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Article

Analysis of Australia's TPPA on Intellectual Property Rights Protection Under TRIPS and WTO

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Abstract

Intellectual Property Rights (IPR) in the international trade law system are regulated through several international agreements, including the provisions of Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the General Agreement on Tariffs and Trade (GATT). The main objectives of international trade law are to maintain stability in global trade, prevent domestic policies that harm other countries, create a conducive and favorable trade climate for economic growth, and improve the standard of living of people globally. This research uses normative legal methods with statutory and conceptual approaches. This study focuses on the Tobacco Plain Packaging Act (TPPA) policy enacted by Australia. This policy is based on the Framework Convention on Tobacco Control (FCTC) issued by the World Health Organization (WHO) to reduce tobacco consumption. However, this policy conflicts with TRIPS principles related to IPR protection, particularly trademarks. The TPPA restricts the use of trademarks on tobacco packaging, by setting standards by prohibiting the inclusion of trademarks or other marks on tobacco product packaging, using standardized fonts, and requiring the use of uniform packaging for all tobacco products sold in Australia, by specifying color, shape, size, and layout. This is considered to be contrary to TRIPS principles, which protect trademark rights as part of non-discriminatory international trade. Nonetheless, under GATT Article 20 on General Exceptions, Australia's TPPA policy is considered legitimate as it aims to protect human life or health in formulating national laws in the public interest.

Keywords

Intellectual Property Rights, International Trade , Plain Packaging of Tobacco, TRIPS and GATT Principles

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INTRODUCTION

Intellectual Property Rights (IPR) play a crucial role in international trade law, particularly in the context of increasing global competition. International trade facilitates the exchange of goods, services, and technology across borders, with export and import being fundamental activities. IPR is a key commodity in this process, as it involves the protection of innovations, creations, and technologies developed by both individuals and legal entities (Mauldiansyah, 2023).

IPR includes copyrights, patents, trademarks, and industrial designs, which safeguard creators' rights to exploit their work, allowing them to compete fairly in the global marketplace without fear of unauthorized use. Each country's domestic needs are met through economic interactions based on comparative advantages, where countries specialize in producing certain goods or services more efficiently due to differences in resources, climate, and technology (Sood, 2018).

The World Trade Organisation (WTO) regulates the protection of intellectual property rights through the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. TRIPS aims to harmonise standards of IPR protection among member countries, ensuring that each country's IPR rules are recognised and respected worldwide (Correa, 2020).

The awareness that each country has an important role to play in the protection of intellectual property in the context of international trade can be seen in the formulation of legal policies that each country has developed for the protection, exploitation and dissemination of innovation and creativity across national borders. In the context of trade globalisation, intellectual property rights help to protect the rights of creators and inventors of works while promoting economic growth in an era of increasing globalization (Fahri & Susiatiningsih, 2018).

In the international trade law system, intellectual property rights are governed by a number of international agreements, including the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and the General Agreement on Tariffs and Trade (GATT). Both TRIPS and GATT require member countries to implement minimum standards of IPR protection so that there is harmonisation in the enforcement and protection of intellectual property rights in different countries.

Before looking further at international trade in relation to the protection of intellectual property rights in the context of importing and exporting, it's important to understand that the objectives of international trade law include: (1) achieving stability in world trade and preventing domestic trade policies and practices that can harm other countries, (2) increasing the value of world trade by creating an attractive and favourable trading climate for the economic growth of all countries, and (3) improving the standard of living of people around the world (Adolf, 2005).

If we look at the purpose of international trade above, it can be concluded that the main purpose of international trade is to bring about the liberalisation

of international trade (Syahyu, 2008). By liberalising international trade, it is expected to promote the sustainable growth of global trade, which in turn will achieve optimal prosperity for the world community as a whole.

International trade policy is a guideline for any country that participates directly or indirectly in the conduct of international trade. In this case, the international guidelines are used as a direction for the formation of regulatory policies taken by each country in determining the structure, composition and direction of the country's international trade (Widiatedja, 2021).

The import-export trade in intellectual property is closely related to international trade policies aimed at protecting national economic interests and domestic industries. In this context, the protection of intellectual property rights becomes very important. Products and innovations produced by domestic industries need to be protected from infringements that may occur in international trade.

Policies can encourage the export of innovation and creativity from a country by creating an environment conducive to the development of IP-based products. However, government intervention can also have an impact on the flow of international trade, particularly in relation to the export-import of intellectual property goods or services. For example, procedures and regulations such as non-tariff barriers (NTBs) can make it more difficult for products protected by intellectual property rights to gain access to international markets, thereby reducing the competitiveness of these products.

In Indonesia itself, the existence of non-tariff barriers (NTBs) hampering international trade is illustrated by a 2012 dispute in which the United States and New Zealand filed a complaint against Indonesia at the WTO regarding the regulation of horticultural import policy and the import of animals and animal products through the Minister of Agriculture's Regulation No. 60/2012 on Recommendations for Imports of Horticultural Products (RIPH).

In the context of international trade, NTB policy and intellectual property are closely related. When analysing the existence of the RIPH regulation above, it can be seen that this policy is a form of "government intervention" that is deliberately implemented as a form of prevention of imported goods from entering the country. The aim of the Indonesian government's NTB policy is the protection of the interests of domestic or national products.

Under the rules of the TRIPS Agreement and the GATT, member countries are required to comply with a number of provisions covering aspects such as intellectual property rights, services and investment. Several important principles that are characteristic of legal globalisation, such as 'non-discrimination', 'national treatment' and 'most-favoured-nation treatment', were eventually adopted and incorporated into the national rules of each member country.

As international trade expands, providing opportunities for each country to compete in international markets to sell its products, there are undoubtedly consequences for each country. As the world economy becomes more and

more integrated, the harmonisation of national regulations with international standards of legal regulation will certainly be a way of dealing with the increasingly complex dynamics of global trade.

For Indonesia, its involvement in the international market will certainly have implications that as a member state, it will ratify or formulate domestic rules with international law, especially those related to free trade activities. One of the benefits that a country receives when it is able to harmonise its laws is the recognition by the international community that the products produced by a country are competitive in the global market. This will certainly promote sustainable and inclusive economic growth.

However, the challenges of global integration also entail the risk of economic instability due to the global crisis, economic disparities and pressure on domestic industries that may be less prepared to face global competition. Therefore, the State needs to harmonise domestic policies with international rules to reap the benefits, to provide legal protection and to maintain economic stability while facing global changes. This research aims to explore whether Australia's Tobacco Plain Packaging Act (TPPA) violates the fundamental principles of TRIPS in protecting IPR in the context of international trade.

METHOD

This study employs normative legal research, analyzing legal theories, principles, and doctrines relevant to the research questions. Data were gathered through library research, encompassing books, journals, newspapers, newsletters, and online resources. These resources were analyzed within the established theoretical framework.

RESULT AND DISCUSSION

Violation of TRIPS Principles in the Australian Policy on the Protection of Intellectual Property Rights in the Tobacco Plain Packaging Act (TPPA)

According to the WTO's "What Are Intellectual Property Rights?" (The World Trade Organization, 2024), intellectual property rights grant creators exclusive control over the use of their intellectual creations for a defined period. If we look at the provisions of international regulations on intellectual property rights, we can see that intellectual property rights are regulated in the TRIPS Agreement. However, it's necessary to understand that this international agreement is not a regulation that specifically regulates the protection of intellectual property rights, but TRIPS is an international treaty agreement that is recognised by the member countries of the WTO, for then each member country of the WTO is required to formulate a national legal regulation regarding intellectual property rights in their respective countries. Simply put, TRIPS does not protect intellectual property rights internationally, but TRIPS in this case only contains general rules that have to be taken into account by WTO member countries to then formulate their national legal aspects, while still paying attention to the general provisions that have been

regulated in the TRIPS provisions in relation to the protection of intellectual property rights universally, so the protection of intellectual property rights is completely left to each country(Lestari, 2019) .

Furthermore, Nurul Barizah explains that the TRIPS Agreement is a legal document that provides for minimum standards and flexibility in the protection of intellectual property rights (IPR). The substance of the TRIPS Agreement includes universal minimum standards for the protection of intellectual property rights, the obligation of WTO members to adopt rules for the enforcement of intellectual property rights, and provisions for the effective settlement of intellectual property disputes through national rules in accordance with the laws and regulations of each member country (Barizah, 2009).

If we look at the history of the implementation of the TRIPS Agreement, it is necessary to understand that the implementation of the TRIPS Agreement in the formation of a national law is inseparable from the pressure exerted by the developed countries on the developing countries. This can be seen in the violation of the provisions of the standards carried out by the developed countries, This can be seen from the fact that TRIPS, initially intended to set minimum standards for the protection of intellectual property rights, has actually changed and developed into an attempt to control the developed countries by forcing the developing countries to follow the rules for setting higher standards in free trade activities through bilateral, multilateral or plurilateral agreements, now known as TRIPS-plus agreements. This can be seen in the provisions of TRIPS Plus, which are loaded with developed country interests in the form of imposing relatively high minimum standards on all WTO members engaged in free trade activities. The consequences for developing countries of violating the provisions of TRIPS-plus are international trade sanctions, both in the form of retaliation and cross-retaliation.

Musungu and Dutfield (2001, 2003) argue that the effect of TRIPS-Plus provisions has been to incentivize developing countries to protect their national interests, specifically to gain a stronger foothold in the global market for their products(Dutfield, 2001; Musungu & Dutfield, 2003). Intellectual property rights (IPR) play an important role in human life, especially in business or economic activities. Moreover, it cannot be denied that in the current era of globalisation, business activities have an impact on the progress of a country. Moreover, for products traded in the global market, IPR is closely linked to a country's identity.

With regard to the ratification of the TRIPS agreement, of course, as a member country of the WTO, Indonesia is consciously and directly subject to and complies with the enactment of this TRIPS agreement, so that the results of the ratification of the TRIPS agreement as outlined in the provisions of national legislation cannot be denied that it may cause discrepancies in legal policy in Indonesia with the global world.

In relation to international trade, in order for the global trade market to function well, smoothly and to the mutual benefit of each international country, it is clear that there is a need for rules regarding international legal instruments

in the field of international trade. The establishment of the WTO, which is the result of the Marrakesh Agreement, gives a new colour to international trade, replacing the GATT of 1947. The efforts to establish the International Trade Organisation and the GATT 1947 cannot be separated from the beginning of the WTO (A. Qureshi, 2022). The WTO was set up to replace the GATT of 1947 as the World Trade Organisation on the 1st of January 1995 (A. H. Qureshi, 2015).

As a member of the WTO, Indonesia is of course obliged to submit and comply with international rules. This is reflected in the formation of Indonesia's national regulatory policy through Law No. 7/1994 on the Agreement on the Establishment of the World Trade Organisation (POPD Law). The ratification of the agreement on the establishment of a world trade organisation by Indonesia will certainly have the consequence that Indonesia, as a member of the WTO, will have to accept and implement all the contents of the Uruguay Round agreement (Marrakesh agreement).

The regulatory provisions of the WTO are intended to provide a bridge between trade liberalisation and taking into account the values and social interests that are considered very important by a country, with the requirement that WTO members go through an approval or negotiation process in the conduct of global trade activities. This means that, in certain situations, the WTO member countries are allowed to adopt and maintain the social values and interests of their country in the conduct of free trade activities.

The international trade relations between countries have actually been known for a long time, especially with the birth of the state form in the modern sense, since the world has recognised the form of the national state. The continuity of relations between countries in the conduct of free trade has no other aim than to gain independence and control over the international economy, especially in determining and creating the wealth of a country.

The basic or fundamental principle known in international trade activities is the principle of non-discrimination. This is followed by the birth of 2 (two) other principles, namely the principle of Most Favoured Nation (MFN) and the principle of National Treatment (NT). In the world of free trade, the MFN and NT principles were originally known as a principle that introduces that the state has full authority over the entry of products from abroad into the country, which aims to protect domestic products by providing barriers to certain products entering a country's territory, or in another explanation this principle is interpreted as an action by the state to protect its domestic economy by limiting the export-import flow of all goods through the application of fantastic import duties on goods originating from abroad (Sugiharto & Setiawati, 2021).

From a historical point of view, these two principles are not new in the world of international trade, but these principles have existed since the GATT 1947, it's just that these two-principle have not been enforced. The formulation of these two principles has only been done since the redrafting of the new GATT 1994, where the most-favoured-nation (MFN) and no-favoured-nation (NT) principles are explained and included in a written document entitled

"Preparatory Committee PC/12 for the World Trade Organisation, adopted on 8 December 1994" (L/7583) (Luthfiah, 2018).

The GATT 1994 states: "*The most-favoured-nation (MFN) principle is a guiding rule for international trade throughout the world, where this principle requires countries to grant equal treatment and unconditional exemptions to certain countries in terms of granting special facilities*".

In simple terms, this principle affirms that each country must provide equal treatment to other countries by not discriminating against certain countries in the provision of the same facilities. Nowadays, the meaning of "equal treatment" is interpreted as some form of reciprocity between nations with regard to facilities such as: the application of import duties, taxes and other similar charges. Meanwhile, the NT principle is defined as an action by the state to ensure that domestic products are treated on an equal footing with imported goods. Simply put, NT emphasises that the state should not discriminate between foreign and domestic products entering the country. In other words, imports and domestic products should be treated equally in terms of regulations, taxes and other standards in order to ensure fair competition.

In the context of plain packaging policies in the world of international trade, this policy is actually a novelty, as it does not appear anywhere in international rules, either since the adoption of the GATT rules in 1947 until the birth of the WTO, which is the result of the Marrakesh Agreement. Plain packaging policy has become known in international trade since Australia's enactment of the Tobacco Plain Packaging Act (TPP Act) on 11 November 2011. This makes Australia the first country to implement a plain packaging policy for tobacco products (Buzard & Voon, 2020)particularly in relation to the Agreement on Technical Barriers to Trade (TBT.

First of all, before Australia implemented the policy of the Tobacco Plain Packaging Act 2011, it can be seen that there was a cooperative relationship between Australia and Indonesia, where this cooperative relationship was built through bilateral trade related to potential commodity export activities. The bilateral cooperation between Indonesia and Australia is not only focused on the export of primary commodities in the form of petroleum, textiles and construction metals. It also includes the processed products of the tobacco industry in the form of cigarettes and cigars. However, the bilateral agreement between Indonesia and Australia to increase export volumes hit a snag when Australia enacted new legislation in the form of the Tobacco Plain Packaging Act 2011 (TPPA), which regulates the packaging of tobacco products and cigars.

The enactment of the TPPA by Australia is inseparable from the Framewok Convention on Tobacco Control (FCTC), which is an international treaty under the auspices of the World Health Organisation (WHO). As additional information, Australia has ratified the FCTC policy since 2004, where the FCTC policy aims to protect human health from the consequences of using tobacco products and reduce exposure to tobacco smoke (Waluyo & Yulianti, 2014).

Although the provisions of the Australian TPPA regulations are the result of a follow-up to an international agreement, namely the FCTC agreement,

which aims to reduce the side-effects of tobacco consumption, this does not mean that the transfer of power to the state in formulating national legislation is solely for the sake of national interests, but that the state in this case must also take into account international interests, or in other words, that the national policies that are enacted must remain in line with international rules and not harm the international community.

In the context of international trade law, when analysing the substance regulated by the TPPA, the author believes that by adopting this regulation, the provisions of the basic principles of the minimum rules for protecting intellectual property rights set out in the TRIPS Agreement were implicitly violated. This is because the substance of the TPPA seeks to control tobacco on the pretext of protecting public health, but implicitly seeks to restrict trademark intellectual property rights by prohibiting the inclusion of trademarks or other marks on tobacco product packaging, except for brand names, manufacturer names and product variant specifications, using standardised fonts, and by requiring the use of uniform packaging for all tobacco products sold in Australia by specifying colour, shape, size and layout.

Analysis of Australia's Tobacco Plain Packaging Act (TPPA) Policy Based on the Provisions of International Trade Law

The principle of non-discrimination in international trade has essentially political and economic objectives. The political purpose of the principle of non-discrimination is to prevent conflicts/disputes between countries, because discriminatory treatment can lead to disputes between countries in international relations (Azizah & Baik, 2024). Meanwhile, the economic objective is to prevent inefficiencies in trade liberalization. In other words, the purpose of legal principles in international trade aims to create equal treatment between imported products from foreign countries and domestic products. The principle of non-discrimination in international trade is divided into 2 (two) types, namely MFN and NT. The NT principle is found in Article III:4 of the GATT 1994 which states that:

> *"The products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product".*

The principle of national treatment explains the prohibition of discrimination between domestic products and similar products from other countries or foreign products. This means that when foreign products have entered the country's territory through imports, they must be treated in the same way as domestic/local products. The principle of national treatment requires foreign goods, services and capital entering the territory of a country

to be given the same legal treatment as domestic products or services(Mufida, 2022).

In the context of intellectual property rights, the principle of national treatment can be found in Annex 1C of the Agreement on Trade-Related Aspects of Intellectual Property Rights. Article 3.1 states that: " *"Each Member shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals with regard to the protection of intellectual property..."*.

TRIPS-Plus is the embodiment of a higher standard principle than the minimum standard principle that became the provisions of the previous TRIPS provisions. Based on the opinion of Sunil Kumar Agarwa, said that:

> *"The principle of minimum intellectual property standards is the cornerstone of the TRIPS Agreement. The principle constitutes a significant conceptual and strategic basis for subsequent multilateral and bilateral intellectual property negotiations aimed at setting higher standards. Its effect is that any intellectual property agreement negotiated subsequent to TRIPS among and/or involving WTO members can only create higher standards. Higher standards, which could result from bilateral, plurilateral or multilateral treaties, have come to be commonly referred to as TRIPS-plus"(Agarwal, 2011).*

According to Musungu and Duthfield (2003), TRIPs-Plus represents a new standard that constrains states in the following ways:

a. Encouraging innovation and facilitating transferring and disseminating technology;
b. The implementation of measures necessary for the protection of public health, nutrition and the marketing of products in the public interest in the socio-economic and technological fields; and
c. Make reasonable efforts to prevent misuse of IPRs by right-holders or their agents for unfair practices that impede trade or international technology transfer.

Australia made the policy of Tobacco Plain Packaging Act 2011 which is a regulation regarding plain packaging on tobacco products. The purpose of making the plainpackaging policy by the Australian government to improve public health rates is inextricably linked to the high death rate caused by tobacco, whether due to smoking or diseases caused by tobacco smoke, making the Australian government strive to prevent tobacco consumption by the people.

The enactment of the Tobacco Plain Packaging Act 2011 is inseparable from the role played by the Framework Convention on Tobacco Control (FCTC), an international treaty sponsored by the World Health Organisation (WHO) that focuses on tackling the globalised tobacco epidemic (Owoeye, Fabusuyi, & Nkhoma, 2021).

With the development of international trade agreements, either through regional negotiations or following international agreements. It should be understood that the emergence of Australia's TPPA policy is none other than the result of a follow-up to the international agreement of the World Health

Organisation, the WHO. The FCTC is the content of an international agreement on global health, where each member country has an obligation to establish national tobacco control regulations (Stumberg, 2013).

Furthermore, the main purpose of enacting Australia's TPPA policy is in line with the FCTC policy, which can be seen in the provisions of Chapter 1 Number 3:1 of the TPPA which states that:

a. *to improve public health by:*
   i. *discouraging people from taking up smoking, or using tobacco products; and*
   ii. *encouraging people to give up smoking, and to stop using tobacco products; and*
   iii. *discouraging people who have given up smoking, or who have stopped using tobacco products, from relapsing; and*
   iv. *reducing people's exposure to smoke from tobacco products; and*
b. *to give effect to certain obligations that Australia has as a party to the Convention on Tobacco Control*

In order to reduce interest in cigarettes, the Australian authorities regulate the retail packaging and appearance of tobacco products, as referred to in Chapter 1.3.2 of the TPPA, which states that:

> *It is the intention of the Parliament to contribute to achieving the objects in subsection (1) by regulating the retail packaging and appearance of tobacco products in order to:*
>
> a. *Reduce the appeal of tobacco products to consumers; and*
> b. *Increase the effectiveness of health warnings on the retail packaging of tobacco products; and*
> c. *Reduce the ability of the retail packaging of tobacco products to mislead consumers about the harmful effects of smoking or using tobacco products.*

If we take a closer look at the existence of the Australian TPPA regulation, even though the content of this regulation violates the rules of international trade, it can't be said to be completely wrong. After all, Australia is one of the many WHO member countries that have agreed to the content of the FCTC, which in this case, of course, has a strong enough reason to impose the TPPA provisions. The reason behind the enactment of the TPPA regulation is Australia's attempt to maintain social values and interests in the control of the tobacco epidemic. As additional information, the author found data that at the time when this TPPA regulation was enacted for the first time in the world, between the period of 2010-2012, Australia experienced a surge in premature deaths and loss of productivity due to tobacco use. Therefore, the TPPA policy was seen as the right step for Australia to take to protect public health. It was not seen as a violation of international trade rules. In addition, this is also in line with the content of the FCTC treaty, which has been signed by nearly 178 international member states, where the purpose of the FCTC treaty agreement is the protection of the health of the international community from the negative effects of exposure to cigarette smoke, as stated in Article 3 of the FCTC, which states: "*…. to protect present and future generations from the devastating health,*

social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke".

Thus, Australia's reasons for implementing the TPPA policy are certainly justified, as the TPPA policy is presented as a form of Australia's serious commitment to combat and overcome the adverse effects of tobacco consumption by enforcing the TPPA provisions.

Moreover, when analysed from the perspective of WTO rules, in particular Article 20 on general exceptions, Australia's adoption of the TPPA regulation is actually in line with the provisions of this Article. This is evidenced by the fact that the Australian government at the time was able to overcome and reduce the death rate of Australian teenagers due to smoking.

In addition, it is important to understand that the provisions contained in Article 20 of the WTO concerning general exceptions cannot be used in an arbitrary manner. This means that the use of the pretext of ignoring a country's rules or obligations under international trade rules can be justified if it is in defence of national interests such as: the protection of human life or health.

In line with the provisions of Article 20, although Australia was criticised by the international community for a policy that was considered discriminatory against tobacco product brands after the adoption of the TPPA provisions, this policy could essentially be justified on public health grounds under the FCTC, an international treaty under the auspices of the WHO.

Furthermore, if it is combined with the opinion of Sisule F. Musungu and Graham Duthfield, which states that the new TRIPS Plus standard restricts the state in taking measures necessary to protect public health, nutrition and to support public interests in the socio-economic and technological fields, the plain packaging policy implemented by the Australian government can be justified because the TPPA policy aims to protect public health and promote healthy living campaigns.

Therefore, the provisions of WTO Article 20 on general exceptions can clearly justify the Australian government's policy in formulating the TPPA regulations. Furthermore, GATT Article 20 includes the term 'necessary,' which, in the author's view, suggests that it is legitimate for a state to override international rules when its goal is to protect human life or health through national laws made in the public interest.

CONCLUSION

Based on the research and analysis conducted in line with the problem statement of this study, several key conclusions can be drawn. Firstly, Australia's Tobacco Plain Packaging Act (TPPA), while grounded in the Framework Convention on Tobacco Control (FCTC), an international agreement under the auspices of the World Health Organization (WHO) aimed at reducing tobacco consumption, has generated conflicts with TRIPS principles, particularly concerning the protection of intellectual property rights. Specifically, for several elements covered by the TPPA, its provisions implicitly restrict the use of trademarks. This restriction is evident in tobacco control measures such as the prohibition of

trademarks or other branding elements on tobacco packaging, with exceptions only for the brand name, manufacturer name, and product variant information; the mandated use of standardized fonts; and the requirement for standardized packaging across all tobacco products sold in Australia, specifying color, shape, size, and layout. Consequently, the TPPA substantively impacts trademark rights protected under TRIPS. Secondly, in the author's view, Australia's TPPA can indeed be considered a form of international trade infringement, given that the regulated substance directly attempts to control trademarks. However, the implementation of the TPPA can be justified under the provisions of Article 20 of the GATT concerning General Exceptions. This justification stems from the fact that the TPPA policy is deemed legitimate due to its objective of protecting human life and health through the formulation of national legislation in the public interest. Therefore, despite the potential infringement of TRIPS principles, the TPPA's overarching goal of safeguarding public health provides a strong justification based on the exceptions outlined in the GATT.

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