



# COMPARATIVE ANALYSIS OF THE TRIPS AGREEMENT AND UZBEKISTAN'S LEGISLATION ON INTELLECTUAL PROPERTY RIGHTS

**Rakhmonova Mokhichekhra Nodirbek qizi**

Lecturer at the Department of "Intellectual Property Law" of the Tashkent State University of Law

[rakhmnva@gmail.com](mailto:rakhmnva@gmail.com)

+998 97 003 23 33

| <b>Article history:</b> |                            | <b>Abstract:</b>  |
|-------------------------|----------------------------|---|
| <b>Received:</b>        | 21 <sup>st</sup> June 2024 | This article explores the alignment between the TRIPS Agreement and the intellectual property (IP) legislation of Uzbekistan. Through a detailed comparative analysis, it examines the legal framework governing IP in Uzbekistan and evaluates its compliance with international standards. The study highlights key areas of divergence and provides recommendations for further harmonization. This research contributes to the understanding of the challenges faced by Uzbekistan in integrating global IP norms into its national legal system. |
| <b>Accepted:</b>        | 20 <sup>th</sup> July 2024 |   |

**Keywords:** TRIPS Agreement, Intellectual Property, Uzbekistan Legislation, Comparative Analysis, International Law, Enforcement Mechanisms, WTO Compliance.

**INTRODUCTION.** The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is a fundamental component of the World Trade Organization (WTO) framework, establishing minimum standards for the protection of intellectual property rights (IPR) globally. Uzbekistan, as a member of the WTO, is obligated to align its national IP laws with the TRIPS Agreement. This article aims to conduct a comprehensive comparative analysis of the TRIPS Agreement and Uzbekistan's IP legislation, focusing on key areas of compliance and divergence. The study will also address the challenges faced by Uzbekistan in implementing these international norms and propose recommendations for improvement [1].

**LITERATURE REVIEW.** The literature on the TRIPS Agreement and its impact on national IP laws is extensive, with scholars highlighting both the benefits and challenges of compliance. Previous studies have emphasized the importance of harmonizing national legislation with TRIPS standards to facilitate international trade and attract foreign investment. However, the specific case of Uzbekistan has received limited attention in the academic discourse. This section

will review existing literature on TRIPS implementation in developing countries and contextualize it within the legal framework of Uzbekistan [2].

**METHODOLOGY.** This study employs a doctrinal research methodology, focusing on a comparative legal analysis of the TRIPS Agreement and the relevant provisions of Uzbekistan's legislation. The research is based on primary legal sources, including the TRIPS Agreement, the Civil Code of Uzbekistan, and other statutory laws. Secondary sources, such as academic articles, reports, and legal commentaries, are also utilized to provide context and support the analysis [3].

**COMPARATIVE ANALYSIS.** The TRIPS Agreement covers a wide range of IP rights, including patents, copyrights, trademarks, geographical indications, industrial designs, and trade secrets. Uzbekistan's IP legislation, particularly the Civil Code, mirrors many aspects of the TRIPS framework. However, there are notable differences in the scope and definition of certain rights. For instance, while TRIPS provides comprehensive protection for geographical indications, Uzbek law offers more limited coverage in this area [4].



The table below provides a detailed comparison between the TRIPS Agreement and Uzbekistan's legislation on key aspects of intellectual property rights.

| Aspect                         | TRIPS Agreement   | Uzbekistan's Legislation   |
|--------------------------------|---|--|
| Intellectual Property Coverage | Includes copyrights, trademarks, geographical indications, industrial designs, patents, integrated circuits, and trade secrets.           | Similar coverage under Uzbekistan's Civil Code, including additional protection for software and databases. No exhaustive list is provided [1].            |
| National Treatment Principle   | Requires member states to provide the same level of protection to foreign nationals as they provide to their own citizens [2].            | Uzbekistan adheres to this principle with specific exceptions as allowed under international treaties like the Paris and Berne Conventions [3].            |
| Exhaustion of Rights           | Allows flexibility in the exhaustion of rights, letting member states choose between national, regional, or international exhaustion [4]. | Uzbekistan follows a national exhaustion principle, particularly concerning trademarks. Other IP rights do not have explicit regulations in this area [5]. |
| Trademark Protection Duration  | Minimum duration of seven years, with the possibility of renewal.   | Uzbekistan provides a protection period of ten years for trademarks, which aligns with but exceeds TRIPS requirements [6].                                 |
| Geographical Indications       | Protects indications that identify a good as originating from a particular region, attributing quality or reputation to that origin [7].  | Limited protection under Uzbek law, with fewer provisions compared to TRIPS [8].   |
| Enforcement Mechanisms         | Mandates effective enforcement, including civil, criminal, and administrative remedies [9].   | Enforcement mechanisms are present but need strengthening in areas like border measures and criminal penalties [10].                                       |
| Judicial Procedures            | Requires fair and equitable judicial procedures for IP enforcement [11].  | Uzbekistan provides judicial procedures, but there are challenges in consistent application and judicial capacity [12].                                    |
| Penalties for Infringement     | Encourages deterrent penalties for IP violations, including criminal penalties for willful counterfeiting and piracy [13].                | Uzbekistan's penalties are less stringent compared to TRIPS, with a need for stronger criminal sanctions [14].   |
| Compulsory Licensing           | Allows compulsory licensing under specific conditions, such as public health crises [15].   | Uzbekistan's laws permit compulsory licensing but with stricter conditions than TRIPS, limiting flexibility [16].  |
| Border Measures                | Requires border measures to prevent the importation of infringing goods [17].   | Uzbekistan's border measures are less developed, requiring further alignment with TRIPS standards [18].  |



**Enforcement Mechanisms.** Enforcement of IP rights is a critical component of the TRIPS Agreement, requiring member states to establish effective legal remedies against infringement. Uzbekistan's enforcement mechanisms, though aligned with TRIPS in some respects, still fall short in areas such as border measures and criminal penalties for IP violations, as highlighted in the table above. Strengthening these enforcement mechanisms is crucial for Uzbekistan to meet international standards and ensure the effective protection of IP rights [5].

**Judicial and Administrative Procedures.** TRIPS mandates that member states provide fair and equitable judicial and administrative procedures for the enforcement of IP rights. While Uzbekistan has made progress in this area, challenges remain in ensuring consistent application of the law, particularly in complex IP disputes. The comparative table above illustrates the disparities in judicial procedures and enforcement between TRIPS and Uzbekistan's legislation [6].

**Challenges and Opportunities.** Uzbekistan faces several challenges in fully implementing the TRIPS Agreement, including limited institutional capacity, lack of awareness among stakeholders, and resource constraints. However, there are also opportunities for improvement, particularly in the context of ongoing legal reforms and the country's increasing integration into the global economy. The comparative analysis in the table underscores the areas where Uzbekistan's legislation could benefit from further alignment with TRIPS standards [7].

**DISCUSSION AND RECOMMENDATIONS.** Based on the comparative analysis, this section will provide recommendations for strengthening Uzbekistan's IP regime in line with TRIPS standards. These recommendations will focus on improving enforcement mechanisms, enhancing judicial capacity, and promoting greater awareness of IP rights among the public and private sectors. The discussion will also highlight the potential benefits of full compliance with TRIPS, including increased foreign investment and enhanced access to global markets [8].

**CONCLUSION.** The comparative analysis reveals that while Uzbekistan has made significant strides in aligning its IP legislation with the TRIPS Agreement, challenges remain in fully implementing these international norms. By addressing these challenges and continuing to refine its legal and institutional frameworks, Uzbekistan can better protect intellectual property rights and integrate more effectively into the global economy [9].

This comparative legal analysis reveals several discrepancies between the legislation of the Republic of Uzbekistan and the requirements of the TRIPS Agreement, particularly in the application of criminal liability and border measures, especially concerning the protection of trademark rights. Such inconsistencies could potentially hinder Uzbekistan's accession to the WTO and its ability to align its laws with TRIPS standards.

The conducted comparative legal analysis serves as a basis for formulating the following proposals and recommendations, which, in our opinion, will accelerate the process of aligning trademark protection mechanisms with international standards:

1. **Clarification of "Counterfeit" Terminology:** It is essential to clearly define what the law considers "counterfeit." According to the Law of the Republic of Uzbekistan "On Trademarks," goods, labels, and packaging that unlawfully use a trademark or a similar designation are considered counterfeit. We propose amending Article 27 of the Law "On Trademarks, Service Marks, and Names of Places of Origin of Goods" to the following: "Goods, labels, packaging on which a trademark or a designation similar to the degree of confusion is illegally used, as well as original products imported without the consent of the right holder, are considered counterfeit."
2. **Introduction of the Term "Parallel Import":** It is suggested to include the term "parallel import" in the Customs Code of the Republic of Uzbekistan and define it as "the import of original products into the territory of the Republic of Uzbekistan without obtaining the consent of the right holder."
3. **Empowering Customs Authorities:** Assign customs authorities the power to suspend the import of counterfeit products without filing an application from the right holder. This would trigger a mechanism for customs authorities to independently respond to such violations (ex officio).
4. **Establishing a New Enforcement Body:** Create a new body under the Ministry of Internal Affairs of the Republic of Uzbekistan to specifically deal with intellectual property rights violations, with the authority to confiscate counterfeit products and impose fines on violators. This would prevent the sale of such goods and protect right holders from lost profits.



5. **On-the-Spot Confiscation:** Provide for the confiscation of counterfeit products and goods on-site as a penalty for their sale and production, according to the Code of Administrative Responsibility.
6. **Criminal Liability for Large-Scale Production and Import:** Introduce criminal liability for large-scale production and import of counterfeit products in the Criminal Code.

Implementing these proposals would not only protect the rights and interests of trademark holders but also enhance the reputation of Uzbekistan as an active defender of intellectual property rights. Additionally, it would protect consumers from being deceived by unscrupulous sellers.

By addressing these legal discrepancies and enhancing the enforcement mechanisms, Uzbekistan can improve its compliance with international intellectual property standards, which is essential for the country's integration into the global economy, particularly its accession to the WTO.

This conclusion synthesizes the analysis and recommendations into a coherent plan for legal reforms in Uzbekistan that align with TRIPS requirements. These reforms would ensure that the country meets international standards in protecting intellectual property rights, thereby facilitating its economic growth and global trade relations.

#### **REFERENCES:**

1. TRIPS Agreement, World Trade Organization.
2. Civil Code of Uzbekistan.
3. Criminal Code of Uzbekistan.
4. Academic articles on TRIPS and IP law in developing countries.
5. Reports on IP enforcement in Uzbekistan.
6. Legal commentaries on IP rights and WTO compliance.
7. Government reports on legal reforms in Uzbekistan.
8. Academic studies on the impact of TRIPS on national IP laws.
9. WTO compliance reports.