



16 February 2018

(18-1032)

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**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English

**PROPOSAL ON THE IMPLEMENTATION OF ARTICLE 66.2 OF THE TRADE-RELATED
ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) AGREEMENT**

COMMUNICATION FROM CAMBODIA ON BEHALF OF THE LDC GROUP

The following communication, dated 15 February 2018, is circulated at the request of the delegation of Cambodia on behalf of the LDC Group.

1 BACKGROUND

1. Since 1999, the least developed country (LDC) Members have been concerned with the lack of effective implementation of paragraph 2 of Article 66 of the TRIPS Agreement. Notwithstanding decisions taken in 2001¹ and 2003², implementation of Article 66.2 continues to fall short of the letter and spirit of TRIPS Agreement mandate. Notwithstanding mechanisms and processes introduced in the TRIPS Council, LDCs have observed the continued lack of clarity in notifications on the nature of incentives and whether such incentives sufficiently result in technology transfer to LDCs, that foster the creation of a sound and viable technological base for least-developed countries. Many notifications continue to demonstrate that incentive programmes identify recipients that are not LDCs and where LDCs are identified, incentives do not result in transfer of technology. Some developed Members claim that it is difficult for governments to ensure technology transfer because technology is the subject of private contracts and rights.

2. Following on the adoption by LDC Ministers in Buenos Aires of a declaration on 9 December 2017 reflecting LDC priorities for the Eleventh Ministerial conference³, this submission is proposed with a view toward a decision of the TRIPS Council to enable the effective implementation of TRIPS Article 66.2.

2 PROPOSAL

3. The LDC Group requests that the TRIPS Council deliberate and come to a decision in favour of LDCs that pursuant to TRIPS 66.2, developed country Members shall only specify incentives provided to least developed countries for technology transfer.

4. The LDC Group further requests that the TRIPS Council deliberate on the meaning of "incentives to enterprises and institutions" found in Article 66.2 and agree on possible ways to provide incentives by developed country Members to their enterprises and institutions in order to meaningfully implement the letter and spirit of that provision.

5. The deliberation on incentives to developed country enterprises and institutions must, among others, include discussion of whether conditions for participating in contracts tendered by their governments, to be implemented in LDCs, involve incentives for technology transfer related to the commitment in TRIPS Article 66.2 and provision of royalties as an incentive when technologies are transferred by enterprises in developed countries to LDCs.

¹ WT/MIN(01)/DEC/2, paragraph 7.

² IP/C/28.

³ WT/MIN(17)/40.