This paper analyzes the main issues of intellectual property rights (IPRs) protection in the context of the World Trade Organization (WTO). A retrospective view and a tentative assessment on the establishment of the TRIPS (trade-related aspects of intellectual property rights) Agreement, a still controversial accomplishment of the Uruguay Round of trade liberalization, is provided. The paper reviews the economic rationale for the harmonization of IPRs, drawing both on economic theory considerations as well as emerging empirical evidence. The logic of linking IPR protection and trade in the context of the WTO is also re-examined. Some specific attention is devoted to the implications of TRIPS for agricultural and biotechnology innovations. The paper concludes with an analysis of the prospects for more (or less) IPRs-related consensus in the current round of WTO negotiations.

An increasing share of economic activity worldwide is aimed at the production of goods and services that require considerable R&D investment, and the exchange of such goods and services relies heavily on the possibility of protecting the underlying R&D investment from expropriation by copying and imitation. Such concerns have long been addressed by the legal institutional setting of most developed countries through the development of suitable IPRs. Patents, copyrights, trademarks, and other IPRs allow the producers of new and/or original work to assert (partial) legal ownership on the outcome of their efforts, thereby providing a (second-best) solution to market failures that are associated with the provision of innovation in a market economy. But insofar as goods and services are traded across national borders, national IPRs do not suffice, and international coordination of IPR policies is desirable.

The internationalization of IPRs got a boost by the TRIPS Agreement, which was incorporated as one of the core agreement constituting the WTO that came into effect on January 1, 1995. TRIPS is remarkable because it bundled together the main provisions of the major (and hitherto separate) international IPR agreements, because it strengthened the requirements of existing agreements in some crucial areas, and because it included the final package as a required element for participation in the WTO (as part of the “single undertaking” process for ratification). Furthermore, enforcement of international IPRs under TRIPS can rely on the WTO dispute settlement mechanism and on the threat of trade sanctions for noncompliance. This expansion of the scope of WTO activities is likely to have important long-run consequences.

National IPR policies that support innovation and R&D activities have the potential to create uncompensated cross-border externalities. Individual countries have a strategic incentive to free ride on the IPR policies of others, and the uncoordinated equilibrium is likely affected by lower-than-optimal IPR protection. The paper reviews both theoretical and empirical evidence that investigate whether IPRs are, in fact, trade related; whether IPRs do belong in the WTO; whether stronger global IPR protection is desirable; whether there are winners and losers from TRIPS; whether stronger IPRs promote international technology transfer; and whether TRIPS is useful for development.

The paper discusses the somewhat special and rather complicated set of IPRs enjoyed by agriculture-related innovations, including biotechnology innovations. In particular, the relevance of plant breeder’s rights is analyzed, and the flexibility offered by TRIPS for the protection of agriculture-related innovations is highlighted. The relationship of TRIPS with other international efforts at sorting out international IPRs in this sector—such as the Convention on Biological Diversity, and the International Treaty on Plant Genetic Resources for Food and Agriculture—is briefly presented.

Discussion of current issues and prospects for TRIPS focuses on: (i) the problem of public health in least-developed countries, and how IPRs may hinder access to medicines and access to treatment for epidemics; (ii) the unresolved issue of exhaustion of rights and parallel imports; (iii) the questions concerned with the implementation of geographical indications; and (iv) issues related to biodiversity, traditional knowledge and folklore. It is concluded that, despite the many open questions remaining, it seems unlikely that TRIPS will experience any substantial revision and/or extension in the new round of WTO multilateral trade negotiations under the Doha Development Agenda.