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EXTENSION OF THE TRANSITION PERIOD FOR LDCs: FLEXIBILITY TO CREATE A VIABLE TECHNOLOGICAL BASE OR SIMPLY (A LITTLE) MORE TIME?

Introduction

On November 29, 2005, the Council for Trade-related Aspects of Intellectual Property Rights (Council for TRIPS) granted Least Developed Country Members (LDCs) an extension of their transition period to comply with the TRIPS Agreement. Article 66.1 of the TRIPS Agreement established that LDCs were not required to apply the provisions of the TRIPS Agreement – other than the most-favoured nation and national treatment disciplines – for a period of 10 years from its entry into force, in view of their special needs and requirements, financial and administra-

tive constraints, and need for flexibility to create a viable technological base. Article 66.1 also provided that extensions to this period should be accorded upon duly motivated requests.

The Council for TRIPS' response to such a request in 2005 was portrayed as proof of the commitment of the Members of the World Trade Organization (WTO) to giving the world's poorest countries "the flexibility that they need in order to meeting their WTO obligations in a way that servers their development needs."¹ Most LDCs, however, have expressed their dissatisfaction with the decision, including the brevity of the extension – seven and half years.² In addition, LDCs have denounced the imposition of certain conditions that in fact reduce the flexibility they need to design and implement domestic intellectual property protection to effectively pro-

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mote the development, access, and dissemination of relevant knowledge, products, and technology.

The present note will provide a brief overview and analysis of the Council for TRIPS' November 2005 Decision, focusing on whether it does indeed provide an adequate framework and period of time for LDCs to ensure that the eventual compliance with the TRIPS Agreement is conducive to their national social and economic welfare. After this Introduction, Section II will provide a background to the purpose and importance of transition periods in the context of the TRIPS Agreement. Section III will then address the November 2005 Decision to extend the transition period under Article 66.1, particularly its provisions on technical cooperation and its limitations on the changes LDCs can formulate in their intellectual property laws, and consider the implications for their policies on innovation, technology transfer, and other areas of sustainable development. Finally, Section IV will provide some concluding thoughts.

Background

The TRIPS Agreement, as other WTO agreements, provides for several transition periods, which have diverse characteristics and objectives. Article 65 on 'Transitional Arrangements,' for example, provided a general period of one year following the date of entry into force of the TRIPS Agreement for WTO Members to apply its provisions. It also provided a further period of four years for developing countries and countries with economies in transition to bring their laws and policies in conformity with the TRIPS Agreement provisions. Moreover, if developing countries were obliged by the TRIPS Agreement to extend product patent protection to areas of technology that had not been protected before; they could delay the application of this product patent protection for an additional period of five years.³ These transition periods can be described as merely recognizing that a certain amount of time was needed to implement the provisions of the TRIPS Agreement, particularly in developing countries. As a result, Article 65 established that any changes in the laws, regulations, and practice of WTO Members during these transition periods had to advance the implementation of the TRIPS Agreement, rather than result in a lesser de-

gree of consistency with its provisions – otherwise known as the 'no roll-back' provision.

Article 66.1, which addressed transitional periods for LDCs, responded to significantly different needs and goals. Although financial and administrative constraints for the implementation of the TRIPS Agreement are a component of the rationale for Article 66.1, the particular requirements of LDCs and their need for flexibility to create a viable technological base clearly constitute the central objective of the provision. Article 66.1 aims to provide LDCs not merely with time to comply, but with time to develop their national policies and economies to ensure that the eventual application of the intellectual property protection provided for by the TRIPS Agreement will promote rather than undermine their social, economic, and environmental well-being. Consequently, Article 66.1 included no reference to the rolling back of intellectual property protection: there was recognition of the need for ample policy space, including through temporarily diminishing such protection, to support local research and development, national industrialization, and the dissemination of essential products, knowledge, and technology. Article 66.1 acknowledged that LDCs could not be expected to apply a level of intellectual property protection that was inconsistent with their economic interests and development priorities. As a result, it is best understood as one of the few but crucial provisions of special and differential treatment (S&D treatment) in the context of the TRIPS Agreement.

Differential and more favorable treatment of developing countries and LDCs, in particular, is a fundamental principle of the multilateral trading system. The Preamble to the Agreement Establishing the WTO recognizes the need for "positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development." It also emphasizes that the ultimate goal of multilateral relations in the trade and economic field is promoting sustainable development in a manner consistent with the needs and concerns of WTO Members at different levels of economic development. The rationale of S&D treatment thus includes the acknowledgement that the development and compliance with trade rules, including those related to intellectual

property, is not an end in itself, but rather the means to the sustainable development of all WTO Members. In the context of the TRIPS Agreement, S&D provisions respond as well to provisions in the Preamble that recognize the underlying public policy objectives of national systems for the protection of intellectual property and the special needs of LDCs in respect of 'maximum flexibility' to enable them to create a sound and viable technological base. In addition, Article 7 of the TRIPS Agreement establishes that the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology in a manner conducive to social and economic welfare.

S&D treatment can take a number of different forms, including enhanced market access and the establishment of less stringent obligations for developing countries to provide them with the flexibility to pursue policies for industrialization and socio-economic development. In WTO agreements, however, S&D treatment is often limited to provisions supporting developing countries with the implementation of their obligations, which are generally equal for all WTO Members, regardless of their divergent needs and levels of development. In the TRIPS Agreement, Articles 65 – described above – and 67, which require developed country Members to provide technical and financial cooperation in favor of developing and least-developed country Members in order to facilitate implementation, are examples of this approach.

Article 66.1, on the other hand, more appropriately reflects and advances the genuine purpose of S&D treatment. Its aim is not linked to implementation, but to ensuring that the TRIPS Agreement provisions are only applied when LDCs have developed the adequate economic infrastructure and legal and policy framework. Until then, it provides LDCs the flexibility to develop innovation, technology, and intellectual property policy that other countries had during their earlier periods of socio-economic development. Nevertheless, the nature of the Article 66.1 transition period may have been substantially changed by its 2005 extension. As most S&D treatment provisions in WTO agreements, therefore, Article 66.1 now runs the risk of only existing on paper.

2005 Extension of the Article 66.1 Transition Period for LDCs

Previous Extensions under Article 66.1

The November 2005 Decision was not the first extension of transition periods for LDCs. In 2002, the Council for TRIPS, on the basis of Article 66.1, exempted LDCs from applying or enforcing patents and rights related to the protection of undisclosed information in respect to pharmaceutical products until 1 January 2016.⁴ This decision was a result of the Declaration on the TRIPS Agreement and Public Health, in which WTO Members agreed to the extension and requested the TRIPS Council to take the necessary action to this effect.⁵ The relevant provision of the Declaration on the TRIPS Agreement and Public Health was, indeed, considered the duly motivated request by LDCs required by Article 66.1.

This recognition of the negative impact of patent protection for pharmaceutical products would have on the ability of LDCs to respond to public health problems, and of the consequent flexibility LDCs needed in this regard, was important. Moreover, this decision was made without prejudice to the right of LDCs to seek other extensions of the transition period. Nonetheless, it raised several concerns that now resurface with the 2005 Decision. For instance, it was noted after initial discussions on the Doha Declaration on the TRIPS Agreement and Public Health at the Council for TRIPS that LDCs faced a number of existing bilateral or regional constraints to their flexibility, including the Bangui Agreement signed by West African countries.⁶ The potentially negative role of technical assistance, which has traditionally focused solely on achieving the implementation of the TRIPS Agreement, was also emphasized.⁷

In June 2005, the Council for TRIPS granted a particular extension of Article 66.1 to the Maldives, until 20 December 2007, the day before the date established by the United Nations General Assembly for the graduation of the Maldives from the group of least-developed countries.⁸ The Maldives' request, presented in August 2004, had been for an extension of five years, based primarily on the need for additional time and financial resources to implement its commitments under the TRIPS Agreement.⁹ Notably, the de-

cision of the Council for TRIPS emphasized not implementation concerns but the exceptional circumstances faced by the Maldives. Although these circumstances are not defined, the reference is likely in regards to the destruction caused by the Asian tsunami of 26 December 2004, which was subsequent to the request. This extension of the Article 66.1 transition period will grant the Maldives minimum policy space due to its limited time. Nevertheless, it did encourage discussions that led to the Decision a general extension of Article 66.1.

The 2005 Request by LDCs

In October 2005, Zambia, on behalf of the LDCs, presented a request to the Council for TRIPS for a further 15 years to bring their domestic legal systems into conformity with the TRIPS Agreement. The original transition period established in Article 66.1 was due to expire on 31 December 2005, which hastened both the request and the decision, though it is unclear whether the decision had to be made before the expiration of this period in order to be valid. Another procedural uncertainty referred to whether the request for extension had to be made individually, as in the case of the Maldives, or collectively, as in the case of the Doha Declaration on the TRIPS Agreement and Public Health. Although several developed countries had expressed a preference for a case-by-case approach to the extension of the transition period under Article 66.1, the issue did not prove central to the discussions. In this regard, the Hong Kong Ministerial Conference, which was imminent, certainly also played a role in the swift decision to grant LDCs – at least in part – their request for an extension.

In their request, the LDCs noted continued economic, financial, and administrative constraints, as well as an enduring need for flexibility to create a viable technological base.¹⁰ Although LDCs have taken steps toward the implementation of the TRIPS Agreement, vulnerable economies and widespread poverty were emphasized as significant obstacles in any further efforts to bring their domestic legal systems into conformity. Finally, LDCs stated additional time was necessary to take full advantage of the cooperation with developed country Members envisaged in Articles 66.2 and 67, which had not been adequately fulfilled.

The term of the extension requested was not explicitly explained. Fifteen years could constitute a reasonable amount of time to overcome the challenges faced by LDCs in ensuring that their legal and policy framework adequately responds to their development needs and priorities. Nevertheless, it remains an arbitrary date – as also is the period of time decided by the Council for TRIPS, as will be seen below. It would have made more sense, in both cases, to link the extension of the Article 66.1 transition period to specific development indicators. In this regard, the request was inconsistent with previous LDC calls for transitional periods to be conceptualized not as an arbitrary reference to points in time, but in a way that ensures that they relate to actual achievement of development goals. For example, the 2001 Compilation of Outstanding Implementation Issues refers to the proposal for the transition period for LDCs in the TRIPS Agreement to be extended for as long as these countries retain the status of an LDC.¹¹

Overview of the Decision

The Council for TRIPS did recognize the special needs and requirements of LDCs, as well as the necessary flexibility for them to create a viable technological base. The Decision granting the extension, however, may have rather significantly undermined the objectives of Article 66.1 and the LDC request. Bangladesh, for instance, highlighted the need for policy space that had brought about the LDC request, and criticized an outcome that had, rather than grant additional policy space, created new obligations for LDCs.¹² Indeed, all three of the substantive sections of the 2005 decision raise concerns in terms of having respected the objectives and ensured the effectiveness of the extension.

The Decision begins with a Preamble. The Preamble refers to Article 66.1 and the LDC request and recognizes, as mentioned, the need for flexibility to create a viable technological base. It also acknowledges the continuing needs of LDCs for technical and financial cooperation “so as to enable them to realize the cultural, social, technological and other developmental objectives of intellectual property protection.”¹³ Section I of the Decision then establishes the extension of the transition period under Article 66.1 of the TRIPS Agreement. It states:

“Least-developed country members shall not be required to apply the provisions of the Agreement, other than Articles 3, 4 and 5 [national treatment, most-favored nation treatment, and special provisions regarding multilateral agreements on acquisition or maintenance of protection], until 1 July 2013, or until such a date on which they cease to be a least-developed country Member, whichever date is earlier.”

The extension is absurdly brief – only seven years and a half – given the current socio-economic circumstances of LDCs. It also ignores the challenges faced by the LDCs that approach or reach graduation from LDC status. The Secretary-General of the United Nations, for instance, has made clear that a continued element of support is critical for a “smooth transition” and the continued development of graduated countries.¹⁴ In particular, the Secretary-General called for LDC treatment in the TRIPS Agreement to be extended to graduated countries, “to enable them to benefit from an additional transition period.”

The seven year and a half extension is, in fact, not linked at all to the consideration or determination of the needs and circumstances of LDCs. For all the references to the challenges faced by LDCs and the need to allow them to realize the public policy objectives underlying intellectual property protection, the transition period was fixed in a completely arbitrary manner.¹⁵ In this regard, it unfortunately reflects other negotiations in the context of the TRIPS Agreement and of international intellectual property norm setting in general, which continue to provide little consideration of the costs and benefits of intellectual property protection, particularly for LDCs and developing countries.

In the context of the World Intellectual Property Organization (WIPO), for instance, the African Group – which contains 25 of the 32 LDCs in WTO – has called for the international intellectual property regime to be “more democratic and responsive to the needs and aspirations of developing and least developed countries, especially in matters that are vital to the needs and welfare of their citizenry.”¹⁶ It highlighted that intellectual property “should be used to support and enhance the legitimate economic aspirations

of all developing countries including LDCs... [and] should therefore, be complimentary and not detrimental to individual national efforts at development.” One specific proposal, which has also been presented and supported by other WIPO Members, has been conducting independent development impact assessments for intellectual property norm-setting and technical assistance. The length of the extension of the transition under Article 66.1, however, far from being based on or foreseeing such an assessment, seems to have been simply pulled out of a hat.

Section II of the Decision establishes “enhanced technical cooperation” for LDCs. First, it requires LDCs, “with a view to facilitating targeted technical and financial cooperation programmes,” to provide the Council for TRIPS, preferably by 1 January 2008, with as much information as possible on their individual needs in “taking the steps necessary to implement the TRIPS Agreement.” Then, it calls on developed country Members to provide such cooperation in accordance with Article 67, which – as has been mentioned – refers to technical and financial cooperation to facilitate implementation. Finally, it mandates increased collaboration on these activities with WIPO and other international organizations.

Technical cooperation does have an important role to play in allowing LDCs to build a sound technological base. However, the cooperation envisaged in the Decision does not seem to be linked or even relevant to supporting the development and dissemination of technologies in LDCs. The Decision refers, for example, to technical cooperation under Article 67, which has no other objective than to allow implementation of the TRIPS Agreement. On the other hand, it makes no reference to Article 66.2, which required developed country Members to “provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to [LDCs] in order to enable them to create a sound and viable technological base.”

Indeed, the Decision further weakens an Article 66.2 that was already essentially a ‘paper promise.’ In 2003, the Council for TRIPS adopted a decision on article 66.2, which LDCs hoped had set clear and definite criteria that would promote its implementation.¹⁷ However, although a number of de-

veloped countries have used the reporting mechanisms established to monitor compliance, most the reports fail to meet the reporting criteria established by the Council for TRIPS. In particular, many developed countries have cited measures that correspond more to Article 67 than Article 66.2.

The Decision now additionally blurs the line between Article 67 and 66.2 and thus misses a crucial opportunity to advance the transfer of technologies to LDCs. Instead, LDCs are required to spend their resources to collect information on the implementation the TRIPS Agreement, towards which the technical and financial cooperation will be directed. As a result, the Decision ignores that the rationale of the transition period is to allow LDCs to build a sound technological base, and that any technical cooperation should be designed and implemented to promote this objective.

The role of WIPO in the technical cooperation envisaged also raises some concerns. WIPO, as one of the main providers of technical assistance to developing countries in the design and implementation of their national intellectual property regimes, is – in principle – in a position to be an important contributor to efforts to support LDCs. Nevertheless, WIPO technical assistance programs have traditionally focused more on the implementation and enforcement of intellectual property obligations than on the use of flexibilities in the international intellectual property system and alternatives that promote innovation and dissemination of knowledge with less monopoly of knowledge.¹⁸ The African Group, for example, has called for WIPO's technical assistance to be more development-oriented and to ensure a fair balance between intellectual property protection and the public interest.¹⁹ In the context of the technical cooperation under the Decision, it will be particularly important to ensure such a development orientation is emphasized.

Section III of the Decision contains two general provisions. First, it provides that:

“Least-developed country Members will ensure that any changes in their laws, regulations and practice made during the additional transitional period do not result in a lesser degree of consistency with the provisions of the TRIPS Agreement.”

The clause aims to prevent the decrease or ‘roll-back’ of intellectual property protection already granted by LDCs. As a result, it is the most severe challenge to the flexibility the extension of the transition period was meant to achieve. Rwanda, as well as other LDCs, have indeed criticized this provision as reducing the ‘spirit’ of the extension of the transition period.²⁰ The provision may not only be unlawful for exceeding the powers of the TRIPS Council – as will be seen below – but it is also particularly worrisome given the number of commitments LDCs have already undertaken in relation to intellectual property protection. The 1999 revision of the Bangui Agreement, for instance, which legislates intellectual property rights in member states of the African Intellectual Property Organization (OAPI), including 12 LDC WTO Members, was particularly designed to ensure consistency with the demands of the TRIPS Agreement.²¹ It thus contains a number of provisions that comply with the TRIPS Agreement requirements, as well as others that even go beyond these requirements. For example, it requires patent terms of 20 years and accession to the 1991 Convention of the International Union for the Protection of Plant Varieties (UPOV Convention). It also prohibits parallel imports from countries not Members of OAPI and the use of compulsory licenses for the importation of products.

Provisions such as those in the Bangui Agreement reflect the intention and efforts of LDCs to comply with the TRIPS Agreement. They also reveal, however, that the technical assistance provided to LDCs has inexplicably ignored the need for a sound technological base and other socio-economic and legal factors before intellectual property rules can be implemented in a way that promotes rather than undermines their development. For example, it has been noted that almost all LDCs provide patent protection for pharmaceutical products despite the concerns raised by such protection for access to medicines and not having the obligation to do so until 2016.²² The no ‘roll-back’ clause in the Decision, when combined with these provisions, thus removes any flexibility for LDCs to develop and implement policies to promote innovation, dissemination of information, and access to knowledge and essential products in a way that is relevant to their current needs and circumstances. It negates the very purpose of the extension.

Moreover, the no 'roll-back' provision may indeed be illegal under WTO rules. Although such a provision did exist in the TRIPS Agreement, in Article 65, it did not apply to LDCs, which are thus imposed new obligations by the Decision. The Council for TRIPS, however, does not have the power to impose new obligations or grant new rights to WTO Members. The Council for TRIPS Council is responsible for administering the TRIPS Agreement. In the context of the Doha Round of negotiations, the Council for TRIPS also meets in 'special sessions' for negotiations on a multilateral system for notifying and registering geographical indications for wines and spirits. New rights and obligations can only be created by the Ministerial Conference or, in the intervals between meetings of the Ministerial Conference, by the General Council.²³ In extending the transition period under Article 66.1 of the TRIPS, the Council for TRIPS was limited to actions that were contemplated and authorized at the time of the adoption of the TRIPS Agreement. Imposing the no 'roll-back' obligations to LDCs, where were not contemplated or authorized, would thus be illegal and, as a consequence, null and void.

The second general provision in Section III states that the Decision is without prejudice to the previous extension of the transition period for LDCs in respect to pharmaceutical products, and to the right of LDCs to seek further extensions of the transition period under Article 66.1. Earlier action focusing specifically on pharmaceutical products responded to access to medicines concerns in LDCs and broader discussions regarding the relationship between the TRIPS Agreement and public health. The Decision to more generally extend the transition period under Article 66.1 rightly did not undermine this previous agreement. A more logical and effective solution would have been to also extend the general transition period to at least 2016. Such an approach would have avoided the difficult task of moving forward on separate tracks in the development and implementation of laws and policies, and placed other key socio-economic objectives such as education, agriculture, environment, and industrial development at least on the same level as health.

Conclusions

In examining how much freedom the TRIPS Agreement provides to determine national policies on intellectual property, the South Centre noted:

"The provisions for a transition period may be of particular importance for many developing and least developed countries, giving time to adapt the [intellectual property] system and to adopt measures that mitigate the impact of the new rules, for instance, by reinforcing legislation against anti-competitive practices, or providing incentives to industries that need to convert their output in order, for example, to find alternatives for the production of goods which become patentable or to obtain licenses from patent-holders. The planning and application of such measures will be crucial in industrial and technological policy in the years to come."²⁴

LDCs have extremely low incomes, severe needs in terms of the nutrition, health, and education of their people, and severe economic vulnerability that made the transition period under Article 66.1 particularly critical. Article 66.1 itself recognized LDCs' special needs and requirements, financial and administrative constraints, and need for flexibility to create a viable technological base. As a result, the extension of the transition period under Article 66.1 for LDCs should have provided these countries with carefully considered time and resources to ensure an adequate legal and economic framework was in place before the TRIPS Agreement provisions became applicable. Unfortunately, not only is the time established woefully inappropriate, but the Decision has also established conditions that place strict limitations on the freedom LDCs will have to enact laws and policies during that brief span.

Some of these conditions, namely the clause prohibiting the 'roll-back' of intellectual proportion, may be illegal. Certainly there would be room to revisit this provision in that case. Moreover, even if the clause was not considered unlawful, it does not prevent LDCs from reducing some of the 'TRIPS-plus' protection that has been granted through bilateral and regional agreement or as a result of

unbalanced technical assistance. Indeed, it is due to the concerns raised by the approach and objectives of technical cooperation on intellectual property issues that the other conditions in the Decision must be considered with great care. Given the rationale of Article 66.1 and the objectives of the LDC request, it is fundamental that technical assistance under the Decision does not focus on the implementation of the provisions of the TRIPS Agreement. Rather, international organizations and developed countries should prioritize providing the legal and economic support to build a sound technological base that will ensure that, when the provisions of the TRIPS Agreement are implemented, they will in fact promote technological innovation and dissemination of technology in LDCs and be conducive to social and economic welfare.

AN OVERVIEW OF RELEVANT IP DEVELOPMENTS IN VARIOUS FORA

World Trade Organization

A meeting of the Council for TRIPS took place on 16-17 March 2006, but most discussions actually took place in parallel informal consultations. Several new proposals were submitted to the Council for TRIPS for discussion, particularly on the issue of disclosure requirements. These proposals included:

- A communication from the United States entitled, "Article 27.3(b), relationship between the TRIPS agreement and the CBD, and the protection of traditional knowledge and Folklore."²⁵ The communication was presented as a response to the submissions of various Members. It basically reaffirms the position already expounded in previous submissions, namely, that new disclosure requirements do not appropriately solve problems associated with preventing erroneously granted patents and misappropriation of genetic resources and traditional knowledge, and that they are rather likely to result in legal uncertainty. Again, the United States insisted on national, contract-based systems outside the patent system as the appropriate solution.
- A submission by Bolivia, Cuba, Ecuador, India, Sri Lanka and Thailand, also a response to a previous communication, namely by Switzerland.²⁶ The submission which addresses a number of technical questions were raised for consideration by Switzerland, including the definitions of bio-piracy and misappropriation, the interchangeable use of terms such as biological and genetic resources, and the difference between country of origin and source of biological/genetic resources. It also expands on the manner in which disclosure requirements might be fulfilled, on the role of patent offices in the process, and in the potential consequences for non-compliance.

Informal consultations on implementation related issues, held by WTO Deputy Director General Rufus Yerxa under Paragraph 39 of the Hong Kong Ministerial Declaration,

also focused on disclosure requirements. In particular, consultations were guided by a list of questions prepared by Yerxa to move discussions forward. These questions were fairly general, however, taking into account the technical level reached by discussions in the Council for TRIPS. For example, they addressed issues such as whether the existing patent regime could provide effective safeguards against misappropriation and whether disclosure requirements were necessary or helpful for reducing the existence of erroneous patents. As a result, not much progress was made. In addition, developing countries continued to intensify their demand for more concrete and text-based negotiations. Consultations on the extension of protection of geographical to products other than wines and spirits, which were based on a set of questions as well, also failed to yield fruitful results.

Another noteworthy development was another submission by the European Union on enforcement of intellectual property rights, despite widespread refusal by other Members to address the issue in the Council for TRIPS.²⁷ The submission reiterates the request to place the issue point on the agenda and notes that an increase in intellectual property violations in recent years indicates the inability of current provisions on enforcement to adequately deal with this. In particular, the European Union proposes a discussion on border measures at the next meeting of the Council for TRIPS. **The next meeting of the Council for TRIPS is scheduled for June 14-15. The Special Session will take place on June 12-13. Nevertheless, these dates – and the negotiations taking place – will of course be impacted by broader progress on the Doha Round.** In this regard, after WTO Members were unable to reach modalities by the April deadline, Director General Lamy stated that “the process to reach modalities will be continuous, Geneva-based, and focused on texts — and we should aim at finishing this work in a matter of weeks rather than months.”²⁸

World Intellectual Property Organization (WIPO)

Several relevant discussions took place in WIPO in the first quarter of 2006. In particular, the first meeting of the WIPO Provisional Committee for Proposals Related to a Devel-

opment Agenda (PCDA) and the Informal Open Forum on the draft Substantive Patent Law Treaty (SPLT) continued to raise the importance of the links between intellectual property and sustainable development.

Provisional Committee for Proposals Related to a Development Agenda (PCDA)

The first meeting of the PCDA was held in Geneva on 20-24 February. Established by the 2005 WIPO Assemblies to accelerate and complete the discussions on proposals relating to a WIPO Development Agenda, the PCDA took an important step forward by agreeing on a structure for discussions. The structure is based on six categories of issues prepared by the chair, Ambassador Rigoberto Gauto Vielman of Paraguay. The categories are intended to enable Members to cluster the various aspects of their respective proposals under the relevant subheadings. These categories include: 1) Technical assistance and capacity building; 2) Norm-Setting, flexibilities, public policy and public domain; 3) Technology transfer, information and communication technology and access to knowledge; 4) Assessment, Evaluation and Impact Studies; 5) Institutional Matters including mandate and governance; and 6) Other Issues.

The Group of Friends of Development had already noted in its proposal of a framework for ensuring concrete and practical results that “common threads unite all the proposals.”²⁹ In particular, it noted six key issues in proposals that needed to be addressed by discussions on a WIPO Development Agenda, including new procedural and substantive approaches to WIPO norm-setting activities, member-driven mechanisms to enable WIPO to undertake independent and objective research and studies, including evaluation of development impacts of intellectual property rules, and measures needed to review WIPO treaties and conventions under the guise of the Development Agenda.

In addition, the PCDA discussed a number of the proposals previously put forth, including those submitted by the African Group, as well as several new proposals. New proposals were presented by Colombia and Chile. The proposal by Chile addressed several critical issues from the perspective of sustainable development.³⁰ For example, recognizing that the public domain is fundamental for ensuring access to knowledge and

promoting the creative processes of innovation, Chile called for WIPO to analyze the implications and benefits of a rich and accessible public domain, develop models for the protection of the public domain, and consider this protection within its normative processes. Moreover, Chile explained the need for a study to assess what the appropriate levels of intellectual property are for different Members, taking into account the particular their situation, specifically their degree of development and institutional capacity. Chile also gave concrete suggestions as to potential steps to take forth such a study. Colombia, on the other hand, limited its proposal to suggest that WIPO enter into agreements with commercially based intellectual property databases, in order to facilitate access for the national offices.³¹

The United States expanded on its submission to establish a WIPO Partnership Program, addressing topics such as the role of intellectual property in development and the relationship of counterfeiting and intellectual property piracy to development.³² For example, the United States proposed that WIPO undertake a quantitative and qualitative 'stock-taking' of current WIPO technical assistance activities and that the WIPO Advisory Committee on Enforcement discuss and analyze the relationship between the rates of counterfeiting and piracy of intellectual property and technology transfer, foreign direct investment and economic growth.

The second meeting of the PCDA is scheduled for 26-30 June. As per the mandate established by the 2005 Assemblies, the PCDA should report any recommendations to the WIPO Assemblies at their September 2006 session.

Informal Open Forum on the draft Substantive Patent Law Treaty (SPLT)

The Informal Open Forum on the draft Substantive Patent Law Treaty (SPLT), which took place from March 1 –3, was mandated by the 2005 WIPO Assemblies as a platform for discussion of the various issues and concerns raised by the proposed SPLT. Themes included purpose, approaches and limits to the harmonization of substantive patent law; subjects of patent law proposed for harmonization, including prior art, disclosure of origin requirements, and exceptions to patent rights; patents as a source of information and innovation, transfer of technology, and li-

censing practices; and new technologies and their specificities.

Speakers ranged from those who advocated harmonization, highlighting the advantages patent harmonizing will have on the quality of a patent and in reducing costs associated, for example, with duplicate patentability examinations, to those who questioned the benefits of harmonization for developing countries and some of the challenges it would pose to a balanced international intellectual property regime. For example, Nobel Laureate Sir John Sulston stressed the importance in striving for a harmonized patent system that seeks to balance conflicting differences between developed and less developed countries. Acknowledging that patents stimulate creativity, he noted that they also tend to erode public domain and should thus exist in balance with other forms of the promotion of innovation. He welcomed two important discussions undertaken at WIPO: the WIPO Development Agenda and Chile's proposal relating to the public domain.

As per the 2005 Assemblies decision, the **open forum is to be followed by two sessions of the Standing Committee on the Law of Patents (SCP): an informal session on 10-12 April and a formal session on July 3 to 7.**

Other Developments and Upcoming Meetings

The Diplomatic Conference for the Adoption of a Revised Trademark Law Treaty (TLT) began in Singapore on 13 March 2006. On 28 March, WIPO Member states adopted the new international treaty - the Singapore Treaty on the Law of Trademarks – that revises and updates the 1994 TLT. The Singapore Treaty focuses on the procedural aspects of trademark registration and licensing.

Future meetings include the **Intergovernmental Committee on Intellectual Property, Traditional Knowledge, and Folklore (IGC), which will take place 24-28 April**, the **Standing Committee on Copyrights Related Rights (SCCR), scheduled for 1-5 May**, and the **Advisory Committee on Enforcement (ACE), which will be held on 15-17 May.**

Other Multilateral Fora

World Health Organization (WHO)

The Commission on Intellectual Property, Innovation, and Public Health (CIPIH) completed its report on "Public Health, Intellectual Property, and Innovation," which was made public on 1 April.³³ The report acknowledges the role intellectual property plays in stimulating innovation, but notes that where the market has limited buying power, such as in developing countries, the current patent system fails to provide appropriate incentives for research and development or in providing medicines to the poor. It also highlights the importance of the flexibilities in the TRIPS Agreement, expressing concern in regards to the plethora of TRIPS-plus bilateral trade agreements that threaten to erode these flexibilities and recommending these agreements do not include provisions that limit access to medicines. Moreover, the report encourages developing countries to exercise their sovereign right to devise patent systems that best meet their respective development and public health objectives.

The **Intergovernmental Working Group of the Executive Board of the World Health Organization (WHO) will consider the report at a meeting on 28 April**. In addition, a draft resolution following on some of the recommendations of the CIPIH report is currently being drafted. The next Session of **the World Health Assemblies (WHA), scheduled for 22-27 May**, will examine and debate the report, as well as the related resolution. In addition, the WHA will also address the resolution to establish a "global framework on essential health and development," proposed by Kenya and Brazil. This resolution calls on WHO members, *inter alia*, to "take action to emphasize priorities in [research and development] addressed to the need of patients, especially those living in resource-poor settings."

United Nations Educational, Scientific, and Cultural Organization (UNESCO)

UNESCO is currently undertaking several projects to follow up on the Plan of Action of World Summit on the Information Society (WSIS).³⁴ On 24 February 2006, UNESCO was appointed the interim focal point for the areas such as access to information and knowledge; cultural diversity and identity,

linguistic diversity and local content; media; and the ethical dimensions of the Information Society. Under access to information and knowledge, for example, it has established an online platform that aims to facilitate multi-stakeholder implementation of the WSIS Plan of Action. **Future actions include a number of consultation meetings, such as the discussion on cultural diversity that will take place in Geneva on 12 May 2006.**

The United Nations Conference on Trade and Development

UNCTAD recently released a study on the "Analysis of Options for Implementing Disclosure of Origin Requirements in Intellectual Property Applications," commissioned as a response to the request by the Convention of Biological Diversity (CBD) for input on issues such as model provisions for disclosure requirements, options for incentive measures for applicants, and intellectual property related issues raised by proposed international certificates of origin/source and legal provenance.³⁵ The study, conducted by Professors Joshua Sarnoff and Carlos Correa, underscores the importance of establishing an international system of mandatory disclosure of origin requirements to prevent the misappropriation of genetic resources and associated traditional knowledge and the abuse of the intellectual property system, and to promote compliance with the CBD access and benefit-sharing requirements. According to the study, the TRIPS Agreement would be the most appropriate treaty for adopting for disclosure of origin requirements given the broad membership and dispute settlement mechanism of the WTO.³⁶

Food and Agriculture Organization (FAO)

The Commission on Genetic Resources for Food and Agriculture (CGRFA), acting as the interim committee for the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), will hold the **second meeting of the Contact Group for the drafting of the Standard Material Transfer Agreement (MTA) in Alnarp, Sweden on 24-28 April**. The draft Standard MTA – the instrument for facilitating transfer of plant genetic resources and benefit sharing in the ITPGRFA's multilateral system – will be considered in the **first session of the Governing Body of the ITPGRFA, which will take place in Madrid, Spain on 12-16**

June. Items of the agenda include, in addition to the adoption of the Standard MTA, adopting procedures and operational mechanisms to promote compliance and to address issues of non-compliance.

G-77

The 39th Meeting of the Chairpersons and Coordinators of the G-77 and China took place in Paris on 27-28 February. The meeting addressed a number of discussions related to intellectual property. The "Paris Consensus" adopted by the Meeting expressed concern, for example, that WIPO norm-setting and technical assistance over-emphasize the promotion of intellectual property rights standards at the expense of development dimensions, and stressed a continued commitment to push for a WIPO Development Agenda. It also called for the establishment of a Trust Fund so that UNCTAD could undertake studies and programmes on issues of interest to the developing countries, such as development impact assessment studies of existing international economic and trade agreements, and develop options for maximizing policy space for developing countries. Moreover, the G-77 and China articulated their intention to monitor the implementation of the decisions of the WSIS and to ensure the established Internet Governance Forum "addresses the development dimension of Internet governance and gives representation to developing countries as well as multi-stakeholders from the developing countries."³⁷

Convention on Biological Diversity (CBD)

The Eighth Conference of the Parties (COP) to the CBD took place in Curitiba, Brazil, on 20-31 March. Although there was limited discussion or agreement on issues such as the legal nature, objectives and scope of the international regime on access and benefit sharing, the COP did establish a framework for the negotiation of the international regime, including a deadline – 2010 – for completing this negotiation. In addition, the COP formed a technical experts group to address the possible rationale, objectives and need of certificates of origin. **The technical experts group will meet in Peru in the second half of 2006, before the fifth meeting of the Working Group on Access and Benefit-Sharing.** A meeting of indigenous peoples and other stakeholders will also be held immediately before the expert group meet-

ing, organized by Canada and the United Nations University. **The fifth and sixth Working Group meetings will be held before the Ninth COP of the CBD, scheduled for 2008.**

African Intellectual Property Organization (OAPI)

Annex X of the revised Bangui Agreement, which establishes a plant variety protection regime for Member states of the African Intellectual Property Organization (OAPI), entered into force on January 1, 2006. The application of Annex X, which is based on the 1991 Convention of the International Union for the Protection of New Plant Varieties (UPOV Convention), was delayed indefinitely by the OAPI Council back in 2002 on the grounds that the majority of its member States lack the necessary institutions and expertise capable of examining applications that may be filed. Concerns have been raised by civil society organizations on the impact of a plant variety protection system devised for industrialized countries on OAPI Members, particularly LDCs. **The Bangui Agreement explicitly requires that countries comply with the 1991 UPOV Convention and it is expected that OAPI Members will now formally ratify this Convention.**

Regional and Bilateral Trade Agreements with Intellectual Property Provisions

The following section highlights the latest developments in the bilateral and regional free trade negotiations between developed countries, especially the United States and Europe with developing country counterparts in the first quarter of 2006, with a specific focus on intellectual property issues.

Free Trade Agreements involving the United States

The negotiation of bilateral trade agreements is likely to rise in 2006. In April, the Chair of the US House of Representatives Ways and Means Committee called for the United States to focus on bilateral trade agreements given the lack of progress in the WTO. Moreover, the US President's Trade Promotion Authority (TPA), which has been critical for the approval of the number of bilateral trade agreements signed by the current admini-

stration, is due to expire in mid-2007.³⁸ Indeed, in its 2006 trade policy review of the United States, the WTO noted that "the increasing number of FTAs in which the United States participates raises concerns about administrative resources being distracted away from the multilateral system, trade or investment diversion, and interests being created that could complicate multilateral negotiations." In ongoing and future negotiations, CAFTA is likely to constitute the "floor" on intellectual property issues. Some positive developments in the first quarter of 2006, however, include the appointment of two public health advocates to the trade advisory committees of the US Trade Representative (USTR). Eric Lindblom of the Campaign for Tobacco-Free Kids was appointed to the Agricultural Technical Advisory Committee for Trade focusing on tobacco, and Shawn Brown of the Generic Pharmaceutical Association, appointed to Industry Trade Advisory Committee No. 3 on Chemicals, Pharmaceuticals, Health/Science Products and Services. USTR has also solicited applications for public health or health care community representatives for the Industry Trade Advisory Committee on Intellectual Property Rights, but has not appointed anyone yet.

- **Andean Region:**

Negotiations on the US-Peru FTA concluded in December 2005 and the agreement was signed in early April 2006. The FTA includes an Understanding on Biodiversity and Traditional Knowledge, in which Parties recognize the importance of these issues for cultural, economic, and social development. The explicit reference to biodiversity and traditional knowledge, issues that tend to be very problematic for the United States, have been characterized by some as a positive development for Peru. Nevertheless, the emphasis on contracts as the adequate approach to access and benefit sharing has also raised widespread concerns regarding Peru's positions in the WTO and other international fora.

Colombia and the United States concluded negotiations in February, but there has been no signature yet. US-Ecuador negotiations, on the other hand, were suspended until late April. Ecuadorian negotiators have noted, despite Peru and Colombia agreeing to TRIPS-plus provi-

sions on intellectual property in their agreements, that Ecuador was ready to maintain a firm position on these issues, particularly in relation to patents. Finally, in March 2006, Bolivian President Evo Morales announced that Bolivia was not interested in signing an FTA with the United States, but proposed as alternative a more equitable "Trade Treaty of the Peoples."

- **CAFTA:**

US implementing legislation for CAFTA condition its entry into force on the US President's determination that the Central American countries have adequately implemented the agreement. As a result, CAFTA provisions are now effective for El Salvador, Honduras, and Nicaragua – the US President made the recommendation on 1 March for El Salvador and one month later for the other two countries. Countries had struggled to meet US requirements, particularly in relation to intellectual property legislation. In the case of Guatemala, moreover, the United States appears to be requiring additional reforms than those included in the text of the agreement before it will issue a recommendation for implementation. In a letter calling for the USTR to refrain from such demands, Congressman Dennis Kucinich refers to US requirements to expand the definition of what is considered a new product and thus is subject to data exclusivity and to increase regulatory requirements for generics to gain marketing approval.

- **Asia:**

Given its current political situation, Thailand has suspended the FTA talks with the United States. As a result, no date has been set for the Seventh Round of negotiations. During the Sixth Round of negotiations, which took place in January, however, significant protests took place in opposition to an agreement. Moreover, in recommendations made public on 27 January 2006, the UN Committee on the Rights of the Child warned the Thai government that proposed bilateral intellectual property rules could affect access to medicines and the child's right to health.

In March, the United States and Malaysia announced their intention to start negotiations on a FTA. USTR announced it hoped to conclude the negotiations by the end of 2006, in order to submit the FTA to the Congress before the end of TPA. A public hearing on the negotiations will take place in Washington D.C on 3 May 2006, organized by the interagency Trade Policy Staff Committee (TPSC). US negotiations with South Korea have also been launched; with the first round negotiation was already scheduled for 5-6 June 2006. In the US-South Korea FTA public hearings, a representative from the Pharmaceutical Research and Manufacturers of America (Pharma) gave testimony that Koreans want greater access to new American pharmaceuticals, but need to reform laws that, *inter alia*, favoured generics and discouraged innovation and technological development. In contrast, the Generic Manufacturer's Association stressed that intellectual property provisions in recent FTAs, however, often exceed US law and delay the entry of generics to the market, therefore raising the price of medicines. His testimony offered examples of such provisions, including the extension of patent lengths and longer periods of data exclusivity.

- **SACU:**

SACU negotiations have significantly stalled. African countries have complained about the lack of flexibility by the United States on some critical issues, including intellectual property. On the other hand, the United States has stated that the negotiations have slowed because SACU countries are still determining their internal policies, but there are still ongoing discussions.

Free Trade Agreements involving the European Union

2006 marks an important year as EU and members of the Asian, Caribbean, and Pacific Group of States (ACP) enter the third phase of the Economic Partnership Agreement negotiations. During this phase, there will be negotiations on the legal texts that will define the structure and scope of the EPAs in topics such as market access, services and investment, and other trade-related issues. Intellectual property rules

have been raised within these trade-related issues in certain regions. In this regard:

- EPA negotiations with the Eastern and Southern African (ESA) countries accelerated following a meeting in Nairobi on 13-14 March. The EU-ESA parties have begun substantive negotiations and progress has been made on several issues. Although intellectual property issues appear not to have been addressed, they may arise in the current year. In light of mounting concerns on the development dimension of EPAs, the EU and ESA countries have agreed that the EPA is an instrument at the service of ESA countries' development, and are hoping to maintain the momentum of the level of their negotiations expect to meet end of 2007 deadline.³⁹
- In the EU-Caribbean EPA negotiations, negotiations have advanced on a number of issues.⁴⁰ A number of technical rounds of negotiations and a high level meeting have already taken place during the first quarter of 2006. The Caribbean group has conducted a comprehensive exercise on the areas currently being negotiated namely, trade related issues such as government procurement and intellectual property. In addition, the group is exploring socio-environmental and innovation related issues, and has a draft text and a table of contents for the EPA. Both parties are expected to start negotiations on the text in the near future.

In addition, EU Trade Commissioner Peter Mandelson travelled to Latin America in March to, *inter alia*; reaffirm the EU's commitment to the EU-Mercosur FTA negotiations, which contain intellectual property provisions. Finally, the European Union and Latin America and the Caribbean Countries Partnership will be meeting in the fourth EU-LAC Summit on 12 May 2006. The theme of summit is "Strengthening the bi-regional strategic association" and items on the agenda include Association Agreements, regional integration, and trade.

Other Free Trade Agreements

The European Free Trade Association (EFTA) is increasingly pursuing bilateral trade agreements that include intellectual property provisions. In January, the conclusion of FTA negotiations between *EFTA and SACU* was announced, and the agreement is said to include several TRIPS-plus provisions, including in the area of access to medicines. The agreement is still subject to technical and legal review, but it is expected to enter into force on **1 July 2006**. *EFTA and Thailand* completed the second round of their free trade negotiations, with third round scheduled to take place in Geneva between **3 and 7 April 2006**.

ENDNOTES

1. WTO Director-General Pascal Lamy quoted in WTO Press Release, "Poorest countries given more time to apply intellectual property rules," 29 November 2005, Press/424.
2. See, e.g., comments of Bangladesh and other LDCs in Third World Network, "TRIPS transition period for LDCs extended 7.5 years with conditions," TWN Info Services on WTO and Trade Issues, 6 December 2005.
3. This extension was particularly relevant to pharmaceutical and agro-chemical products, for which most developing countries did not grant patent protection before the TRIPS Agreement.
4. Council for TRIPS, "Extension of the transition period under Article 66.1 of the TRIPS Agreement for least-developed country Members for certain obligations with respect to pharmaceutical products," 1 July 2002, WTO document IP/C/25.
5. Doha Ministerial Conference, "Declaration on the TRIPS Agreement and Public Health," 20 November 2001, WTO document WT/MIN(01)/DEC/2.
6. The Bangui Agreement created the African Intellectual Property Organization (OAPI) and legislates patent rights in each of the 16 member states. Of the 32 LDCs in the WTO, 12 are OAPI Members.
7. See, e.g., the South Centre interview with the then outgoing Chair of the TRIPS Council, Ambassador Boniface Chidyausiku of Zimbabwe, in the South Bulletin, No. 31, 15 March 2002.
8. Council for TRIPS, "Maldives – Extension of the transition period under Article 66.1 of the TRIPS Agreement," 17 June 2005, WTO document IP/C/35. The reference to the UN classification is noteworthy – as will be described below – because WTO practice has been that countries themselves determine whether they are developed, developing, or least developed, and as a result the rules that are applicable to them.
9. Maldives, "Request from Maldives for an extension of the transition period under article 66.1 of the TRIPS Agreement," 16 August 2004, WTO document IP/C/W/425.
10. Zambia on behalf of LDCs, "Request for an extension of the transitional period under Article 66.1 of the TRIPS Agreement," 21 October 2005, WTO document IP/C/W/457.
11. Compilation of Outstanding Implementation Issues raised by Members, 27 October 2001, WTO document JOB(01)/152/Rev.1.
12. See, e.g., Third World Network, "TRIPS transition period for LDCs extended 7.5 years with conditions," TWN Info Services on WTO and Trade Issues, 6 December 2005.
13. Council for TRIPS, "Extension of the transition period under Article 66.1 for least-developed country Members," 30 November 2005, WTO document IP/C/40.
14. Report of the UN Secretary-General to the Economic and Social Council, "Formulating a smooth transition strategy for countries graduating from least developed country status," 15 July 2004, ECOSOC document E/2004/94.
15. Indeed, to a large extent, it merely reflects the bargaining with the developed countries that initially called for a five-year extension.
16. African Group, "The African Proposal for the Establishment for a Development Agenda for WIPO," July 18, 2005, WIPO document IIM/3/2.
17. Council for TRIPS, "Implementation of Article 66.2 of the TRIPS Agreement," 20 February 2003, WTO document IP/C/28.
18. See, e.g., the criticism of WIPO's technical assistance in the Report of the United Kingdom Commission on Intellectual Property Rights.
19. See *supra* note 15.
20. See *supra* note 11.
21. African Intellectual Property Organization, "Agreement Revising the Bangui Agreement of March 2, 1977, on the Creation of an African Intellectual Property Organization," February 24, 1999.
22. Phil Thorpe, "Study on the Implementation of the TRIPS Agreement by Developing Countries," Report prepared for the UK Commission on Intellectual Property Rights.
23. Marrakesh Agreement Establishing the World Trade Organization, Articles IV.2 and IX.1-4.
24. South Centre, "The TRIPS Agreement: A Guide for the South. The Uruguay Round Agreement on Trade-Related Intellectual Property Rights," Geneva 1997.
25. See WTO document IP/C/W/469.
26. The submission of the group of developing countries can be found in WTO document IP/C/W/470. The Swiss submission is WTO document IP/C/W/446.
27. See WTO document IP/C/W/468.
28. Director-General Pascal Lamy speaking to the press on 24 April 2006.
29. See WIPO document PCDA/1/5.
30. See WIPO document PCDA/1/2.
31. See WIPO document PCDA/1/3.
32. See WIPO document PCDA/1/4.
33. The report is available at <http://www.who.int/entity/intellectualproperty/documents/thereport/CIPIHReport23032006.pdf>.
34. For Details on the WSIS Plan of Action see Document WSIS-03/GENEVA/DOC/5-E. <http://www.itu.int/wsisis/docs/geneva/official/poa.html>.
35. See UNEP/CBD/COP/7/21, CBD COP 7 Decision VII-19, paragraphs. 7-9.
36. See UNCTAD/DITC/TED/2004/14, http://www.unctad.org/en/docs/ditcted200514_en.pdf.
37. See <http://www.g77.org/newswire/index.htm>.
38. The TPA is also known as "fast track," and allows trade agreements to be subject to an up-or-down vote, but not an amendment, by Congress.
39. See Joint Statement made at the ESA-EU ministerial meeting Mauritius 9 February 2006, http://europa.eu.int/comm/trade/issues/bilateral/regions/acp/pr090206b_en.htm.
40. See http://www.caricom.org/jsp/regional_news/fifth_CARIFORUM-EU-joint_st.jsp.

ABOUT THE IP QUARTERLY UPDATE

The IP Quarterly Update is published on a quarterly basis by the South Centre and the Center for International Environmental Law (CIEL). The aim of the Update is to facilitate a broader understanding and appreciation of international intellectual property negotiations by providing analysis and a summary of relevant developments in multilateral, plurilateral, and bilateral fora as well as important developments at the national level. In each IP Quarterly Update, there is a focus piece analysing a significant topic in the intellectual property and development discussions.

Today, in addition to the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO), there are other multiple fronts of discussion and negotiation on intellectual property. These other fora range from international organisations, such as the United Nations Educational and Scientific Organization (UNESCO), the Food and Agriculture Organization (FAO), the World Health Organization (WHO), the United Nations Conference on Trade and Development (UNCTAD), the World Customs Organization (WCO), INTERPOL, and the UN human rights bodies to regional and bilateral fora such as in the context of free trade agreement (FTAs) or economic partnership agreements (EPAs). In some cases, national processes or decisions, for example, invalidation of a key patent may have important international ramifications.

Consequently, all these processes constitute an important part of the international intellectual property system and require critical engagement by developing countries and other stakeholders such as civil society organisations. Multiple fronts of discussions and negotiations require a coordination of strategies and positions that is not always easy to achieve. The Quarterly Update is meant to facilitate such coordination and strategy development, and is therefore a vehicle for awareness raising as well as capacity development.



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