

Original: Spanish

Translation: FTAA Secretariat

FTAA - NEGOTIATING GROUP ON INTELLECTUAL PROPERTY RIGHTS

MERCOSUR

REFERENCES TO THE TRIPS AGREEMENT IN THE FTAA CHAPTER ON INTELLECTUAL PROPERTY

1. At the Seventeenth Meeting of the Negotiating Group on Intellectual Property Rights (NGIP), the Chair was asked to prepare an information document on the implications of the different ways of incorporating obligations from other international instruments into the FTAA Chapter on Intellectual Property. The Chair agreed to work with the Tripartite Committee to draft the document, which will be presented at the Nineteenth Meeting of the NGIP. To facilitate work on the document, the Chair asked the delegations to send their contributions no later than 31 December 2002.
2. By way of contribution to discussion of the issue, MERCOSUR hereby declares its support for maintaining references to TRIPS in the FTAA Chapter on Intellectual Property. Such references are among the most important topics under discussion in the FTAA. In many international agreements on intellectual property, references are made to agreements and conventions already in effect, such as the Paris and Berne Conventions. References to these conventions, as well as to the TRIPS Agreement, can and should be made, since the countries participating in the FTAA process are party to these agreements.
3. The purpose of the references is to clearly identify the areas where there is convergence between the disciplines established by the TRIPS Agreement and the objectives of the FTAA Chapter on Intellectual Property. The purpose of identifying these areas is to delineate specific boundaries for implementing the FTAA Agreement, by stipulating that FTAA obligations based on references to the TRIPS Agreement are identical to those adopted in the WTO.

4. MERCOSUR hereby proposes that explicit references to articles from the TRIPS Agreement be maintained in the text of the FTAA Agreement and that a statement be included in the preamble to the FTAA Chapter on Intellectual Property clarifying that, wherever there is an explicit reference to an article from the TRIPS Agreement, the legal effects of the equivalent article in the FTAA Agreement will be identical to those of the TRIPS article.