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## gLAWcal Comment #286

### KEEPING ONE'S PROMISES

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*Based on*

**Paolo D. Farah and Elena Cima "The Implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in China (April 30, 2010)" Tsinghua China Law Review, Vol. 2, pp. 317-351, Spring 2010.**



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Global Law Initiatives for Sustainable Development

**A gLAWcal comment on Paolo Davide Farah and Elena Cima  
“The Implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) in China (April 30, 2010)” Tsinghua China Law Review, Vol. 2, pp. 317-351.**

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Participation in international law agreements relies, not singularly, on the legal concept of “pacta sunt servanda”. In other words, the expectation that each participant in an agreement are keeping their promises. While there are generally specifically defined expectations, the interpretation as to whether the promises are “kept” could be left up to interpretation by the other participants in the agreement. This could lead to unsettling consequences for participants who would self-identify as abiding by the general agreements, but other disagree with their progress or adherence to the general principles of the agreement. As is noted by the authors, there is internal barriers that could be the true result for being unable to reach the level of adhering the agreement. Further recognizing that there is nuance in reasoning for why a particular agreement has yet to be met, the Promises Kept ideals are necessarily difficult to apply in all cases. Yet, if there is not an agreed upon standard by which participants can measure progress of the other by, then what mechanism is best to encapsulate the

efforts made by everyone? The WTO has a Trade Policy Review Mechanism that can provide this nuanced view of adherence to the goals and ideals of the international trade agreements protected by the WTO. In the case of China, this mechanism has eventually been a positive for their national participation, allowing time to pass and ensure that the agreement is being adhered to. However, there likely still are participants who are struggling to meet the agreement goals, but do not have the status that a nation like China would have to ensure that their are given the runway to compliance.



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