

Index

- 4K MSE 2030 Initiative, Kenya 296
- Abbott, F.M. 131
- Achmat, Zackie 18
- Africa *see also* Kenya; South Africa
colonial IP regimes, influences of
244–5, 255
public debate on IP issues, lack of 253
- African Centre for Technology Studies
(ACTS) 287
- Agreement on Government
Procurement (GPA) 57–8
- AIDS Law Project 18
- Anderson, H.E. 131
- Anti-Counterfeiting Trade Agreement
(ACTA) 164, 285
- Appropriate Technology Centre,
Kenyatta University, Kenya 278
- Axidothymidine (AZT)
free distribution in Brazil 23–4
- Ayyangar Committee on the Revision
of the Patents Laws (India) 30–32,
35
- ‘balancing clauses’
TRIPS reform proposals 167,
170–75, 194–5
- Barton, J.H. 129
- Bello, J. 159
- benefit sharing
and access to genetic resources
219–221
and compulsory licensing 230–32
monetary and non-monetary
benefits 220–21, 232
- Berne Convention for the Protection of
Literary and Artistic Works (1886)
limitations and exceptions
compulsory licensing 116–17
copyright 178–9
- Berners Lee, T. 311
- Bhagwati, Jagdish 59
- bilateral trade agreements, between
US and Latin America *see under*
United States
- biotechnology patents *see also* genetic
resources
and human rights, conflicts between
1–2
TRIPS reform proposals 187
- Bird, R.C. 131
- Boehringer Ingelheim 18–19
- Braille, books in 188
- Braithwaite, J. 13
- Brazil
compulsory licensing of
pharmaceuticals 24–7, 112
complaint against EU 113
US complaint to WTO 26–9
constitutional right to health 22–3,
27, 34–5
NGO IPR policy reframing, and
HIV/AIDS drugs 21–30
opposition to TRIPS Agreement 48
- BRIC countries *see also* individual
countries
China’s place in 48–9
and global trade development
patterns 3
opposition to TRIPS Agreement
48–9
- Busch, M. 150
- Cahoy, D. 131
- Canada
on access to medicines and WTO
Waiver Agreement 111–12
- CBD *see* Convention on Biodiversity
- Chace Act (1891)(US) 134
- China
access to medicines, influence on
policy 60–61

- IPR protection regime development
 - 49–51
 - data protection restrictions 62–3
 - design patent litigation 67–8
 - Drug Provisions regime 61–2
 - ‘elastic clause,’ maintenance of 63–4
 - enforcement trends 50–51
 - GM Daewoo v. Cherry* 67–8
 - GPA, implications of signing 58
 - HiSense v. Siemens* 66–7
 - Intellectual Property Action Plan (2011) 68
 - Intellectual Property Propulsion Plan (2011) 68–9
 - and Open Door Policy 50
 - and outstanding public interest 65
 - patent linkage system 61–2
 - and principle of ‘*yang chang bi duan*’ 65
 - and ‘Spaghetti Bowl Effect’ 59–60
 - trademark litigation 66–7
 - TRIPS-Plus Agreement influence on 53–4, 56–60, 69
 - TRIPS-Plus Agreement strategies 60–69
 - uniform IP code, proposal for 64
- law reforms
 - in copyright law 44–8
 - in patent law 39–40
 - proposals 64–5
 - in trademark law 40–44
 - TRIPS Agreement influence on 64–5
 - and WTO dispute resolution procedures 45
- place in BRIC countries 48–9
- public health policy developments 60–61
- WTO membership
 - advantages of 39, 49
 - entry requirements 39
- clean technologies
 - and compulsory licensing 127–30
 - patent coverage 128–30
- Coffee Research Foundation, Kenya 269
- colonial IPR regimes, influences of 244–5, 255
- competition law
 - TRIPS interface with 175–7, 195
- compulsory licensing
 - alternatives to 128, 130–31
 - and benefit sharing 230–32
 - of clean technologies 127–30
 - complaints to WTO regarding 112–13
 - Doha Declaration on 109–10, 125, 230–31
 - economic implications 121–30
 - and availability of alternatives 128
 - in capital-intensive markets 127–8
 - and patent coverage 128–30
 - limited exceptions under TRIPS
 - Articles 30 and 31 113–21
 - Paragraph 6 System 110–112, 121
 - of pharmaceutical products
 - in Brazil 24–6
 - industry objections to 126–7
 - IPT reform proposals 190–215
 - justifications for 125–6
 - restrictions under TRIPS-Plus Agreements 55–6
 - royalty free licences 230, 232
 - under UN Framework Convention on Climate Change (UNFCCC) 112–13, 127
 - Waiver Decision (WTO) 110–112, 121
- Convention on Biodiversity (1992) (CBD) *see also* Nagoya Protocol
 - on access to genetic resources and benefit sharing 219–21
 - sovereign rights 217, 221–2
 - purpose 216–17
 - on technology transfer and local working requirement 234
 - and TRIPS, conflicts between 235–8, 250
- copyright
 - Chinese law reforms 44–8
 - limitations and exceptions 178–9
 - TRIPS reform proposals 178–80, 196–8
- Correa, C. 248
- counterfeit goods and piracy
 - and access to medicines 21, 149
 - Chinese anti-piracy developments 50

- and developing countries' economic development 48
- property-theft-piracy debate 12–15
- TRIPS focus regarding 175–6, 181–2, 252
- data protection
 - additional patent protection for high technology 62–3
- Deere, C, 13–14, 148
- developed countries
 - TRIPS-Plus Agreements, influences on 246
 - TRIPS technology transfer obligations 240, 245–9
- developing countries
 - capacity building challenges 255–6
 - colonial IPR regimes, limitations of 244–5, 255
 - compulsory licensing
 - alternatives, availability of 128
 - and clean technologies 127–8
 - ideational power influences in 254–5
 - impact of TRIPS on 243–6
 - innovation promotion challenges 259
 - international trade pressures and threats 256
 - interpretation 132
 - IP policy development
 - recommendations 265–7
 - IPR flexibility, importance of 144–9
 - legal unification, implications of 135
 - local working requirement 136–40
 - public debate on IPR issues, lack of 253
 - public sector information, role in innovation 309–10
 - and trade protectionism 135–6, 256
 - TRIPS enforcement obligations 242–3
 - TRIPS-Plus Agreements, implications for 30–31, 54–7, 145–6
 - TRIPS technology transfer obligations, limitations of 240–41, 245–9
- WTO dispute resolution procedures
 - 143, 151–62
 - adjudication procedures 153–4
 - consequences for 142–3, 147–9
 - consultation procedures 152–3
 - drafting phases of 157–8
 - and 'due restraint' 156
 - implementation procedures 153
 - interpretation challenges 154–8
 - IPR over-compliance 142–3, 147–9
 - obligations, costs of 150–51
 - reform proposals 158–62
 - special treatment 151–62
- dispute settlements *see* WTO dispute resolution procedures
- Doha Declaration (2001)
 - on compulsory licensing 109–10, 125–7, 230–31
 - on conflicts between TRIPS and CBD 238, 235–6
 - and 'elastic clause' 55–6
 - influence on US FTA/ bilateral agreements 77–8, 89–90, 106–7
 - on needs of developing countries 109–10, 125, 230–32
 - on public health protection 55–6, 85–6, 89–91, 106–7, 109–10
- Drahos, P. 13–14
- Dutfield, G. 248
- economic growth
 - global patterns 3
 - influences on 239–40
 - and innovation, links between 261
 - 'elastic clause' 63–4, 69
 - TRIPS-Plus Agreement restrictions 51–3, 55–6
- environmental protection
 - human rights *vs.* IPR conflicts 1–7
- EU
 - politicization of TRIPS debates 252–3
 - public sector information, IPR over 307–11, 312–15
 - TRIPS-Plus Agreements, implications of 51–2, 60, 247–8
- Evans, D. 147
- fair use, interpretation 182
- Federal Law 5.772/71 (Brazil) 24
- Federal Law 8.080/90 (Brazil) 23
- Federal Law 8.142/90 (Brazil) 23
- Federal Law 9.279/96 (Brazil) 24–30

- Federal Law 9.313/96 (Brazil) 24
 field of technology restrictions
 TRIPS reform proposals 183–5
 Flynn, S. 124
 Free Trade Agreements (FTAs) *see also*
 TRIPS-Plus Agreements
 and GPAs 57–8
 influence of TRIPS on 164
 and monopolization of data
 protection for high technology
 62–3
 ‘Spaghetti Bowl Effect’ 58–60
 between US and Latin America (*see*
 under United States)
- genetic resources, access to
 and benefit sharing 219–21
 compulsory licensing 230–32
 royalty free licences 230, 232
 TRIPS, conflict between 225–30
 consent, regulatory requirements
 221–4
 human genetic resources 218, 223–4
 Nagoya Protocol protection of
 217–21
 and public health 218
 sovereignty over 217
 Ginsburg, J. 134
GM Daewoo v. Cherry (2005) (China)
 67–8
 Guzman, A. 158
- health *see also* public health
 constitutional rights to
 in Brazil 22–3, 27, 34–5
 in India 30–31, 33
 in South Africa 19–20
HiSense v. Siemens (2004) (China)
 66–7
 HIV/AIDS *see also* public health
 compulsory licensing of generic
 pharmaceuticals 24–7, 112
 denialism, impact of 17
 NGO role in IPR policy reframing
 15–16, 34–5
 in Brazil 21–30
 in India 30–34
 in South Africa 16–21
 prevention of mother-to-child-
 transmission, drugs for 18–19
 socio-economic costs of 16–17
 spread trends 289–90
 Treatment Action Campaign (TAC)
 17–21
- Horticultural Crops Development
 Authority, Kenya (HCDA) 276
- human rights
 conflicts with patent rights 1–7
 conflicts with TRIPS protections 1–7
 constitutional rights to health
 in Brazil 22–3, 27
 in India 30–31
 in South Africa 19–20
 and reframing of IPR, by NGOs
 12–16, 34–5
 in Brazil 21–30
 in India 30–34
 in South Africa 16–21
 widening scope of 1–3
- ideational power, influence on global
 IPR debates 254–6
- India
 compulsory licensing complaints 113
 constitutional right to health 30–31,
 33
 National Working Group on Patent
 Laws 33
 NGO IPR policy reframing, and
 HIV/AIDS drugs 30–35
 opposition to TRIPS Agreement 48
 patent law
 and data protection
 monopolization 62–3
 reforms 30–32, 35
 restrictions for food,
 pharmaceuticals and
 chemical inventions 31–2
- indigenous knowledge *see* traditional
 knowledge
- industrial designs
 TRIPS reform proposals 182–3,
 200–201
- innovation
 changing approaches to 302–3
 and creativity, link between 302
 definition 257
 and development, link between 261
 drivers and influences on 257–8
 National Innovation Systems 262–6

- network-driven paradigm for 302–3
- objectives, *vs.* science and technology policies 261–2
- and pharmaceutical patents 123–4
- promotion activities 259
- and R&D expenditure 257–8
- sources of 260
- TRIPS provisions for promotion of 256–62
 - limitations of 240–41, 258–62, 264–5
- Institute for Intellectual Property Law and Market Law (IFIM) 165
 - see also* Intellectual Property in Transition project (IPT)
- Institute of Primate Research, Kenya 274
- Intellectual Property in Transition project (IPT)
 - background to 165–6
 - contribution to society, relevance of 168–9
 - principles of 166–8
 - reform proposals
 - ‘balancing clauses’ 167, 170–75, 194–5
 - biotechnology exceptions 187
 - ceiling rules 167–8, 177–8, 186, 188
 - control of anti-competitive practices in contractual licences 204–5
 - copyright 178–80, 196–8
 - discretionary *vs.* mandatory rules 169–70
 - enforcement obligations 207–8
 - exceptions and limitations, generally 177–8, 186–7
 - field of technology restrictions 183–5
 - industrial designs 182–3, 200–201
 - and interface with competition law 175–7, 195
 - local working requirement 185–6
 - on objectives and principles 168–70, 192–3
 - patents 183–7, 202–4
 - pharmaceutical compulsory licensing 210–15
 - protection of existing subject matter 208–10
 - related rights 180–81
 - research exception 186–7
 - ‘substantive maxima’ 167–8, 177–8, 186, 188
 - text of 190–215
 - three step test 171–5, 179–80
 - trademarks 181–2, 199–200
- International Centre of Insect Physiology and Ecology (ICIPE) 288
- International Classification of Goods and Services (Nice Agreement) 96
- International Crop Institute for the Semi-arid Tropics (ICRISAT) 287–8
- International Health Regulations (2005) 218, 223–4
- International Livestock Research Institute (ILRI) 287–8
- IPR, generally
 - framing
 - human rights emphasis, of NGOs 12–35
 - as tool for agenda-setting 255
 - ideational power, influences on 254–6
 - influences on economic growth 239–40
 - policy flexibility, importance of 143–6
 - property-theft-piracy debate 12–15
- IPT *see* Intellectual Property in Transition project (IPT)
- Italy
 - IPR double standards 136, 138
- Joint Recommendation Concerning Provisions on the Protection of Well-known Trademarks (WIPO)* 96
- Jomo Kenyatta University of Advanced Technology, Kenya 278, 280
- Kapczynski, A. 14
- Kenya
 - anti-counterfeiting policies 285
 - HIV/AIDS spread trends 288–9

- National Innovation system
 4K MSE 2030 Initiative 296
 agricultural, plant and forestry
 research developments
 269–76, 285, 287–8
 animal research developments 274,
 277, 287–8
 educational institutions' role in
 277–84
 entrepreneurial trends 292
 environmental research
 developments 276, 287
 external donor finance, influence
 of 297–8
 foreign collaborations 286–7
 human resource and skills role in
 288–90, 295, 298–9
 incentive structures 292–3
 information dissemination
 challenges 291–2
 innovation challenges and threats
 299–300
 innovation improvement
 recommendations 300–301
 institutional research capability
 developments 285
 inter-governmental research
 collaborations 287–8
 IP awareness developments 286
 IP legal framework development
 283, 285
 'jua kali' sector, challenges of
 295–6
 marine and fisheries research
 developments 272
 medical research developments
 271–2
 non-governmental research
 developments 286–7
 participants, generally 267–8
 political support levels
 293–294
 public service work culture,
 influence of 296–7
 recommendations for performance
 improvements 300–301
 research expenditure trends
 290–91
 research exploitation and diffusion
 rates 291
 research foundations' role in
 269–77
 science and technology research
 developments 270, 275, 284–6
 strengths of 283, 285–90
 SUCAPRI Initiative 280, 282
 success, analysis of 283–4
 system linkages and interactions,
 challenges for 298
 university-industry research
 linkages 279–82, 284
 weaknesses of 290–99
 Kenya Agricultural Research Institute
 (KARI) 270, 286–7
 Kenya Energy and Environment
 Organization (KENGO) 287
 Kenya Forestry Research Institute
 (KEFRI) 271–2
 Kenya Industrial Property Institute
 (KIPI) 286, 296
 Kenya Industrial Research
 Development Institute (KIRDI)
 270–71, 296
 Kenya Institute of Public Policy and
 Research Analysis (KIPPRA) 287
 Kenya Marine and Fisheries Institute
 (KEMFRI) 272
 Kenya Medical Research Institute
 (KEMRI) 271–2, 287
 Kenya National Federation of Jua-Kali
 Association (JNFJKA) 296
 Kenya Seed Company 273–4
 Kenya Sugar Research Foundation
 (KESREF) 272–3
 Kenya Trypanosomiasis Research
 Institute (KETRI) 270–71
 Kenya Wildlife Service (KWS) 277
 knowledge communities, role in global
 IP debates 254–6
 Lang, A. 13
 Latin America
 FTA/ bilateral agreements with US
 (*see under* United States)
 least developed countries
 capacity building challenges 255–6
 development dynamics 132–3
 ideational power influences in 254–5
 impact of TRIPS on 243–6
 innovation promotion challenges 259

- international trade pressures and threats 256
- interpretation 132–3
- IP policy development
 - recommendations 265–7
- IPR flexibility
 - importance of 144–6
 - TRIPS restrictions on 142–3, 145–6
- IPR litigation, fear of 142–3, 147–9
- IPR protections, double standards of 133–6
- IPR reforms, implications of 138–41
- and local working requirement 137–40
- patent profitability analysis 6–7
- and technological spill-over effects 137, 140
- TRIPS compliance extensions for 133–6
- TRIPS exceptions for 139–40
- TRIPS technology transfer
 - obligations, limitations of 240–41, 245–9
- WTO dispute resolution procedures 143, 151–62
 - adjudication procedures 153–4
 - consequences for 142–3, 147–9
 - consultation procedures 152–3
 - drafting phases of 157–8
 - and ‘due restraint’ 156
 - implementation procedures 153
 - interpretation challenges 154–8
 - IPR over-compliance 142–3, 147–9
 - obligations, costs of 150–51
 - reform proposals 158–62
 - special treatment 143, 158–62
- local working requirement 136–40
 - Nagoya Protocol reform proposals 233–5
 - TRIPS reform proposals 185–6
- Max-Planck-Institute for Intellectual Property, Competition and Tax Law 165 *see also* Intellectual Property in Transition project (IPT)
- Meagher, N. 149–50
- medicines, access to
 - in China, influences on 60–61
 - and compulsory licensing under Doha Declaration 109–10, 125–7, 230–31
 - industry objections to 126–7
 - Paragraph 6 System 110–112, 121
 - Waiver Decision (WTO) 110–112, 121
- as human rights issue 12–14, 34–5
- anti-viral drugs for HIV/AIDS 15–16
- NGO policy framing, in Brazil 21–30
- NGO policy framing, in India 30–34
- NGO policy framing, in South Africa 16–21
- and patent linkages 54–5
- TRIPS-Plus Agreements, implications of 53–6, 60
- Minister of Health v. Treatment Action Campaign (2002) (South Africa)* 19–21, 34
- Moi University, Kenya 278
- most-favoured nation principle 58
- multilateralism *see also* WTO dispute resolution procedures
 - influence on IPR polices 1, 51, 53, 57–60, 64, 241–6
- NAFTA, role in IPR development 74–7, 93, 98, 100
- Nagoya Protocol
 - on access to genetic resources and benefit sharing 219–21
 - commercial vs. non-commercial activities 222–3
 - consent, regulatory requirements 221–4
 - human genetic resources 218, 223–4
 - monetary and non-monetary benefits 220–21, 232
 - and TRIPS, conflict between 225–30
 - background 217–18
 - and conflicts between CBD and TRIPS 235–8
 - purpose 217–18, 238

- on technology transfer and local working requirement 233–5
- National Council for Science and Technology, Kenya (NCST) 275, 293
- National Environmental Management Authority, Kenya (NEMA) 276
- National Innovation Systems 262–6 *see also under* Kenya
- National Museums of Kenya 287
- National Working Group on Patent Laws (India) 33
- Netherlands
 - compulsory licensing complaints to WTO 113
- Nevirapine
 - distribution in South Africa 18–19
- NGOs
 - human rights framing of IPR 12–16, 34–5
 - and access to medicine 14–34
 - in Brazil 21–30
 - in India 30–35
 - in South Africa 16–21
 - role in TRIPS development process 249–54
 - opponents and allies 252
 - political strategies used 251
 - and WIPO influences 253–4
- Nice Agreement on the International Classification of Goods and Services 96
- nutrition
 - and human rights, IPR conflicts 1
- Odell, J.S. 13
- parallel imports
 - TRIPS-Plus Agreement restrictions 56
- Paris Convention for the Protection of Industrial Property (1967)
 - compulsory licensing, limitations and exceptions 117, 119–20
 - local working requirement 136–7
- patents *see also* pharmaceutical patents
 - Chinese law reforms 39–40
 - economic benefits 2–6, 121–7
 - and dead weight loss 123–4
 - necessity, criticisms of 6–7
 - and human rights, conflicts with 1–7
 - incentive theory debate 2–6, 121–7
 - Indian law reforms 30–32, 35
 - IPT reform proposals 183–7, 202–4
 - local working requirement 136–40
 - social welfare impact 5–6
- Patents Act 1970 (India) 32
- Peterson, N. 156
- pharmaceutical patents *see also* medicines
 - data protection for high technology 62–3
 - dead weight loss 123–4
 - and human rights, conflicts between 1–2
 - and innovation incentives 123–4
 - NGO strategies regarding
 - in Brazil 21–30, 34
 - in South Africa 16–21
 - patent linkages 61–2
 - present consumer benefit *vs.* future consumer benefit 123–4
- piracy *see* counterfeit goods and piracy
- polytechnics, role in national innovation system, in Kenya 277–84
- Presidential Decree on Compulsory Licensing 3.201/99 (Brazil) 25–6
- property-theft-piracy debate 12–15
- PSI *see* public sector information
- public health
 - Doha Declaration, protections under 55–6, 85–6, 89–91, 106–7, 109–10
 - human genetic resources, access to 218, 223–4
 - and human rights, IPR conflicts 1–2
 - Waiver Decision (WTO) 110–112, 121
- public sector information
 - digital networks, role of 303
 - IPR over
 - challenges of 311–12
 - charging policies 314–15
 - commercial *vs.* non-commercial licenses 313
 - in developing countries 309–10
 - legislative approaches 310–15
 - and non-profit institutions 313–14

- US and EU models 307–15
 - value and added-value 305–7
 - meaning and scope of 304–7
- Pyrethrum Board of Kenya 274–5
- R&D
 - and innovation 257–8
 - social welfare impact 6
- Reichman, J.H. 131
- Reinhardt, E. 150
- related rights
 - TRIPS reform proposals 180–81
- Russia
 - opposition to TRIPS Agreement 48
- Rwanda
 - on access to medicines and WTO Waiver Decision 111
- Sell, S.K. 13
- Shaffer, G. 147
- social welfare *see also* public health definition 6
- South Africa
 - constitutional right to health 19–20
 - NGO IPR policy reframing, and HIV/AIDS drugs 17–21, 34
 - ‘Spaghetti Bowl Effect’ 58–60
 - ‘Special Section 301’ 57
 - SUCAPRI Initiative 280, 282
- Tea Research Foundation, Kenya 269
- technological spill-over effects 137, 140
- technology transfer
 - bilateralism trends, influence on 248–9
 - developed countries’ obligations 240
 - and local working requirement 233–5
 - TRIPS obligations, limitations of 240–41, 245–9
- Thailand
 - compulsory licensing in 112
- trademarks
 - Chinese law reforms 40–44
 - fair use, interpretation 182
 - non-commercial use exception 181–2
 - registration obligations
 - not-visually perceptible marks 93
 - scent/ smell marks 93
 - sound marks 93
 - TRIPS reform proposals 181–2, 199–200
 - well-known unregistered trademarks, protection of 94–6
 - traditional knowledge
 - and colonial IP regimes, impact on 245
 - TRIPS protections, limitations of 250
 - US FTA/ bilateral agreement
 - treatment of 87–9, 101
 - Treatment Action Campaign (TAC) 17–21
 - TRIPS Agreement provisions
 - access to genetic resources, conflicts with 225–30
 - advantages and disadvantages of 163–5
 - Annexes and appendices 210–15
 - Article 2 192
 - Article 7 168–9, 185–6, 192–3, 233–4, 238
 - Article 8 169–75, 193, 238
 - Article 8a 170–75, 194–5
 - Article 8b 175–7, 195
 - Article 9 178, 196, 309–10
 - Article 13 116–18, 148–9, 159–60, 179–83, 196–7
 - Article 14 180–81, 197–8
 - Article 17 181–3, 199–200
 - Article 21 118, 250
 - Article 26 116–18, 200–1
 - Article 27 183–6, 202–3
 - Article 30 113–18, 186–7, 203–4, 226–8
 - Article 31 113–21, 226
 - Article 40 204–5
 - Article 41 205–8
 - Article 41a 207
 - Article 41b 207–8
 - Article 65 230–31
 - Article 70 208–10
 - benefit sharing conflicts 225–30
 - and CBD, conflicts between 235–8, 250
 - drafting phase
 - debates and negotiations 242
 - globalization and political influences on 249–50, 252–3

- economic limitations of 243–4
- ‘elastic clause’ 63–4, 69
- FTA/ bilateral agreements, influences on 164
- IPR enforcement obligations 243
- local working requirement 136–40, 185–6, 233–5
- and multilateralization of IPR 164, 241–2
- and national IPR system requirements 241–3
- ‘one-size fits all’ compliance standards, debate over 133–6, 246
- and promotion of innovation 256–62
 - limitations of 240–41, 258–62, 262–5
 - National Innovation Systems 262–6
- reform proposals
 - background to 165–6
 - balancing clauses 167–8, 170–75, 194–5
 - biotechnology exceptions 187
 - ceiling rules 166–7, 167–8, 177–8, 186, 188
 - and competition law interface 175–7, 195
 - contribution to society, relevance of 168–9
 - control of anti-competitive practices in contractual licences 204–5
 - and Convention on Biodiversity 10
 - copyright 178–80, 196–8
 - discretionary vs. mandatory rules 169–70
 - enforcement obligations 206–8
 - exceptions and limitations, generally 177–8, 186–7
 - field of technology restrictions 183–5
 - industrial designs 182–3, 200–201
 - IPT principles of 166–8
 - local working requirement 185–6
 - need for, reasons for 164–5, 187–9
 - on objectives and principles 168–70, 192–3
 - patents 183–7, 202–4
 - pharmaceutical compulsory licensing 210–15
 - protection of existing subject matter 208–10
 - related rights 180–81
 - research exception 186–7
 - ‘substantive maxima’ 166–7, 167–8, 177–8, 186, 188
 - text of IPT proposals 190–215
 - three step test reforms 171–5, 179–80
 - trademarks 181–2, 199–200
 - technology transfer obligations, limitations of 240–41, 245–9
 - three-step test 116–18
 - reform proposals 171–5, 179–80
 - transitional arrangements
 - double standards of 133–6 and generic pharmaceuticals 24–5
 - special dispute resolution procedures for developing countries 151–62
- TRIPS-Plus Agreements
 - advantages of 53
 - and Agreement on Government Procurement (GPA) 57–8
 - agreement trends 53, 246
 - and compulsory licensing 55–6, 130–31
 - criticisms of 130–31
 - and data protection for high technology 62–3
 - developed countries’ influence on 246
 - ‘elastic clause,’ restrictions 51–3, 55–6, 63
 - implications
 - for China 53–4, 56–60
 - for developing countries, generally 54–7, 130–31, 145–6, 246–9
 - for technology transfer 247–9
 - and most-favoured-nation treatment 58
 - and parallel imports 56
 - protections under restrictions 55–6
 - scope 52–5
 - US and EU use of 51–2, 56–7, 60, 247–9

- UN Framework Convention on Climate Change (UNFCCC)
 - compulsory licensing 112–13, 127
- undisclosed information, protection of
 - in FTAs between US and Latin American nations 79–80
- United States
 - complaints to WTO
 - Brazilian compulsory licensing of pharmaceuticals 26–9
 - Chinese copyright law 45
 - compulsory licensing restrictions 55–6, 111–12, 114–15
 - FTA/ bilateral agreements
 - with Australia 73, 80, 82–6
 - background to 73–7
 - with Bahrain 73, 80, 82–5
 - biodiversity, treatment of 87–9
 - with Canada 73
 - certification marks obligations 98–9
 - with Chile 73–5, 79–80, 82–6, 93, 96–7
 - collective marks obligations 99
 - with Colombia 73–5, 79–80, 82–8, 93
 - with Costa Rica 73–5, 89–90
 - and divide and rule philosophy 100, 103, 105
 - Doha Declaration, influence on policy developments 77–8, 89–90, 106–7
 - with Dominican Republic 73–5, 79–80, 82–6, 89–90
 - with El Salvador 73–5, 89–90
 - ‘elastic clause,’ restrictions 51–3, 55–6
 - and equitable sharing of benefits 87–9, 101
 - exhaustion of patent rights 85–6, 101
 - extension of term as
 - compensation for unreasonable marketing approval delays 84–5, 101
 - extension of term as
 - compensation for unreasonable procedural delays 83–4, 101
 - genetic resources, treatment of 87–9, 101
 - geographical indications marks obligations 99
 - with Guatemala 73–5, 89–90
 - with Honduras 73–5, 89–90
 - and international classification of goods and services (Nice Agreement) 96
 - introduction 74–5
 - with Israel 73
 - with Jordan 73
 - key features 74
 - with Korea 73
 - with Latin American nations, implications of 100–108
 - and legal harmonization, influence on 105–6
 - Madrid Protocol (1989), obligations to join 99
 - with Mexico 73, 76
 - with Morocco 73, 80, 82–6
 - NAFTA, role of 75–7
 - with Nicaragua 73–5, 89–90
 - not-visually perceptible trademarks, obligations to register 93
 - obligations regarding identity of marketing approval applicant 82–3, 101
 - obligations regarding marketing approval prior to patent expiration 80–82, 101
 - with Oman 73
 - with Panama 73–5, 79–80, 82–6, 88–9, 91, 93
 - patent law provision developments 78–9
 - and patent linkages 80–3
 - patentability of new uses for known products 85
 - with Peru 73–5, 80, 82–91, 93
 - protection of public health 89–91, 101
 - on protection of trademark similarities 96–7
 - protection of undisclosed information 79–80, 101
 - with Singapore 73

- sound/ scent/ smell marks,
 - obligations to register 93
- and Trade Promotion Authority Act 77–80
- Trademark Law Treaty (1994),
 - obligations to join 99
- trademark licenses, recordation requirements 97–8
- trademark protection innovations
 - in 91–9, 102
- trademark registration procedural provisions 98
- traditional knowledge, treatment of 87–9, 101
- and TRIPS technology transfer obligations, influence on 247–8
- well-known unregistered trademarks, protection of 94–6
- parallel importation restrictions 56
- Patent Code, Articles 204–209 28–9
- patent linkages system 61
- public sector information, IPR over 307, 310–12
- TRIPS Agreement, attitude to 159
- TRIPS-Plus Agreements,
 - implications of 51–2, 56–7, 60
- United States - Section 110(5) of the US Copyright Act (2000)* 148–9, 159–60
- universities, role in national innovation system, in Kenya 277–84
- University of Nairobi, Kenya 278–9, 281, 287
- Waiver Decision (WTO) 110–112, 121
- WIPO
 - role in globalization of IP debates 253–4
 - TRIPS overlap with 48, 188–9, 248–9, 252
 - well-known trademarks obligations 96
- WTO dispute resolution procedures
 - Article 3.12 152
 - Article 4.10 153–4
 - Article 21 153
 - Article 24.1 155–62
 - background to 146–7
 - cases
 - compulsory licensing in Brazil 26–9
 - copyright law in China 45
 - compulsory nature, implications 146–8
 - costs of 150–51
 - developing/ least developed countries, special treatment 151–62
 - adjudication procedures 153–4
 - consequences for 142–3, 147–9
 - consultation procedures 152–3
 - drafting phases of 157–8
 - and ‘due restraint’ 156
 - implementation procedures 153
 - interpretation challenges 154–8
 - IPR over-compliance 142–3, 147–9
 - reform proposals 158–62
 - pro IP climate, creation of 142–3, 147–9
 - transitional periods, expiration of 143
- ‘*yang chang bi duan*’ principle 65