

South Centre Publications January - February 2025



RESEARCH PAPERS

International Regulation of Industrial Designs: The TRIPS Agreement in the Light of European Union Law (Research Paper 212, 9 January 2025)

By Adèle Sicot

This paper analyzes the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) on industrial designs, and the manner in which the narrow aspects dealt with by the Agreement have been addressed by European Union (EU) legislation. The paper highlights the absence of a definition of protectable subject matter, and the considerable flexibility left to the member countries of the World Trade Organization to determine the framework of protection, notably on the basis of copyright. The paper also notes certain areas in which European legislation is more elaborate, and others which could be considered incompatible with the TRIPS Agreement.

<https://www.southcentre.int/research-paper-212-9-january-2025/>

Application of the Bolar Exception: Different Approaches in the EU (Research Paper 214, 15 January 2025)

By Dmytro Doubinsky

This Research Paper addresses the growing problem of access to essential medicines, focusing on the role of intellectual property rights, particularly patent rights, in restricting access by enabling pharmaceutical market monopolies that keep drug prices high. The paper explores the Bolar exception, a legal mechanism designed to allow generic drug manufacturers to seek regulatory approval before a patent expires, thus preventing the de facto extension of patent monopolies. The study examines the transformation of the Bolar exception from a specific legal case into a significant tool of intellectual property, commercial, and pharmaceutical law. The paper analyzes key international legal frameworks and European directives related to the Bolar exception and highlights divergent interpretations of the Exception in German and Polish case law. Through this comparative analysis, the paper argues for the broader implementation of Bolar exceptions to improve access to affordable medicines and reduce healthcare costs.

<https://www.southcentre.int/research-paper-214-15-january-2025/>

Assessing Five Years of the African Continental Free Trade Area (AfCFTA): Proposals on Potential Amendments (Research Paper 215, 23 January 2025)

By Kiiza Africa

On 30th May 2024, the African Continental Free Trade Area (AfCFTA) celebrated its fifth anniversary, which legally implied that the agreement is up for review for possible amendments. To kickstart this review, the Thirty-Seventh Ordinary Session of the African Union Summit (held in February 2024) directed the AfCFTA Secretariat to take necessary measures for the start of the review of the Agreement. This review comes at a moment when the AfCFTA implementation and its vehicle, the Guided Trade Initiative (GTI), have been fraught with challenges. Broadly, these challenges include the slow submission of tariff liberalization schedules by State Parties, infrastructure deficits, persistent non-tariff barriers and trade wars in regional economic communities, and overlapping regional trade commitments. Thus, the upcoming AfCFTA review provides an opportunity to assess progress, identify implementation bottlenecks, and propose actionable amendments. This paper examines these challenges through a comprehensive analysis of the AfCFTA's state of play, illuminating the progress while highlighting the slow momentum registered for the past five years of its operation. Proposals for the agreement's amendment revolve on accelerating infrastructure development, harmonizing rules of origin, integrating labor rights, and fostering industrial diversification. By moving beyond liberalization as its *raison d'être* and prioritizing the scaling up of State Parties' productive capacities, the AfCFTA can evolve from a mere trade liberalization agreement into a transformative driver of Africa's economic

renaissance. It is hoped that this timely assessment underscores the urgency of reorienting the AfCFTA to unlock its full potential for propelling intra-Africa trade.

<https://www.southcentre.int/research-paper-215-23-january-2025/>

Will the Pact for the Future Advance a Common Global Agenda on the Challenges Facing Humanity? (Research Paper 216, 27 February 2025)

By Viviana Munoz Tellez, Danish, Abdul Muheet Chowdhary, Nirmalya Syam, Daniel Uribe

At a time when multilateralism is needed more than ever to address the global challenges and rising geopolitical tensions, paradoxically, the capacity and delegated power of the United Nations (UN) to uphold a rule-based order to keep peace and security is being weakened. Even in an increasingly multipolar world, a retreat towards unilateralism by world powers masked as national sovereignty is dangerous and highly unfavourable for developing countries. In this light, the United Nations Pact for the Future, a new forward-looking agenda of commitments adopted by consensus by UN Member States in September 2024, is a welcome initiative. The Pact for the Future, nonetheless, is short in delivering commitments on transformative changes in global governance and solutions to the most pressing global challenges. This document briefly examines some of the actions and high-level commitments in the Pact of the Future to strengthen multilateral cooperation and provides recommendations for their implementation.

<https://www.southcentre.int/research-paper-216-27-february-2025/>

POLICY BRIEFS

The WIPO Development Agenda: Progress and Challenges in 2025 (Policy Brief 134, 28 January 2025)

By Nirmalya Syam

The World Intellectual Property Organization (WIPO) Development Agenda (DA), adopted in 2007, seeks to align intellectual property (IP) policies with the development priorities of member States. Enduring challenges persist despite some progress including the adoption of treaties to facilitate access to copyright protected works for visually impaired and print disabled persons, and the recent treaty on IP, genetic resources and associated traditional knowledge, and the adoption of several projects for implementing different DA recommendations. DA projects, however, have had limited impact on mainstreaming a development orientation in WIPO, there is limited promotion of use of IP flexibilities for development, and WIPO's technical assistance continues to lack a development orientation. There is also a sustained absence of consideration and reporting of development related issues across WIPO bodies. Divergent interpretations of "development", weak coordination and monitoring systems, and governance inequities have hindered the DA's transformative potential. This brief examines these issues and advances recommendations to address the challenges to establish an effective DA.

<https://www.southcentre.int/policy-brief-134-28-january-2025/>

The Riyadh Design Law Treaty: Harmonizing Global Design Procedures with Mixed Implications (Policy Brief 135, 20 February 2025)

By Nirmalya Syam

The Riyadh Design Law Treaty (DLT), adopted on November 22, 2024, aims to harmonize and simplify the global registration procedures for industrial designs. By standardizing procedural requirements across jurisdictions, the treaty seeks to create a more predictable and accessible system for designers, particularly benefiting small-scale designers and small and medium-sized enterprises (SMEs). However, the DLT can have implications for developing countries, as many lack significant design-intensive industries. Key provisions in the DLT include a 12-month grace period, deferred publication, divisional applications, and the option to require disclosures regarding traditional knowledge and cultural expressions used in a design. While the treaty enhances global design protection, concerns persist regarding its impact on local designers, market competition, and procedural fairness. The immediate advantages of the DLT for developing countries are limited, highlighting the need for continued technical assistance and capacity-building efforts.

<https://www.southcentre.int/policy-brief-135-20-february-2025/>

Lessons from COVID-19: Strengthening Antimicrobial Stewardship Prior and During Pandemics (Policy Brief 136, 25 February 2025)

By Dr Rasha Abdelsalam Elshenawy

The COVID-19 pandemic has had a complex impact on the silent pandemic of antimicrobial resistance (AMR). While increased antibiotic misuse and disrupted antimicrobial stewardship (AMS) programs exacerbated AMR in some settings, heightened awareness and improved infection prevention measures implemented to control COVID-19 provided valuable lessons on sustaining these practices in the fight against AMR. This brief highlights lessons learned from the pandemic, such as the importance of access to antimicrobials and the urgent need for resilient and sustainable AMS integrated into pandemic preparedness, strengthening infection prevention and surveillance systems, enhancing access and use of diagnostics, and promoting a One Health approach. By leveraging these lessons, policymakers can build more resilient health systems, maintain the effectiveness of antimicrobials and be better prepared for future pandemics, particularly in developing countries. Immediate action is essential to protect public health and combat AMR effectively.

<https://www.southcentre.int/policy-brief-136-25-february-2025/>

OTHER PUBLICATIONS

Combatting overcompliance with unilateral coercive measures – Discussions from South Centre Consultation (South Centre Report, January 2025)

By Yuefen Li and Danish

In view of the severe negative impacts of unilateral coercive measures (UCMs) on targeted countries and the international community, and at the request of South Centre Member States, the South Centre organized a meeting on 18 November 2024 with the participation of senior diplomats from a number of developing countries, several of whom have been targeted by UCMs. The meeting focused on the trends and main drivers of overcompliance with UCMs among multinational firms and financial institutions, and the strategies that can be employed to mitigate overcompliance, especially in relation to humanitarian exemptions.

<https://www.southcentre.int/south-centre-report-ucms-overcompliance-consultation-january-2025/>

Submission by the South Centre to the Office of the United Nations High Commissioner for Human Rights on Inputs for the comprehensive report on ensuring access to medicines, vaccines and other health products (HRC resolution 50/13) (January 2025)

The South Centre has provided input for the OHCHR report on new developments and challenges in ensuring access to medicines, vaccines and other health products.

<https://www.southcentre.int/sc-submission-to-ohchr-for-hrc-resolution-50-13-january-2025/>

Report on Antimicrobial Stewardship and AMR Surveillance: Insights from The South Centre WAAW 2024 Webinar (South Centre WAAW 2024 Webinar Report, February 2025)

By Dr Rasha Abdelsalam Elshenawy

How can we enhance antimicrobial resistance (AMR) surveillance and antimicrobial stewardship (AMS) in resource-limited settings?

The South Centre World Antimicrobial Resistance Awareness Week (WAAW) 2024 Webinar Report highlights barriers, innovative digital tools, and global strategies to combat AMR effectively.

<https://www.southcentre.int/south-centre-waaw-2024-webinar-report-february-2025/>

South Centre Input on the update to the technical guidance on the application of a human rights-based approach to the elimination of preventable maternal mortality and morbidity pursuant to HRC resolution 54/16 (February 2025)

Maternal mortality is a global crisis. The South Centre input calls for urgent action: addressing intersectional discrimination, improving the quality of care, and tackling root causes like poverty, and to guarantee that every woman has access to a safe childbirth.

<https://www.southcentre.int/sc-input-on-update-to-technical-guidance-pursuant-to-hrc-resolution-54-16-february-2025/>

South Centre Inputs to the Expert Mechanism on the Right to Development Study on Climate Justice, Sustainability, and the Right to Development (February 2025)

The South Centre inputs to the Expert Mechanism on the Right to Development Study on Climate Justice, Sustainability, and the Right to Development makes a call for upholding Common but

Differentiated Responsibilities and Respective Capabilities (CBDRRC) in ensuring a just transition, protecting the human rights of the most affected populations and reforming Investor-State Dispute Settlement (ISDS) mechanisms that threaten climate action.

<https://www.southcentre.int/sc-inputs-to-the-expert-mechanism-on-the-rtd-study-february-2025/>

Fossil Fuel-based Economy and Human Rights
South Centre Inputs to Inform the Thematic Report of the Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change to the Human Rights Council 59th session (February 2025)

The South Centre calls for a Just Transition away from fossil fuels, centering the rights of marginalized communities & the principle of common but differentiated responsibilities.

<https://www.southcentre.int/sc-submission-to-the-sr-on-climate-change-fossil-fuel-based-economy-human-rights-february-2025/>

SOUTHVIEWS

Contract-based Arbitration: Lessons Learned from Bolivia's Extractives Industries (SouthViews No. 281, 31 January 2025)

By Daniel Uribe Teran

Bolivia has undergone a significant shift in its approach to investment dispute resolution, moving away from reliance on Bilateral Investment Treaties (BITs) and international arbitration towards domestic mechanisms and contract-based arbitration. This shift, driven by a desire to assert greater state sovereignty over natural resources, seeks to align dispute resolution with national development priorities while reducing the costs associated with international arbitration. The recent *Shell Bolivia Corporation v. YPF Bolivia* case highlights the complexities inherent in contract-based arbitration within the extractive sector, emphasizing the need for meticulous contract drafting and a clear definition of arbitrable disputes within the framework of Bolivian law.

This article analyses Bolivia's transition from reliance on international investment treaties and arbitration to a domestic, contract-centred approach for resolving disputes in its extractive industries. The article examines how the legal framework adopted by Bolivia highlights the role of contract-based arbitration in addressing disputes related to investment, production, technology transfer, environmental and social impacts, labour relations, and contract interpretation. The article draws lessons from other developing countries' experience, recommending that Bolivia further strengthen its investment framework by adopting clear protection standards, prioritizing fair administrative procedures, and emphasizing domestic remedies. This approach seeks to balance attracting responsible investment with protecting state sovereignty and promoting sustainable development in Bolivia's extractive industries.

<https://www.southcentre.int/southviews-no-281-31-january-2025/>

America First, Trade Last: The Rise of Weaponised Tariffs (SouthViews No. 282, 13 February 2025)

By Vahini Naidu

Donald Trump's return to the White House has reignited economic nationalism, transforming tariffs into instruments of political and economic coercion. His administration's four-phase strategy—setting policy objectives, conducting strategic reviews, imposing preemptive tariffs, and unpredictable brinkmanship—signals a shift towards unilateralism that bypasses traditional legal frameworks and undermines multilateral trade governance. The recent tariffs on Mexico, Canada, and China, imposed under the International Emergency Economic Powers Act (IEEPA) on security grounds, represent an unprecedented expansion of executive power in trade policy. As the U.S. weakens the WTO and prioritises economic nationalism, the Global South faces a decisive moment. The increasing use of trade measures for geopolitical leverage threatens to further marginalise developing countries. In response, the Global South must take a proactive role in shaping the global trade landscape—deepening South-South cooperation, enhancing regional trade frameworks, and advancing structural reforms to promote resilience and economic sovereignty in an era of growing trade uncertainty. This piece argues that Trump's trade strategy marks a broader shift towards a power-driven trade order, where economic dominance supersedes rules-based governance, and that the Global South must act decisively to prevent a future where trade is dictated by the strongest rather than negotiated through fairness and equity.

<https://www.southcentre.int/southviews-no-282-13-february-2025/>

Knowledge and Global Inequality (SouthViews No. 283, 28 February 2025)

By Dev Nathan

This paper argues that the global capitalist economy has been and is built on the monopolization of advanced technological knowledge through trade secrets and intellectual property rights protection, controlled by companies and countries of the Global North. Companies and countries in the Global South use commoditized knowledge or knowledge in the commons. In the colonial period this was largely confined to the production of agricultural commodities and now to carry out the bulk of production functions. This division of knowledge and the difference in returns to monopolized knowledge and knowledge in the commons drives global inequality. The paper points out that countries of the Global South that moved out of the middle-income trap did so by advancing from just using knowledge to also creating knowledge. Finally, it argues that there is a need to reform the system of intellectual property rights in order to promote inclusion and not exclusion.

<https://www.southcentre.int/southviews-no-283-28-february-2025/>

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International Environment House 2
Chemin de Balexert 7-9
1219 Geneva
Switzerland

Telephone : (41 22) 791 8050
E-mail : south@southcentre.int

Website:
<http://www.southcentre.int>

Follow us on Social Media:

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