Knocking on the back door?
FTAs as TRIPS-Plus inducers in Latin America
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Abstract
The last decades have seen an exponential growth in the use of technology in every level of different societies and technology is seen as the key to reach higher levels of development, which has also created a paradoxical relation technology and development: it seems that while the use of the new technologies can help different societies to progress, the lack of access to that technology could result in a far slower pace of development than the one enjoyed before the technology enter into existence. This relation between new technologies and development has been discussed for certain time and it seems accepted that access to those technologies is one of the keys to sustainable economic and social progress, and more and more that access depends on the legal framework regulating intellectual property rights.

Under the umbrella of the World Trade Organisation, which comprises and administers three sets of agreements, General Agreement on Tariff and Trade (GATT), General Agreement of Trade of Services (GATS) and Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), many developing countries have been vociferous about the repercussions of the TRIPS Agreement on their general development, and the impact that it might have on access to different technologies and technology transfers. However, during the negotiations of accession to regional trade agreements that include developed countries, the same developing countries have had to agree obligations on intellectual property rights that go beyond their obligation under TRIPS, which also confabulates against the attempts to multilateralism Intellectual Property Rights discussions.

This paper will first analyse the current trend in regional trade agreement negotiations, with special emphasis in Latin America and USA, and the impact that those negotiations are having on the intellectual property legislation of the Latin American countries. Then those results will be compared with the existing obligations that the same countries have due to belonging the WTO, and finally draw some generalizable conclusions about the impact that those changes could have on the Latin American countries’ situation vis-à-vis third countries.