

**STATEMENTS DELIVERED BY BANGLADESH ON BEHALF OF THE LDCS GROUP
DURING THE MEETING OF THE COUNCIL FOR TRADE RELATED INTELLECTUAL
PROPERTY RIGHTS, 24-25 FEBRUARY**

AGENDA 3: REVIEW OF THE PROVISIONS OF ARTICLE 27.3 (B)

**AGENDA 4: THE RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE
CONVENTION ON BIOLOGICAL DIVERSITY,**

AGENDA 5: PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE

Thank you Mr. Chair.

I am taking the floor on behalf of the LDC group to address these issues of extreme importance.

Mr. Chair,

The review of the provisions of Article 27.3(b) has been a long standing item on the Agenda of this Council, however still without any substantial progress. Even our Ministers, as early as in the fourth WTO Ministerial Conference held in Doha in 2001 emphasized on this particular issue.

The Members of the LDC Group consider that the review of Article 27.3(b) is an important aspect of the work of this Council. Based on standards of morality and ethics we cannot support patentability of life form for trade and trade related gains and these should not be subject to patent protection.

In the same vein, it is important to maintain the flexibility on the form of sui generis regime developed for the protection of plant varieties based on individual country systems and requirements. This we believe will contribute towards improving the food security situation of indigenous people by ensuring that their inventions are protected and access to seed is guaranteed.

Regarding the relationship between the TRIPS Agreement and the Convention on Biological Diversity, the LDCs appreciate the work that has gone into these discussions, including the efforts undertaken by the Director General to narrow the differences among members.

For LDCs, biodiversity is a core issue and important source of livelihood for the majority of populations living in most LDCs. Yet they have been denied their due right to the benefit sharing. We also believe that genetic resources, traditional knowledge and folklore

are absolutely sovereign to states. The benefits derived from the appropriation of biological resources by external entities are almost never shared with the communities concerned. This continues to be a matter of great concern to LDCs. LDCs maintain that inserting a mandatory requirement in the TRIPS Agreement on disclosure of country of origin of the genetic resource and the associated traditional knowledge used in the invention is the only effective way forward to ensure proper benefit sharing. In addition, patent applicants should also declare that they have obtained prior informed consent from competent authorities in the country of origin of the genetic resources and the arrangements entered into to facilitate the sharing of benefits arising from the appropriation of such resources and traditional knowledge.

Mr. Chairman, we need to strengthen the work on this issue and close the remaining gaps which in our view can be achievable with political will.

AGENDA 6: NON VIOLATION AND SITUATION COMPLAINT

-Mr. Chairman,

I am taking floor on behalf of the LDC group.

LDCs are concerned that non-violation and situation complaints may pose unnecessary problems to LDCs which can be otherwise avoidable if we do not implement this provision under TRIPS.

Our fundamental understanding is that TRIPS is not a market access agreement. TRIPS agreement was designed in a manner which only provides minimum level of territorial protection to IP by the members. Its operation is also unique and quite different from any other WTO Agreement. While some other Agreements are explicit about facilitating market access and concessions, TRIPS provides for minimum level of protection and flexibility with a view to achieve the socio economic objectives. Therefore, drawing any parallelism in terms of non-violation and situation complaints with other WTO agreements, to our best judgment, does not fit with the context of TRIPS.

Consequently we don't see any scope of non-violation and situation complaints process in a *sui generis* system like TRIPS as the nature and scope of obligations under TRIPS agreement permit members to determine the level of protection according to their respective domestic legal system and practices.

So, from the systemic point of view, non-violation and situation complaints will infuse huge legal uncertainty in the total system.

Hence, the LDCs support further continued moratorium.

I thank you.

AGENDA 9: ANNUAL REVIEW UNDER PARAGRAPH 2 OF THE DECISION ON THE IMPLEMENTATION OF ARTICLE 66.2 OF THE TRIPS AGREEMENT

Mr. Chair,

I speak on behalf of the LDC group.

LDCs are pleased to note that we are now at the twelfth annual review of Article 66.2 of the TRIPS Agreement, in line with the Decision adopted by the Ministers in Doha in 2001.

Art 66, in particular 66.2 is the center of the delicate balance that was struck in the TRIPS Agreement. The faithful implementation of obligations under Art 66.2 would respond to that object and purpose for which 66.2 was crafted.

We also appreciate the wide ranging supports by the developed country members, as demonstrated in their reports, in our pursuit of achieving social and economic goals.

That said, we would like to thank those developed countries that have continued to provide reports to the TRIPS Council on incentives they provided to their enterprises and institutions in their territories, with a view to promoting and encouraging transfer of technology to LDCs, in order to enable our countries create a sound and viable technological base.

We also observed that some members had made an effort to follow the structure that we had proposed in our submission IP/C/W/561, to make the reporting system structured and simple. We request others to follow the format suggested by the LDC group because the type and nature of the report is of critical importance for efficient monitoring of implementation. Doha mandate and this Council decision IP/C/28 further provided guidance on the reporting format and substance. However, from the submitted reports, it is extremely difficult to identify and sort out activities those are specific to the obligation under Art 66.2 due to absence of common structure and format.

At the end, while we thank all the Members for their reports, we'd particularly appreciate information on the incentive regime put in place along with other elements as contained in paragraph 3 of the IP/C/28 and according to our submission IP/C/W/651.

ANY OTHER BUSINESS

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

Mr. Chair

I speak on behalf of the LDC group. I would like to raise one issue of extreme importance to our group under this agenda item.

Mr. Chair,

You may recall that our Ministers in Doha recognized the gravity of the public health problems afflicting many developing and least-developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics. They also agreed that the TRIPS Agreement did not and should not prevent Members from undertaking measures to protect public health. While reiterating their commitment to the TRIPS Agreement, they affirmed that the Agreement could and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. Accordingly, WTO members adopted the decisions IP/C/25 and WT/L/478 for exempting LDCs from TRIPS obligations in respect of pharmaceutical products. These decisions are due to expire on 1 January 2016. Though we have a general TRIPS waiver upto 2021, considering the gravity of the situation of lack of access to medicine and proper health care, LDCs require time to reasonably overcome their public health problem.

Mr. Chair,

You are aware that LDCs represent the weakest and most vulnerable group of the community of nations. With deficiency and hardship touching all aspects of life, the population have been suffering from, and are highly susceptible to different forms of diseases. As a result, there are many other associated risks and impediments such as access to medicine and health services.

Access to affordable pharmaceutical products (e.g. medicines, vaccines, diagnostic kits) is a prerequisite, to deal with the numerous public health challenges facing LDCs. LDCs are home to some of the world's most vulnerable people and they bear considerable health burdens. In 2011, some 9.7 million of the 34 million people living with HIV worldwide, lived in LDCs. Of the people living with HIV in LDCs, 4.6 million were eligible for antiretroviral (ARV) treatment in accordance with the 2010 World Health Organization HIV treatment guidelines, however only 2.5 million were receiving it. LDCs also bear increasing health burdens from non-communicable disease. For example, cancer incidence is expected to rise to 82 percent in 2030 in low-income

countries compared to 58 percent in upper-middle and 40 percent in high-income countries. You may recognize that not only we lack sound and viable technological base, but we are also perpetual victims of epidemics such as the Ebola outbreak that has caused disaster in our some member countries.

Mr. Chair

According to UNAIDS, I quote, “There is concern that without extension of the transition period, access to antiretroviral therapy and other key medicines in LDCs will face real challenges”. Explaining the implications of the failure to renew the transition period beyond 2016, UNAIDS states that if the transition period is not extended beyond 2016 the situation regarding availability and pricing of HIV-related medicines will be more complex than the situation in 2001 when the Doha Declaration was adopted. The UNAIDS concludes “There is a real danger that if the LDCs do not get a further extension, the progress that has been made to improve access to HIV-related medicines in these countries will be reversed”.

It is in this context, we have recently submitted a duly motivated request for extension of transition period and waiver from certain obligation under TRIPS. Our request may be found at WTO document IP/C/W/605 dated 23 February 2015.

We would like to be constructively engaged with all WTO membership to discuss this issue with a view to reaching a consensus on our request.

I thank you.