

The Effects of the TRIPS and IPEF Agreements on Algerian Legislation in the Field of Intellectual Property Rights

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Abstract

This article examines the TRIPS Agreement and the IPEF Agreement through an analysis of their contents, highlighting both their negative and positive aspects on Algerian legislation in the field of intellectual property rights. It also emphasizes the positive perspective aimed at reforming the agreements to ensure the preservation of citizen health, securing food security, and contributing to the overall acceleration of the national economy.

Keywords: agreement, TRIPS, IBOF, ownership, intellectual, rights, health, food.

Introduction:

Algeria's move towards establishing a legislative system for intellectual property rights ¹ that aligns with the TRIPS Agreement and the IBOF Agreement ² was made without a thorough study of the feasibility of the two agreements and their impact on the state and society in general, and on the national economy in particular.

And behind this trend at that time, there were actually two types of pressures:

- International pressures forced the Algerian government to reframe national legislation in accordance with the TRIPS Agreement on one hand and the UPOV Convention on the other, in order to gain membership in the World Trade Organization (WTO) ³.
- Local pressures resulting from an elite controlling decision-making power in Algeria, related to everything Western and Westernization, without considering the negative aspects of the TRIPS and IBOF agreements ⁴.

In compliance with these pressures, the Algerian authorities initiated the issuance of new intellectual property legislations. Here, it is legitimate to question the effectiveness of these legislations and their impact on society in general and the national economy in particular.

To answer this question, we present an analysis of the TRIPS and IPR agreements in the field of intellectual property rights in the first section, and in the second section, we present the positive perspective on the efforts to reform the two agreements.

Chapter One: An Examination of the TRIPS and IBOF Agreements in the Field of Intellectual Property Rights:

The costs of aligning national legislation in the field of intellectual property with the TRIPS Agreement and the IBOF Agreement outweigh its benefits, as we can see from the following:

Requirement One: Analysis of the TRIPS Agreement

The TRIPS Agreement does not actually aim to combat inventors but to treat businessmen as inventors ⁵. The following results ensue:

1. The TRIPS Agreement enshrines the privatization of intellectual property rights and the restoration of collective ownership rights, which may result from the intellectual efforts of a community or a specific human lineage, as is the case with alternative medicine, traditional medicine, or herbal healing ⁶.
2. The TRIPS Agreement leans towards the commercial aspect of intellectual property rights at the expense of the social aspect, as it only recognizes an invention if it is industrially applicable and commercially exploitable. By implication, it does not consider something an invention if the technology is intended for purely social or humanitarian use. This condition excludes any non-productive sector outside the industrial method of organizing production ⁷.
3. The TRIPS Agreement deprives peoples of their right to access the essentials of life and satisfy basic needs such as food and medicine, which, within the framework of the TRIPS Agreement, become the exclusive property of those who hold the patent or the license ⁸.
4. The TRIPS Agreement expands the scope of exemption to infinity, to the point of recognizing the exemption of life, which contradicts human ethics and reduces the human self to parts and cells that can be bought and sold like any other commodity. This is a serious violation of human dignity, as it is unreasonable to grant an exemption for a genetic compound that originally came without human intervention ⁹.
5. The TRIPS Agreement legitimizes biopiracy, and it is known that there is a set of knowledge used since ancient times by non-industrial cultures ¹⁰.
6. The TRIPS Agreement treats the cultures of other peoples as if they do not exist or as a field devoid of any creativity or innovation, and with the globalization of the legal system, through this agreement, it becomes limited to intellectual property rights systems as understood by major industrial states, originally monopolized by multinational corporations ¹¹.
7. The TRIPS Agreement encourages the patenting of traditional knowledge systems stripped from developing peoples and ancient cultures. For example, the Fox Chase Cancer Center at the University of Philadelphia obtained a patent on a medicinal herb used since ancient times in India to treat hepatitis within the framework of folk medicine.
8. This agreement did not exempt agricultural or medical products, which could lead to a food crisis in the world and a humanitarian crisis in meeting food needs. For example, the invention of carbon energy as an alternative to oil will undoubtedly lead to an increase in wheat prices, the spread of famine, and the loss of the basic food resource that was previously accessible to everyone for the poor ¹².
9. This agreement has legitimized the theft and piracy of national knowledge under the pretext of enforcing intellectual property rights, resulting in the plundering of creativity and innovation, deprivation of biodiversity and national knowledge, and more specifically, an overt encouragement of piracy of national knowledge. For example:
 - A- Transferring plant strains to the industrial world that monopolized them as a form of absolution.
 - B- The appropriation without compensation of the cultural heritage of ethnic groups in developing countries ¹³.
 - C- The invasion of developing markets with brands and trade rights under the pretext of trade liberalization, which has created unfair competition between multinational corporations and local production enterprises ¹⁴.
10. The TRIPS Agreement does not recognize collective innovation of a community and tends to define invention as an individual act. That is the disaster resulting from the individualism and brutality of the theorists of the TRIPS Agreement, who are steeped in a dehumanized ideology ¹⁵.

11. The TRIPS Agreement does not give any weight to the consumer's interest but only seeks to protect the interests of intellectual property rights holders, even if it harms the consumer, who is considered the weakest link in this agreement.

12. The TRIPS Agreement aims to eliminate the national industry and keep it as a market for intellectual property rights produced in major Western countries.

13. The TRIPS Agreement will undoubtedly lead to the waste of the basic rights of peoples in the following aspects:

A. From the food aspect: The extension of patent rights to seeds and food products will lead to an increase in their prices due to the inability of the national farmer to cultivate them without obtaining a license from their European or American owner.

B. From the health perspective: The monopolies resulting from the patent will lead to an increase in the price of medicine, which may result in the spread of diseases and epidemics due to the inability of citizens to purchase medicine. It will also lead to the bankruptcy of social security funds¹⁶.

C – From the perspective of security and sovereignty: This agreement infringes on the state's sovereignty over its vital and biological resources, which are seized by multinational companies under the pretext of liberalizing economic relations and freeing international trade. Additionally, in terms of its impact on public order and morals, it serves as a tool for detachment from national culture, traditions, and values, and represents a systematic cultural invasion¹⁷. The TRIPS Agreement prohibits the transfer of technology to developing countries because it considers the transfer of knowledge without a license from the owner as piracy and recognizes the right of major countries to protect technological secrets. It is historically known that such protection does not help the industrial advancement of any country. Britain itself and America used to spy on other peoples to transfer technology to them, which helped them upgrade their industries and build strong foundations for their economy. American patent law was based on the principle of exploiting the invention, which is the same principle that was suppressed by the TRIPS Agreement. As an example of this principle, if an American invented a machine for making textiles independently and without knowing about the existence of the same invention in Europe, he would be granted a patent and the priority of the European inventor would not be taken into account here, which is the secret of the industrial renaissance of the United States of America. Thus, American law allowed the granting of patents for existing knowledge in other countries as long as it was new in America¹⁸.

15. The TRIPS Agreement is a tool for dominating the global economy within the framework of what is called globalization, which has replaced previous ideas such as imperialism. Here, the major nations have realized that the revolution of nations lies in knowledge, not in natural resources. The way to control knowledge can only be achieved by imposing a global system that dominates intellectual property rights, ensuring the preservation of the influence and interests of the major countries. This thinking has been practically embodied in the following:

A. The relentless pursuit of controlling the major markets in the world through various legal frameworks such as free zones, which have begun to geographically expand to encompass entire continents, and the idea of the Euro-Mediterranean partnership is originally an idea that seeks to make the Mediterranean countries as a whole a free zone for promoting patents produced in Europe, and not necessarily a region for technology transfer.

B. Working to make intellectual property key assets for economic growth in order to control international trade and dominate international markets, as these assets constituted 68% of America's exports in 1998. This percentage could increase if the pace of developing countries' adherence to the TRIPS Agreement accelerates, as confirmed by an American study during President Reagan's era, which concluded that forcing other countries to enact laws similar to the American intellectual property rights law would significantly reduce the American trade deficit¹⁹.

16. This agreement is an obstacle to technology transfer: Patents, as defined by the TRIPS Agreement, hinder technology transfer from the North to the South for the following reasons:

First reason: Patents are based on the principle of maintaining the confidentiality of information related to the invention.

Second reason: Patents prevent developing countries from using inventions for free, requiring them to pay a significant license fee, which burdens the emerging local industry, and money has become the judge in determining the advancement of science.

Third reason: These patents lead to the privatization of knowledge and its commercialization, and this situation will kill the research and innovation community; intellectual property rights exploit creativity while killing its source.

Fourth reason: Intellectual property rights undermine the human aspect of invention and innovation because they only recognize creativity and invention if they are commercially exploitable, thus collapsing the social conditions for intellectual diversity in favor of purely commercial conditions.

Fifth reason: The attempt to discover industrial secrets is classified in the TRIPS Agreement as a crime punishable by imprisonment and fines. This classification actually came in implementation of the will of the American legislator, who issued the Economic Espionage Act in 1996, which considered intellectual property rights as a key dimension of American national security ²⁰.

So that, technology transfer may become criminal espionage, and it is noteworthy that the veneration of the idea of national security actually emerged as a counter to globalization, revealing frankly that the myth of claiming that globalization is the end of the nation-state is false, as the Western state remains in full strength ²¹.

Sixth reason: The globalization of the Western model for protecting intellectual property rights in a world suffering from deep imbalances represents an attack and direct assault on the economic rights of the poor. This is what the TRIPS Agreement adopted, which prioritized protecting investors over protecting the economic rights of the poor, and this is a violation of the United Nations Covenant on Economic, Social and Cultural Rights ²².

The second requirement: Analysis of the UPOV Convention on Plant Varieties

The UPOV Convention refers to an international agreement on the rights of plant breeders aimed at protecting new plant varieties. It was signed in 1961 and came into force in 1968. Several countries have joined it, with the last amendment made in 1991. Most member countries are major industrial nations, even though the agreement claims to represent farmers at the international level, whose proportion in these major countries does not exceed 10% of the population, unlike developing countries where the proportion of farmers exceeds 60% to 90% in some countries ²³.

This agreement aims to grant advisory rights to plant breeders who develop new plant varieties. It is characterized by being rigid and not flexible, as it requires the contracting countries to implement it as a unified national law. Thus, it finds itself in a contradictory position regarding the inevitability of differences and diversity among countries ²⁴.

The analysis of the feasibility of this agreement and its effects on the Algerian economy leads us to discuss the ideas of this agreement, these ideas that tend towards building a monopoly system for plant varieties, and such a system can be criticized in terms of the following:

1. The commercialization of plant varieties, and in this context, the ITPGRFA defines a plant variety as a commercially exploited variety, which means that food will no longer be a human necessity but rather for those who pay more ²⁵.
2. This agreement seeks to unify the characteristics of plant varieties, which means it prepares Algerian farmers' varieties and destroys biodiversity in favor of uniformity in the variety ²⁶.

The IBOF Agreement leads to the establishment of environmentally hostile systems.

A- Seeds are a fundamental link in the human food system, a guarantee for the continuity and renewal of life, and a symbol of food security. Historically, they were based on a system of free and voluntary exchange among farmers, whereas the IBOF agreement allowed companies the right to own seeds, leading to their classification as private property monopolized by multinational corporations ²⁷.

B- The patenting of seeds legitimizes companies' claims that the seeds are their inventions and that their use is subject to a license from the owners.

C. Farmers have become compelled to relinquish their original rights to storage, exchange, and seed improvement in order to use only registered strains, which means subjecting them to the tyranny and royalties of companies that register their strains, as they do not register their own strains on one hand and due to the inability of small farmers to bear the registration fees on the other hand ²⁸

D. The EBOV agreement, which established a system related to intellectual property rights, prevented farmers from producing their seeds. For example, if a farmer developed a strain of potatoes resistant to Mildew disease, the law would punish him because he did not register this strain, knowing that this farmer may not bear the burden of registration. This means that the law has become a restriction on the Algerian farmer in practicing his work as a farmer, and this farmer has no solution other than selling his strain to a company capable of bearing the expenses and acquittal, which in turn sells it to farmers, which raises the price of the new strain of potatoes. Likewise, the Algerian farmer is prohibited from planting plant strains registered abroad with an international registration according to the partnership agreement with the European Union, as it is no longer possible to plant drought-resistant wheat because the strain is owned by a Canadian or French company, or which in turn granted the license to a Spanish company. Thus, the agreement prevents direct dealings between farmers and establishes a monopolistic intermediary ²⁹.

Also, the exclusive ownership of the soybean plant, which led to an increase in the price of cooking oil used by consumers in Algeria.

E. Monsanto, one of the largest international companies in the seed industry, has drafted a model agreement that prohibits farmers from selling or exploiting the seeds without its permission. The agreement also stipulates that the company has the right to visit farmers' fields at any time without their consent to monitor their compliance with the agreement and to destroy any parts of the crops that do not adhere to it. This represents a blatant violation of agricultural land ownership rights and a new form of colonization ³⁰.

Conversely, the company bears no responsibility in the event of seed spoilage or unsuitability. For example, a French company obtained a license to plant genetically modified cotton seeds resistant to the cotton borer and acted unilaterally without involving local farmers ³¹.

F. The protection through plant patents involves the exclusion of farmers' rights to resources containing these genes or their traits, which will lead to the destruction of the foundations of agriculture. For example, the cultivation of sunflower plants rich in "oleic acid" is subject to a license from the American company "Sungene" ³².

G. This agreement contradicts human rights to access food and medicine by granting absolute monopoly rights to companies in vital sectors such as health and agriculture, leading to the following:

- Hiding local plant strains in favor of genetically modified imported plant strains and their offspring.
- The prices of agricultural products have doubled, and small farmers have been pushed into unemployment.
- Undermining food security because protected strains are often linked to industry rather than food, for example, replacing grain cultivation with the cultivation of seeds associated with the cosmetics industry.
- The waste of genetically modified seeds is detrimental to soil fertility and depletes water resources.

- Creating a food dependency on foreign countries, as the seeds registered in major countries are a new weapon in the hands of industrial nations that threatens national independence and sovereignty.

Chapter Two: Reforming the TRIPS and IBOF Agreements

In light of the contradictions arising from the TRIPS Agreement or the IBOF Agreement, a trend has emerged calling for the rejection of both agreements, given their pros and cons³², and another trend advocating for the retention of both agreements but with amendments³³. This is through a positive perspective that takes into account the nature of each agreement, relying on democratic and transparent principles, with the aim of considering all the common interests of countries, regardless of their economic and social levels.

The first requirement: Reviewing the TRIPS Agreement

The review of the TRIPS Agreement revolves around a fundamental idea, which is to reframe the objective of the TRIPS Agreement from serving money to serving humanity, so that the inventor becomes a servant of humanity instead of a servant of capitalism³⁴. With the adoption of this goal, the amendment of the agreement includes the following areas:

1. Ethicalizing the process of absolution: When practicing the process of absolution, it is necessary to consider ethical values, so that knowledge is not viewed as a commercial commodity or a means to control markets, but rather as a human effort aimed at providing a dignified life for all people without exception. This entails regulating the mechanisms for the exchange of these rights and preventing unjust conditions for this exchange in order to overcome the flaws of individualism and recognize the community's right to development³⁵.

In this regard, the theory of poverty must be rephrased; so that this phenomenon becomes a result of the insatiable desire of multinational companies for immense profits without considering the social aspects of humanity. Here, the traditional equation for explaining poverty is turned upside down, so that it is no longer due to the lack of creativity and innovation because of weak systems in developing countries regarding the protection of intellectual property rights, but rather a phenomenon caused by the blatant exploitation of intellectual property rights by their owners³⁶.

Most scientists are not actually driven by profit motives but by a fervent desire to advance science. At the level of the scope of healing, expanding this scope indefinitely may affect human ethical values, especially in the fields of life healing.

The absolution of life violates the inherent rights of humans and undermines the dignity and sanctity of their bodies and souls, turning life with absolution into merely a chemical or industrial product suitable for industrial and commercial use³⁷.

It was once said that the colonizer steals the land, but now, in the current understanding, the agreement steals the minds.

2. Reevaluating the function of patents within the scope of exemption: There is no doubt that patents take precedence over all intellectual property rights due to their close connection to the economic, social, and cultural growth of any nation. However, if we examine the provisions of the TRIPS Agreement, we find that it seems to turn patents into a means of personal enrichment by granting their holders exclusive rights surrounded by enforcement rules and preventing others from free use. This logic should be reconsidered in a way that serves the interest of the community.

As for the scope of the waiver, it is unreasonable for it to remain unlimited, so certain areas must be excluded from the waiver, specifically the following:

- Therapeutic methods for humans.
- Discoveries related to life sciences such as microbial life, genetic compounds, or genetic engineering sciences in general³⁸.
- Removing the veil of immunity from specialized technologies for public health protection and epidemic control.
- Including a special clause in the agreement that enshrines the most-favored-nation principle or the concept of preferential treatment for developing countries in the exploitation of patents.

- Excluding the patenting of plant varieties to avoid exposing the food security of developing countries to the risks of famine, considering agricultural biodiversity as a common heritage of humanity that everyone can access freely.

3. Developing a new intellectual property rights system: This system is characterized by the following:

- Developing non-monopolistic systems to protect the public's rights in creativity and monopoly.
- Creating a balance between the requirements of intellectual property protection and the rights associated with consumer protection³⁹.
- Redrafting the rules of unfair competition to serve the interests of growth and development based on binding standards for economic cooperation and the commitment to transfer and transform technology to developing countries, and this commitment includes the following:
 - The necessity of providing food and medicine for all humans.
 - The necessity of recognizing collective intellectual rights.
 - The necessity of recognizing cultural diversity and the presence of creativity in all cultures.
 - The necessity of combating the piracy of national knowledge.
 - The necessity of recognizing local patent models
 - The necessity of abolishing the transitional arrangements enshrined in the TRIPS Agreement, because these arrangements force member countries to change their internal legislation three times within ten years, which leads to judicial chaos and burdens the developing country with administrative and legislative burdens despite its limited resources.
 - The necessity of civil society's participation in the ongoing negotiations with the World Trade Organization.

4- Recognizing the principle of most-favored-nation status in the field of discharge and empowering developing countries with rights that permit them exploiting the patent without the owner's permission in the following cases: ⁴⁰.

- If the exempted product is not available in the export market.
- If establishing or developing a business in developing countries is at risk.
- If the patent holder resorts to imposing unreasonable or unusual conditions that restrict the manufacture of materials and harm local industry and trade.
- If the invention is not sufficiently implemented in the developing country.
- If the demand for the patented product in the developing country is primarily met through importation by the patent holder.

The second requirement: Reconsideration of the IBOF Agreement

There is no doubt that the IBOF agreement treats genetically modified plants the same way as machines and manufactured goods, which affects national agriculture. From this perspective, this agreement should be reconsidered as follows:

1. Commitment to a democratic vision of the rights of plant variety producers requires the participation of developing countries in this vision, especially since the ITPGRFA tends to a unilateral perspective monopolized by the industrial world without any participation from developing countries, despite the fact that the percentage of farmers in these countries exceeds an average of 70% of the total active workforce.
2. Adding flexibility to the provisions of the IBOF Agreement in accordance with the circumstances and economic capabilities of each country.
3. Shortening the duration of rights related to plant varieties so that they do not become a tool for undermining the food security of developing nations.
4. Regulating the monopoly related to the rights resulting from plant varieties so that this monopoly is lifted in case the owner of the variety abuses their power by not supplying the national agriculture with its seed needs ⁴¹.
5. Reevaluation of the conditions for the eligibility of plant varieties for protection, to be amended as follows:

-In terms of the novelty condition: common standards must be established to assess this novelty in accordance with the nature of each breed, and here lies the right of exclusivity if this breed is the result of collective knowledge of a specific people, even if modern technical methods have been applied to it.

- In terms of the unity condition: Here, we take into account the method of product re-evaluation to estimate the breed unit, and this condition is regulated by a fundamental principle represented by the right to agricultural diversity ⁴².

6. Legal enshrinement of tools for controlling plant strains, which are represented as follows:

- Respect for agricultural biodiversity.
- Establishing environmentally friendly agricultural systems.
- Free exploitation of strains by small farmers with the possibility of state intervention to support this exploitation.
- Establishing a government agency to monitor monopolies related to the sale and marketing of plant varieties, which will undoubtedly lead to the protection of the sovereign rights of the developing state over its genetic, biological, and agricultural resources.

Conclusion:

Algeria's inclination as a developing country towards issuing legislation consistent with the TRIPS Agreement and the IBOF Agreement is, in our opinion, unjustified. The public interest should be set as an inviolable ceiling in every negotiation. Algeria, in cooperation with developing countries, can leverage the Doha negotiations to increase its national sovereignty in formulating its internal legislation and economic policy. Moreover, drafting a set of poor and unnecessary legislations is not an end in itself; rather, the goal can be achieved through the following work:

- The precise identification of the invention that should be granted protection.
- Creating a blacklist of non-degradable materials harmful to scientific, industrial, economic, and social progress, including the health and food of the community.
- Setting scientific standards for positioning to understand international knowledge.
- Establishing specific texts for granting compulsory licenses or revoking patents for public benefit concerning the production of medicine and food.
- Imposing restrictions on exclusive marketing rights.
- Establishing a national innovation policy and encouraging institutions to invent and commercially exploit patents by providing incentives and guarantees.
- Providing strict legal protection for national knowledge resulting from national customs and traditions, as well as popular culture, which includes intangible heritage and folklore.
- Providing legal means to protect natural or industrial products associated with geographical indications, for example, Algerian dates represented by Deglet Nour, Algerian durum wheat, medicinal herbs that grow in the Algerian climate, or the list of Algerian wines with distinctive climatic characteristics, or artisanal industries in the fields of jewelry, gems, and traditional clothing.
- Reforming intellectual property rights legislation by removing the flaws it suffers from, which are mainly represented as follows:
 1. The Algerian legislator granted unspecified authorities to patent holders, who are actually international companies and not local ones, in health and food activities, thereby undermining national interests, including health, security, and food.
 2. The Algerian patent law was enacted to implement the TRIPS Agreement, which in turn aims to enforce the will of multinational corporations. Thus, this law has become a protector of the interests of major international companies rather than safeguarding the interests of the Algerian people, as there is a complete absence of subjects exempted from patents on ethical, environmental, or economic grounds.
 3. The Algerian law came devoid of any mechanisms to ensure technology transfer except for the mechanism of compulsory licensing, while there are other more effective mechanisms that the

legislator neglected, such as the mechanism of automatic expiration of the protection period, the mechanism of cancellation, the mechanism of expropriation for public benefit, or the establishment of clear texts to strip the patent holder in case of non-exploitation or the inventor's incompetence in exploiting the invention, or imposing restrictions on the importation of patented materials to benefit the development of industry in Algeria.

4. The law of applying the presumption of innocence has increasingly privatized healthcare and made medicine out of reach for vulnerable classes unless the state provides it.

5. The patent law may affect the food security of citizens and increase food prices in the event of lifting subsidies, especially on basic commodities. This is due to the control of major global companies over food seeds and the rise in their prices in global markets.

Footnotes:

1- The history of intellectual property rights in Algeria is linked to the legal legacy of the French occupation, which continued to be in effect after independence under a special law issued on 31/07/1962 concerning the extension of the applicability of French legislation that does not contradict national sovereignty until 1966, when the national authority issued its own laws on intellectual property rights, specifically under the following legal arsenal:

Order No. 66/48 dated 25/02/1966 concerning Algeria's accession to the Paris Convention for the Protection of Industrial Property. The impact of this accession led to the issuance of national legislation, which included the following:

- Order No. 66/54 dated 03/03/1966 concerning inventor certificates and patents, where certificates are granted to each inventor of Algerian nationality while the foreign inventor receives a patent.

- Order No. 66/57 dated 19/03/1966 concerning factory marks and trademarks. This order distinguishes between marks that identify products from a specific factory and trademarks that are circulated in the national or international market for distribution. It also limited the examination of the applicant's registration file to a formal review only, without requiring a substantive examination.

Order No. 66/86 dated 28/04/1966 concerning industrial designs and models, which is in line with the Hague Agreement on the International Deposit of Industrial Designs and Models.

- Order No. 73/10 dated 03/04/1973 concerning copyright.

Order No. 75/02 dated 09/01/1975 concerning the ratification of the Agreement establishing the World Intellectual Property Organization signed in Stockholm on 14/07/1967.

- Order No. 76/65 dated 16/07/1976 concerning origin designations.

However, these laws were inactive and in a state of practical stagnation for at least two reasons:

- First: The adoption of socialist ideology by the Algerian regime at that time, with its values opposing private property, including the right to monopolize intellectual property.

Secondly: The weakness of the state's economic structure, which implies economic, social, and cultural backwardness resulting from the colonial policy emanating from the existing international system at that time, which contributed to the creation of what is called the international system of misery.

But with the occurrence of a structural crisis in Algeria in 1986 due to the drop in oil prices, which are the sole resource for the state's budget and society, the ruling authority began to

implement deep economic reforms aimed at replacing the socialist system with the liberal system as a hoped-for alternative to achieve growth and development.

Intellectual property rights have become the core of the discussion among the pioneers of economic reforms in Algeria, which has expanded thanks to the periodic reports of the International Monetary Fund. These reports urge the state to transition from a rentier economy to a productive economy based on contracting.

In line with this logic, the authority issued Legislative Decree No. 93/17 dated 07/12/1993 concerning patents, which permanently removed any distinction between inventors based on nationality, allowing Algerians to obtain patents just like foreigners. This law also aimed to align with international legislations regarding patent enforcement and strengthening the associated protection mechanisms, especially after signing the Marrakech Agreement in 1994 related to the establishment of the World Trade Organization, including the TRIPS Agreement on the trade-related aspects of intellectual property rights.

The issuance of this law coincided with the enactment of several economic laws regulating its use, namely Legislative Decree 93/08 dated 25/04/1993 concerning the amended Commercial Code, Legislative Decree No. 93/09 dated the same date concerning international commercial arbitration, and Ordinance No. 95/06 dated 19/07/1995 concerning competition.

And thus, the outlines of a liberal perspective on intellectual property rights began to take shape in Algeria. However, despite this, these laws did not suffice to meet the international community's conditions for joining the World Trade Organization, which prompted the state to issue a new legal arsenal for intellectual property rights, consisting of the following:

Order No. 03/05 dated 19/07/2003 concerning copyright and related rights.

Order No. 03/06 dated the same date concerning trademarks.

Order No. 03/07 dated the same date concerning patents.

Order No. 03/08 dated the same date concerning the protection of the topographies of integrated circuits.

As for the management of intellectual property rights, it has been organized under the following texts:

- Executive Decree No. 98/68 dated 21/02/1998 concerning the establishment of the Algerian National Institute of Industrial Property and defining its basic law.

- Executive Decree No. 05/356 dated 21/09/2005, which includes the basic law of the National Office of Copyright and Related Rights and its organization and operation.

- Regarding plant varieties, the Algerian legislator issued Law No. 05/03 dated 06/02/2005 concerning seeds, seedlings, and the protection of plant holdings, whose provisions are consistent with the Convention for the Protection of New Varieties of Plants concluded on 02/12/1961 and amended on 19/03/1991.

2- The TRIPS Agreement refers to the agreement that regulates the commercial aspects of intellectual property rights, which was concluded on 15/04/1994 and consists of 73 articles that govern intellectual property rights in terms of related standards and enforcement methods.

As for the UPOV Convention, it regulates the protection of new plant varieties. It was concluded on 02/12/1961 in Paris and amended on 10/11/1972 in Geneva, 23/10/1978, and 19/03/1991.

This convention organizes the conditions for plant variety protection, represented by novelty, uniformity, and stability. It also includes the rights of plant breeders and the procedures for enforcing these rights. It has been promoted based on its benefits in increasing productivity and improving the quality of plant varieties.

3- See Ajja El Djilali: The Algerian Experience in Organizing Foreign Trade, Dar El-Khaldounia, Algeria 2006, page 193.

4 - Houri Addi: Populism in Algeria, Economico Edition – Paris 1998, p. 82.

Also: Slimane Medhar: Failure of Political Systems in Algeria, Hikma Edition, Algiers 1996, p. 17.

5 - Michel, Kostecki: Propriété intellectuelle et développement économique, quelle assistance technique pour rétablir l'équilibre en faveur des pays en développement? Publicada por I.C.T.S.D Ginebra, Suiza p07.

6 - Graham Dutfield: protecting traditional knowledge pathways to the future published I.C.T.S.D Ginebra p 01.

7- Graham Dutfield: O.P.cit p 21.

8- See Article 28 of the TRIPS Agreement and Article 41 thereof.

9 - Joseph. Stravs: Teaching patents in teaching of intellectual property Editado por W.I.P.O. Cambridge University Press 2008 p. 14.

10- Graham Dutfield: OP. cit p 09.

11- Correa, J: Conocimientos tradicionales y P.I. Quaker U.N p 18.

12 – Vandana, Shiva: Protect or plunder? Understanding I.P. rights edited by Zed Bouks 2001 p 26.

13 -Vandana, Shiva: O.P.cit 39.

14- Dutfield ? G: Derechos de propiedad intelectual: Implicaciones para el desarrollo editado por I.C.T.S.D Ginebra.

15- Joseph; Straus: O.P cit p 19.

16- Kitch, E.: The nature and function of the patent system edited by Journal of Law, p. 265.

17- prott. LV 1998: Cultural rights as peoples' rights in international law in Crawford, Oxford Clarendon Press.

18- See Article 39 of the TRIPS Agreement concerning the protection of undisclosed information, and there are also authors who hinder technology transfer under the pretext of unfair competition. See:

Thomas Cottier and Christophe Germann: Unfair Competition and Antitrust Law WIPO O.P. cit p130.

19 – vandan, Shiva: O.P. cit p 62

20– See Article 61 of the TRIPS Agreement.

21- Stiglitz, J: 2002 Globalization and Its Discontents, New York, W.W. Norton.

22- See the United Nations International Covenant on Economic, Social and Cultural Rights, United Nations Publications.

23- For example, the average percentage of farmers in the Arab countries combined reaches 87% according to 2001 statistics.

And specifically for Algeria, the percentage reaches 73% of the active workforce.

24- V.H. Delpech: the international convention of 02/12/1961 on the protection of plant varieties J.C.P 1962 1 p678.

25- V.H del pech: O.P. cit P 1679.

26- Cherchour, M.: Industrial Property "Exposé des Motifs du projet loi sur la protection des obtentions végétales, edition E DIK Oran, Algeria 2001."

27- See Article 13 of the IBOF Agreement.

28- Bartone, John. H: Nutrition and technology transfer policies I.C.T.S.D Geneva 2004.

29- Vandana Shiva: O.P. cit. p. 81.

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31- Ajja Djilali: Lecture delivered at the National Conference on Intellectual Property, Faculty of Law, University of Algiers, 23/04/2005.

32- And at the forefront is the Indian thinker Vandana Shiva, winner of the Right Livelihood Award.

33- And at the forefront are the thinkers Michel Kostić and Dott Field.

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36- Michel Kostecki: O.P. cit p 28.

37- Vandana Shiva: O.P cit p 111.

38- Boy, Jeames: A manifesto on WIPO and the future of intellectual property, Duke Law and Technology Review, September 9, 2004.

39- Boyle, James: O.P. cit.

40- Article 4 of the TRIPS Agreement stipulates special treatment under the principle of Most-Favored-Nation, but what is criticized about this provision is that it does not include any reference to the rights arising from the principle of Most-Favored-Nation.

41- Review the clause regarding the arrangements for enforcing the agreement.

42 – Delpech .VH :O.P . cit .