



Resolution of the Executive Committee, Zurich, Switzerland, 10-14 April 2016

“TRIPS Compliance”

FICPI, the International Federation of Intellectual Property Attorneys, broadly representative of the free profession throughout the world, assembled at its Executive Committee held in Zurich, Switzerland, 10-14 April 2016, passed the following Resolution:

Noting that throughout the years FICPI has been consistently supportive of international substantive patent law harmonization;

Noting that TRIPS, which entered into force on January 1, 1995, involves some degree of substantive harmonization;

Considering, however, that full realization of the objectives of TRIPS depends upon allowing members to require not only that the national legislation of other members expressly complies with the obligations provided for in that treaty, but also, and particularly, that practice in other member countries is consistent with those objectives;

Also considering that TRIPS Article 64 suspended for a certain period the possibility of settlement of disputes based on certain provisions of GATT 1994ⁱ, as follows, which suspension has been continually renewed by WTO members:

2. Subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 shall not apply to the settlement of disputes under this Agreement for a period of five years from the date of entry into force of the WTO Agreement.

Further considering that such suspension for more than 20 years is a bar to the full realisation of the objectives of TRIPS;

Urges WTO members now to lift the suspension on the application of Subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994, with the possible exception of disputes involving Least Developed Countries; and

Further Urges WTO members to make greater use of the mutual consultation procedure with the aim of achieving a higher degree of compliance with TRIPS.

ⁱ The General Agreement on Tariffs and Trade (GATT 1947)

Article XXIII: Nullification or Impairment

1. If any contracting party should consider that any benefit accruing to it directly or indirectly under this Agreement is being nullified or impaired or that the attainment of any objective of the Agreement is being impeded as the result of

- (a) the failure of another contracting party to carry out its obligations under this Agreement, or
- (b) the application by another contracting party of any measure, whether or not it conflicts with the provisions of this Agreement, or
- (c) the existence of any other situation,

the contracting party may, with a view to the satisfactory adjustment of the matter, make written representations or proposals to the other contracting party or parties which it considers to be concerned. Any contracting party thus approached shall give sympathetic consideration to the representations or proposals made to it.