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# Preface

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The Ministerial Conference that launched the GATT Uruguay Round in 1986 adopted an ambiguous mandate to initiate negotiations on intellectual property rights (IPRs), one of the 'new issues' to be addressed by the Contracting Parties. The proponents of such negotiations advocated the adoption of a comprehensive instrument that would supplement pre-existing international conventions on IPRs. They stressed that new international standards on the matter should not only ensure the availability but also the means to enforce conferred rights. An innovative feature of the proposed instrument was, hence, a detailed set of provisions on the enforcement of IPRs.

The relationship of the provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) with the international conventions it is based on, as well as its relationship with other components of the World Trade Organization (WTO), has raised a number of specific interpretive issues. Panels and the Appellate Body were called on to provide interpretations of century-old conventions, and to decide on the extent to which prior GATT jurisprudence (elaborated in relation to the trade in goods) could be applied to the protection of intangible property.

While the task of the WTO dispute settlement body in dealing with TRIPS issues has been challenging, Members bound to implement the TRIPS obligations at the national level faced a considerable burden. The broad coverage of the Agreement, in terms of both substantive and enforcement standards, required a complete overhauling of IPRs legislation in many countries. Moreover, as a result of strong divergences during the negotiations, the Agreement ended up with a number of ambiguities, often the price paid to reach a compromise, that required proper interpretations for the incorporation of the TRIPS obligations into national laws.

This *Handbook* offers studies, elaborated by a group of distinguished academics and IPRs experts, on the main issues raised by the interpretation and enforcement of some of the key TRIPS obligations. This volume provides an indispensable complement to the *Research Handbook on the Protection of Intellectual Property under WTO Rules: Intellectual Property in the WTO Volume I*, which addresses the origins, history and substantive provisions of the Agreement. As with Volume I, a basic objective of this *Handbook* is to provide a source of high quality original reference

for research, teaching and professional practice on WTO-related issues concerning intellectual property protection. It is intended to offer a state-of-the-art overview in this complex area. Although it is not intended to be used as a textbook, it would be useful for advanced and postgraduate students as reference points, as well as for scholars and policy-makers.

This volume starts with a much-needed analysis of the applicability of GATT jurisprudence to the interpretation of the obligations contained in the TRIPS Agreement. It then offers a detailed discussion about the implementation of two of the main enforcement measures mandated by the Agreement: injunctions and border measures. A subsequent chapter is devoted to the conditions (concerning IPRs) under which new WTO members have been admitted since its creation in 1995. The remainder of the book consists of detailed analyses of the main rulings adopted under the Dispute Settlement Understanding concerning the TRIPS Agreement. Cases involving geographical indications, copyright, patents and test data are examined.

I am immensely thankful to the authors for their contributions. I am sure the readers will also appreciate their effort and the quality of the materials presented in this volume.

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