and rebroadcasting by wireless means of their broadcasts and the communication to the public of broadcasts of their broadcasts or provide to the owners of the copyright in the material broadcast the possibility of exercising such rights. Article 14.3 and 5.	Please refer to the Article of the Law on Copyright and Related Rights 42 above.
Trademarks	Citation to appropriate law
Provide trademark or service mark protection for any sign, or combination of signs capable of distinguishing the goods or services of one undertaking from those of other undertakings. Article 15.1	<p>Law of the Republic of Tajikistan on Trade And Service Marks</p> <p>Article 1. Trademark and service mark</p> <p>A trademark and a service mark (hereinafter referred to as "trademark") shall be designations, registered in accordance with the established procedure, capable of distinguishing the goods and services of some legal entities or natural persons from the similar goods and services (hereinafter referred to as "goods") of other legal entities or natural persons.</p> <p>Article 5. Kinds of trademarks</p> <p>1. Verbal, figurative, three-dimensional and other designations or their combinations may be registered as trademarks.</p> <p>2. A trademark may be registered in any colour or combination of colours.</p>
Not deny registration for a mark based solely on the nature of the goods or services to which a trademark is to be applied. Article 15.4.	The Law of the Republic of Tajikistan on Trade And Service Marks does not restrict the registration of a trademark on the grounds of the nature of the goods to which a trademark is applied.
Trademarks must be published before or shortly after registration to permit opposition or opportunity to apply for cancellation. Article 15.5.	<p>Article 18. Publication of information about registration</p> <p>Information related to the registration of a trademark and entered in the Register under the provisions of Article 15 of this Law shall be published by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks in the Official Gazette within six months from the date of the registration of a trademark in the Register.</p> <p>The publication of all subsequent changes in the information related to the registration of a trademark shall also be made.</p>

TRIPS Agreement	
Provide trademark owners the exclusive right to prevent unauthorized use of identical or similar marks for similar goods or services of other parties if confusion is likely to result. Article 16.1	<p>Article 4. Exclusive right in a trademark</p> <p>1. The owner of a trademark shall have the exclusive right to use the trademark and dispose of it, as well as the right to forbid using the trademark by other persons. No person may use a trademark protected in the Republic of Tajikistan without authorization from its owner.</p> <p>2. Any unsanctioned action referred to in Article 24 (1) of this Law, as well as importation, offering for sale and other introduction into the market of the goods designated by a trademark protected in the Republic of Tajikistan, shall be recognized as infringement of the right of the trademark owner.</p> <p>Article 24. Use of a trademark and consequences of its non-use</p> <p>1. Use of a trademark shall be understood to mean its use on the goods in respect of which it has been registered or on packaging thereof by the owner of a trademark or a person to whom such right has been conferred under a license agreement in accordance with Article 27 of this Law.</p> <p>Use may also be understood to mean the use of a trademark in advertising, printed publications, on signboards, on exhibits displayed at exhibitions and fairs organized in the Republic of Tajikistan, where there are valid reasons for non-use of the trademark on goods or packaging thereof.</p> <p>Article 32. Responsibility for violation of the rights of the owner of a trademark</p> <p>1. The use of a trade mark in violation of this Law, or the use of a designation similar to a trademark in respect to similar goods, or any other actions detrimental to its owner or to consumers shall entail civil responsibility in accordance with the current legislation.</p> <p>2. A person illegally using a trademark, on demand of the owner of the trademark shall be obliged to stop its use and to compensate for the losses incurred.</p>
Presume confusion where an identical mark is used without authorization on identical goods or services. Article 16.1.	<p>Article 32. Responsibility for violation of the rights of the owner of a trademark</p> <p>1. The use of a trade mark in violation of this Law, or the use of a designation similar to a trademark in respect to similar goods, or any other actions detrimental to its owner or to consumers shall entail civil responsibility in accordance with the current legislation.</p> <p>2. A person illegally using a trademark, on demand of the owner of the trademark shall be obliged to stop its use and to compensate for the losses incurred.</p>
Provide protection for well know trademarks and service marks in accordance with Article 6bis, of the Paris Convention, even where use is on goods or services which are not similar to those in respect of which a trademark is registered if the latter use would imply a connection with the right holder or would be likely to damage the right holder's interests. Article 16.2 and .3.	<p>Article 7. Other grounds for refusal of registration</p> <p>1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:</p> <ul style="list-style-type: none"> - {...}; - trademarks of other persons protected without registration by virtue of international treaties of which Tajikistan is a member; <p>Provisions for protection of well-known marks are included in the proposed amendments to the Law of the Republic of Tajikistan on Trade And Service Marks</p>

TRIPS Agreement	
Allow only limited exceptions to the rights conferred by a trademark such as fair use of descriptive terms. Article 17.	<p>Such designations may be included as unprotected elements in the trademark</p> <p>Article 6. Absolute grounds for refusal of registration</p> <p>1. No registration shall be allowed for the trademarks consisting only of designations:</p> <ul style="list-style-type: none"> - {...}; - that represent armorial bearings, flags and emblems; official names of states; emblems, denominations or abbreviations of denominations of international intergovernmental organizations; official signs and hallmarks of control and warranty; seals and stamps; decorations; religious and other distinguishing signs. Such designations may be included as unprotected elements in the trademark provided the consent of the appropriate competent authority or that of the trademark owner has been obtained; <p>Article 7. Other grounds for refusal of registration</p> <p>1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:</p> <ul style="list-style-type: none"> - {...}; - {...}; - {...}; - appellations of origin protected in the Republic of Tajikistan, except for the cases where they are incorporated as a non-protected element in a trademark being registered in the name of a person entitled to use such appellation.
Provide a period of protection for registration of at least seven years, renewable indefinitely. Article 18.	<p>Article 16. Duration of registration</p> <p>1. A trademark registration shall have a validity of ten years counting from the date of filing of the application with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.</p> <p>2. The period of validity of a trademark registration may be renewed at the request of the owner filed within the final year of the period of validity, each time for another ten years.</p> <p>Upon request of the owner for renewal of the registration of a trademark he may be granted a grace period of six months counted from the expiration date of the registration of the trademark, provided that the prescribed additional fee has been paid.</p> <p>3. A record of renewal shall be entered in the Register and on the certificate of a trademark registration.</p>
Allow cancellation for non-use only after a period of three years of uninterrupted non-use unless valid reasons exist for the non-use, including government interference with use. Article 19.1.	<p>Article 24. Use of a trademark and consequences of its non-use</p> <p>1. {...}</p> <p>2. {...}</p> <p>3. The registration of a trademark may be invalidated prematurely in whole or in part on the ground of the Court's decision made on a petition of an interested legal entity or natural person, in connection with non-use of the trademark for a continuous period of five years counted from the date of registration, or for a period of five years preceding the filing of such a petition.</p> <p>On resolving the question of the premature invalidation of the registration of a trademark in connection with its non-use the proof presented by the owner of a trademark of the fact that the trademark was not used on the circumstances beyond his control may be taken into consideration.</p>

TRIPS Agreement	
No encumbering of the use of a trademark by special requirements. Article 20.	<p>Article 24. Use of a trademark and consequences of its non-use</p> <p>1. Use of a trademark shall be understood to mean its use on the goods in respect of which it has been registered or on packaging thereof by the owner of a trademark or a person to whom such right has been conferred under a license agreement in accordance with Article 27 of this Law.</p> <p>Use may also be understood to mean the use of a trademark in advertising, printed publications, on signboards, on exhibits displayed at exhibitions and fairs organized in the Republic of Tajikistan, where there are valid reasons for non-use of the trademark on goods or packaging thereof.</p> <p>2. Legal entities or natural persons engaged in commercial intermediation shall have the right to use their own trademarks along with that of the producer of goods or services, or instead of the trademark of the latter, on the basis of the agreement between them.</p>
May establish conditions for licensing but compulsory licensing not permitted and owner of registered mark must be able to assign it with or without transfer of business. Article 21.	<p>Article 26. Assignment of a trademark</p> <p>A trademark may be assigned by the owner of the trademark to a natural person or legal entity under an agreement in respect of all or part of the goods for which it has been registered.</p> <p>Assignment of a trademark shall not be allowed if it can be a reason for deception of consumers in respect of the good or its manufacturer.</p> <p>Article 27. Assignment of a trademark</p> <p>The right to use a trademark may be granted by the owner of a trademark (the licensor) to another person (the licensee) under a license agreement.</p> <p>A license agreement must contain a clause that the quality of the goods of the licensee will not be lower than the quality of the goods of the licensor, and that the licensor shall exert control over the observation of this clause.</p> <p>Article 28. Registration of an agreement on the assignment of a trademark and licensing agreement</p> <p>An assignment agreement and a licensing agreement shall be registered in the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks. Without this registration they shall be considered invalid.</p>

TRIPS Agreement	
Geographical Indications	Citation to appropriate law or laws
<p>Provide means to prevent deceptive use of Geographical indications identifying location where a given quality, reputation or other characteristic of a good is attributable to its location. Article 22.1 and 2.</p> <p>Refuse to register or invalidate registrations of trademarks containing geographical indications except in instances in which such marks have been used continuously for at least 10 years or in good faith before 15 April 1994. Article 22.3</p>	<p>Law of the Republic of Tajikistan “On competition and restriction of monopoly activity on commodity markets”</p> <p>Article 7. Forms of unfair competition</p> <p>Unfair competition shall not be allowed including:</p> <p>{...};</p> <p>deception of consumers in respect of the character, method and place of production, consumer’s properties and quality of the goods;</p> <p>Draft Law of The Republic of Tajikistan on Geographical Indications</p> <p>Article 2. Provision of legal protection to geographical indications</p> <p>3. Legal protection of an indication of source shall be provided on the basis of the use of the indication</p> <p>Legal protection of an indication of source shall consist in non-admission of the use of deceptive (false) indications of source and also of indications that are capable of confusing consumers in respect of true origin of the good.</p> <p>Article 7. Registration of an appellation of origin and issuance of a certificate of the right to use an appellation of origin</p> <p>1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:</p> <p>- {...};</p> <p>- {...};</p> <p>- {...};</p> <p>- appellations of origin protected in the Republic of Tajikistan, except for the cases where they are incorporated as a non-protected element in a trademark being registered in the name of a person entitled to use such appellation.</p>
<p>Protect against use of geographical indications even when literally true but which falsely represent that the goods originate in another territory. Article 22.4</p>	<p>Article 5. Examination of an application</p> <p>1-6. {...}.</p> <p>7. On the application being accepted for consideration the examination of the claimed designation shall be carried out during which it shall be established whether the claimed designation is a name of a country, settlement, location or geographical object used for designation of the good, the specific quality and features of which are essentially or exclusively defined by characteristic for the given geographical object natural conditions or other factors or by a combination of natural conditions and these factors.</p> <p>Article 13. Use of a geographical indication</p> <p>1. The use of an appellation of origin shall be considered its application on a good and packaging, in advertising, pamphlets, invoices, and also in other forms linked to the introduction of the good into the economy.</p> <p>2. The use of a registered appellation by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "sort", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the user as regards the place of origin and special features of the good shall not be allowed.</p>

TRIPS Agreement	
Protect, with certain exceptions, appellations of origin for wines and spirits even against use accompanied by expressions such as "kind," "type," "style," etc. Article 23.1 and 24.	Article 13. Use of a geographical indication 1. {...}. 2. The use of a registered appellation by persons who do not possess an appropriate certificate, even if the genuine place of origin of a good is indicated or an appellation is used in translation or in combination with such expressions as "sort", "kind," "type," "imitation," and the like, shall not be permitted, just as the use of an identical designation for any good which may mislead the user as regards the place of origin and special features of the good shall not be allowed.
Refuse or invalidate, with certain exceptions trademark registrations containing geographical indications for wines and spirits if they do not originate in the place named. Article 23.2 and 24.	Law of the Republic of Tajikistan on Trade And Service Marks Article 7. Other grounds for refusal of registration 1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to: - {...}; - {...}; - {...}; - appellations of origin protected in the Republic of Tajikistan, except for the cases where they are incorporated as a non-protected element in a trademark being registered in the name of a person entitled to use such appellation.
Industrial Designs	Citation to appropriate law
Provide, with certain exceptions, protection for new or original, independently created industrial designs. Article 25.1.	Law of The Republic of Tajikistan on Industrial Designs Article 5. Conditions of patentability of an industrial design In accordance with this Law an artistic and design solution of an article, defining its outward appearance shall be protected as an industrial design. An article shall mean an object of industrial or handicraft manufacturing. An industrial design shall be granted legal protection if it is new and original. {...} {...} {...} {...} {...} The following shall not be recognized as patentable industrial designs: solutions that are determined exclusively by the technical function of an article; solutions that relate to architectural works (with the exception of minor architectural forms) and industrial, hydrotechnical and other stationary structures; solutions that relate to printed matter as such; solutions that relate to subject matter of unstable shape such as liquids, gaseous and dry substances and the like; articles that are contrary to the public interest, humanitarian principles or morality.
Ensure that requirements for securing protection for textile designs are not prohibitive of such protection. Article 25.2.	Protection for textile designs (Art. 25.2, TRIPS) is provided by Article 6.7 of the Law of the Republic of Tajikistan on Copyright and Neighbouring Rights.

TRIPS Agreement	
Protection should last at least 10 years.	Article 6. Legal protection of an industrial design The patent for an industrial design shall have a term of ten years beginning on the date of filing of the application for the grant of a patent. The duration of the patent shall be renewed by the Patent Office at the request of the patent holder, but not more than for five years.
Patents	Citation to appropriate law
Provide patents for any inventions, whether products or processes, in all fields of technology if they are new, involve an inventive step and are industrially applicable. Exceptions are permitted for plants and animals, except for microorganisms and non-biological and microbiological processes. Exemptions are also permitted for reasons of ordre public and morality. Article 27.	Law of The Republic of Tajikistan on Inventions Article 6. Conditions for patentability of an invention A technical solution shall be recognized as an invention and granted legal protection, if it is new, involves an inventive step and is industrially applicable. { }. { }. { } { } The subjects of an invention may be a device, a process, a substance, a microorganism strain or plant or animal cells and also the use of these subjects with a new purpose. The following shall not be regarded as inventions within the meaning of the provisions of this Law - scientific theories and mathematical methods; - method of organization and management of economy; - conventional signs, schedules, rules; - rules and method for performing mental acts; - algorithms and programs for computers - projects and lay-out design of constructions, buildings and territories; - proposals concerning solely the outward appearance of manufactured articles and intended to satisfy aesthetic requirements; The following shall not be recognized as patentable within the meaning of the provisions of this Law: - layout designs of integrated circuits; - plant varieties and animal breeds; - proposals contrary to public interests, principles of humanity and morality.

TRIPS Agreement	
Provide patent owners with the right to prevent others from making, using, offering for sale, selling or importing a patented product or from using a patent process or using, offering for sale, selling or importing a product produced directly using such process. Article 28.1.	<p>Article 26. Rights of a patent owner</p> <p>A patent owner shall have an exclusive right to use the invention protected by a patent or a petty patent including the right to manufacture, use, import, sell and in any other way put in commercial use, or store for this purpose a product containing the invention protected by a patent or petty patent, the right to apply a process protected by a patent or petty patent for the invention, and also the right to prohibit use of the above inventions by other persons, except in the cases where such use, in accordance with this Law, does not constitute an infringement of the patent owner's exclusive right.</p> <p>A product shall be deemed incorporating an invention protected by a patent or a petty patent and a process protected by a patent or a petty patent for invention shall be deemed used, if the product incorporates and the process uses every feature of such invention included in its independent claim or an equivalent feature, which became known as such in the given area of technology, respectively, prior to the use date.</p> <p>Placing on the market or storage for this purpose of a product produced directly by the process protected by a patent or a petty patent shall also be recognized as the use of the process.</p>
Give patent owners the right to assign the rights in the patent, or transfer the rights by succession, or license them. Article 28.2	<p>Article 27. Grant of the right to use an invention</p> <p>Any person, other than the patent owner, shall have the right to use an invention protected by a title of protection only under an authorization of its owner on the basis of a license contract.</p> <p>Under a license contract, the patent owner (licensor) shall agree to grant the right to use the protected object, to the extent specified in such contract, to another party (licensee), while the licensee shall agree to perform all actions as may be stipulated in the contract.</p> <p>Under an exclusive license contract, the licensee shall be assigned an exclusive right to use the invention to the extent stipulated in the contract, while the licensor shall retain the right to use it, but other than to the said extent.</p> <p>Under a non-exclusive license, the licensor, while granting the right to use the invention to the licensee, shall retain all rights confirmed by the title of protection, including the right to grant licenses to third parties.</p> <p>A license contract shall be subject to registration with the Patent Office and shall be deemed invalid without such registration.</p>
Require applicants to disclose the invention so that one skilled in the art can carry it out and may require indication of the best mode and information on corresponding foreign applications. Article 29.	<p>Article 12. Application</p> <p>An application for an invention shall relate to a single invention or a group of inventions, so linked as to form a single inventive concept (requirement for unity of invention).</p> <p>An application shall contain:</p> <p>a request for the grant of a title of protection with an indication of the title of the invention, the author(s) thereof and person(s) in whose name the title of protection is requested, as well as their places of residence or business;</p> <p>a description of the invention disclosing it fully enough for a person skilled in the art to carry it out;</p>

TRIPS Agreement	
Ensure that any exceptions to exclusive patent rights do not unreasonably conflict with normal exploitation of the patent and do not unreasonably prejudice the legitimate interests of the patent owner, taking third party interests into account. Article 30.	<p>Article 30. Actions not recognized as an infringement of an exclusive right</p> <p>The following actions shall not be deemed infringements of a patent owners' exclusive right:</p> <ul style="list-style-type: none"> - use of the devices incorporating inventions protected by patents or petty patents in the construction or operation of (land, air, water) vehicles of other countries if such vehicles entered the territory of the Republic of Tajikistan on a temporary basis or by accident and such devices are used for the needs of a vehicle. No such action shall be deemed to constitute an infringement of the patent owner's exclusive rights, provided that the vehicles concerned are owned by natural persons or legal entities of countries granting reciprocal rights to vehicle owners of the Republic of Tajikistan. - scientific research or experiments involving devices incorporating inventions; - use of the devices incorporating inventions, in force majeure circumstances (natural disasters, catastrophes, major accidents) with subsequent payment of commensurate compensation to the patent owner; - use of the devices incorporating an invention for needs without aiming to derive any income; - one-time production of medicines in pharmacies on a doctor's prescription; and - use of the devices incorporating inventions protected by titles of protection if such devices were put to commercial use on a lawful basis in accordance with the rights granted by a patent owner. <p>Article 31. Right of prior use</p> <p>Any natural person or legal entity that, before the priority date of the invention, created and made use on the territory of the Republic of Tajikistan of an identical invention developed independently of the author or made appropriate preparations for such use shall retain the right to continue using such invention free of charge, unless the scope of such use is increased.</p> <p>The right of prior use may be assigned to another natural person or legal entity, but only together with the production operations which involved the use of such identical invention or necessary preparations for such use.</p>
Compulsory licenses can be issued only when enumerated conditions are met, including such things as notice, remuneration, limitations on use and transfer of the license, etc. Article 31.	<p>Article 28. Compulsory license</p> <p>The patent owner shall be obliged to use the invention. In the event that an invention remains unused or insufficiently used by the patent owner for five years after the date of publication of the grant of a title of protection, any person willing and ready to use the invention may, if the patent owner refuses to enter into a license contract with such party on such terms and conditions as are consistent with prevailing practice, go to court to demand the grant thereto of a compulsory license to use such invention.</p> <p>If the owner of a title of protection fails to prove that he made no or insufficient use of the invention for a valid reason, the court shall make a decision on the grant of a compulsory license</p> <p>Where a compulsory license is granted on the basis of a court finding, such license shall set limits on the use of the invention the title of protection for which is owned by the other person to the extent which may be necessary to use the invention owned by the person who demanded that grant of such compulsory license, and shall prescribe the amount of royalties, as well as time periods and procedures for their payment.</p> <p>For national security reasons and in force majeure circumstances (natural disasters, catastrophes, major accidents) the Government of the Republic of Tajikistan shall have the right to authorize the use of an invention subject to payment of a commensurate compensation to the patent owner, whereby the scope and duration of use of the patented invention shall be limited to the purpose for which it was authorized</p> <p>A compulsory license shall be non-exclusive; it may not be reassigned to another person. Disputes arising as a result of such use shall be settled by the court.</p>

TRIPS Agreement	
Provide an opportunity for judicial review of decisions to revoke or forfeit a patent. Article 32.	<p>Article 32. Opposition to a title of protection</p> <p>A title of protection may be contested and invalidated, fully or partially, by any person at any time during its term in the following circumstances::</p> <ul style="list-style-type: none"> - the invention does not comply with the conditions for patentability prescribed by Article 6 of this Law; - the claims of the invention include such features as were absent from the original specifications of the application; - the title of protection wrongly names the author(s) or the patent owner(s). <p>An opposition to the grant of a title of protection on the grounds listed in paragraphs one and two of part 1 of this Article shall be filed with the Appeal Board and considered within 6 months of the date of its receipt. In this case the patent owner shall be acquainted with the opposition.</p> <p>In the event of disagreement with the decision of the Appeal Board on opposition to a patent or a petty patent any party may start a court action.</p> <p>Article 37. Consideration of disputes</p> <p>Disputes over the infringement of the legal protection of inventions shall be considered by the Appeal Board within the limits of its competence.</p> <p>In the event of disagreement with the decision of the Appeal Board any party shall have the right to apply to the court.</p>
Provide a patent term of at least 20 years from the filing date. Article 33.	<p>Article 4. Titles of protection</p> <p>The right in an invention shall be protected by the State and shall be certified by a patent or petty patent (hereinafter “titles of protection”).</p> <p>A patent for an invention shall be granted following an examination of the substance of an application for the grant of a patent and shall be valid for 20 years, starting from the date of filing the application with the Patent Office.</p>
Shift the burden of proof in process patent infringement actions to the defendant in instances in which the product produced by the process is new or where it is substantially likely that the identical product was made using the process and the patent owner has been unable through reasonable efforts to determine the process used. Article 34.	<p>Article 5. Legal protection of inventions</p> <p>{...}.</p> <p>The effect of a title of protection granted for a production process shall extend to the product directly obtained from the process. The new product shall also be deemed to be obtained from the patented process, in the absence of proof to the contrary.</p> <p>Article 26. Rights of a patent owner</p> <p>A product shall be deemed incorporating an invention protected by a patent or a petty patent and a process protected by a patent or a petty patent for invention shall be deemed used, if the product incorporates and the process uses every feature of such invention included in its independent claim or an equivalent feature, which became known as such in the given area of technology, respectively, prior to the use date.</p>

TRIPS Agreement	
Integrated-Circuit Layout Designs	Citation to appropriate law
Provide protection for original layout designs of integrated circuits that are registered or have been commercially exploited anywhere in the world. Articles 3, 4, 5, and 7 of the Washington Treaty as incorporated into TRIPS by Article 35.	At present the legal protection of this object of industrial property is unavailable in the Republic of Tajikistan. The Law on Lay-out Designs of Integrated Circuits will be drafted. CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN (Part III.) Article 1126. Objects of intellectual property right The objects of intellectual property right shall be: 1) the results of intellectual creative activity: - {...}; - {...}; - {...}; - {...}; - lay out designs of integrated circuits;
Undisclosed Information	Citation to appropriate law or laws
Provide protection for undisclosed information that is secret (not generally known or readily ascertainable); has commercial value because of its secrecy, and has been subject to reasonable steps to keep it secret. Article 39.2	Law on competition and restriction of monopoly activity on commodity markets Article 10. The right of access to information Employees, authorized by the state antimonopoly body to perform functions assigned to them, have the right of unimpeded access on the basis of the demand of the state antimonopoly body to state controls, local executive authority bodies, and also enterprises and their unions and other organizations and establishments for acquaintance with necessary documentation. Enterprises (their heads), state controls, bodies of local executive authority (their officials), citizens, including individual entrepreneurs, are obliged on the demand of the state antimonopoly body to submit authentic documents and information, necessary for implementation of the legal activity of the state antimonopoly body. Data, of trade secret that is received by the state antimonopoly body on the basis of parts 1 and 2 of the present article, are not subject to disclosure. In case of disclosure of information of trade secret by employees of the state antimonopoly body the damage caused is compensated in compliance with the civil legislation CIVIL CODE OF THE REPUBLIC OF TAJIKISTAN CHAPTER 55 1. General Provisions Article 1077. General Bases of Liability for the Causing of Harm

TRIPS Agreement	
	<p>1. Harm caused to the person or property of a citizen and also harm caused to the property of a legal person and the state by illegal action (omission) shall be subject to compensation by the person who has caused the harm in full measure. A statute may place an obligation for compensation for harm on a person who is not the person that caused the harm. A statute or contract may establish an increased liability for the person who has caused the harm or a larger amount of compensation.</p> <p>2. The person who has caused the harm is freed from compensation for the harm if it shows that the harm was caused not by its fault. A statute may provide for compensation for the harm even in the absence of fault of the person who caused the harm.</p> <p>3. Harm caused by lawful actions shall be subject to compensation in the cases provided by a statute.</p> <p>Further legislation will be prepared in the course of the negotiation for the accession of the Republic of Tajikistan to WTO in order to fulfil the requirements of the TRIPS Agreement</p>
Protect data submitted to obtain marketing approval for pharmaceutical or agricultural chemicals utilizing a new chemical entity. Article 39.3	
Enforcement	Citation to appropriate law or laws
Provide for effective action against infringement of intellectual property rights without creating barriers to legitimate trade or opportunity for opportunities for abuse. Article 41.1	Legislation in full conformity with the requirements of the provisions of the TRIPS Agreements on Enforcement of Intellectual Property Rights will be elaborated in the course of the accession process.
