



## ANNUAL REPORT (2014) OF THE COUNCIL FOR TRIPS

### 1 GENERAL

1.1. Since the period covered by its 2013 report<sup>1</sup>, the Council for TRIPS has held three formal meetings, on 25-26 February, 11 June and 28-29 October. The minutes of these meetings are to be found in documents IP/C/M/75 and IP/C/M/75/Add.1, IP/C/M/76 and IP/C/M/76/Add.1, and IP/C/M/77 and IP/C/M/77/Add.1.<sup>2</sup>

1.2. Since the Chairman was absent from the February meeting, the Council elected his predecessor Ambassador Dacio Castillo (Honduras) as interim Chair for that meeting. The subsequent meetings were chaired by Ambassador Mothusi Palai (Botswana).

1.3. The meetings of the Council were open to all WTO Members, other governments with observer status in WTO bodies and certain international intergovernmental organizations granted observer status in the Council. The Food and Agriculture Organization (FAO), the International Monetary Fund (IMF), the International Union for the Protection of New Varieties of Plants (UPOV), the Organisation for Economic Co-operation and Development (OECD), the United Nations (UN), the United Nations Conference on Trade and Development (UNCTAD), the World Bank, the World Customs Organization (WCO) and the World Intellectual Property Organization (WIPO) enjoy regular observer status in the TRIPS Council. The World Health Organization (WHO) has ad hoc observer status in the Council. At its meeting in March 2002, the Council agreed to a request from the Joint United Nations Programme on HIV/AIDS (UNAIDS) for observer status during the Council's discussions on the TRIPS Agreement and public health at that and future meetings. At its meetings in June 2010 and November 2012, the Council agreed to grant ad hoc observer status on a meeting-by-meeting basis to the African Regional Intellectual Property Organization (ARIPO), the African Intellectual Property Organization (OAPI), the Cooperation Council of the Arab States of the Gulf (GCC) and the European Free Trade Association (EFTA). Pursuant to this, ARIPO, OAPI, the GCC and EFTA were invited to attend each formal meeting on an ad hoc basis. Decisions on requests for observer status from 12 other organizations are pending.<sup>3</sup>

### 2 NOTIFICATIONS UNDER THE PROVISIONS OF THE AGREEMENT

2.1. The Council took note of new notifications under various provisions of the TRIPS Agreement. The delegations of Switzerland, Colombia, South Africa, Montenegro, the Kingdom of Bahrain, the Russian Federation, the Republic of Korea and Panama provided further background to the notifications they had filed. To date, 132 Members have notified, pursuant to Article 63.2, all or part of their implementing legislation relating to all provisions of the Agreement. 104 Members have provided responses to the Checklist of Issues on Enforcement. During the reporting period, several Members have updated their earlier notifications of laws and regulations. 137 Members have notified pursuant to Article 69 contact points for the purposes of cooperating with each other with a view to eliminating international trade in goods infringing intellectual property rights. A number of Members have updated the information they had earlier provided. The Council was briefed on ongoing efforts to streamline arrangements for submitting and managing notifications,

<sup>1</sup> Document IP/C/67.

<sup>2</sup> Documents IP/C/M/77 and IP/C/M/77/Add.1 to be circulated.

<sup>3</sup> The organizations in question are listed in document IP/C/W/52/Rev.13.

and for developing an on-line information service so as to improve the accessibility of this material.

### **3 REVIEWS OF NATIONAL LAWS AND REGULATIONS**

3.1. At its meeting in February, the Council completed its review of the implementing legislation of Montenegro. At its meeting in October, the Council initiated the review of the implementing legislation of Tajikistan. The Council also followed up the review of the Russian Federation and took note of the outstanding material required to complete the pending reviews of two other Members.

### **4 REVIEW OF THE PROVISIONS OF ARTICLE 27.3(B); RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE CONVENTION ON BIOLOGICAL DIVERSITY; AND PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE**

4.1. Following the practice in its past meetings that delegates address these three agenda items together, the Council continued to discuss them together on the basis of contributions by Members. As requested by the Council, the Chair continued consulting on the earlier suggestion that the Secretariat of the Convention on Biological Diversity (CBD) be invited to brief the Council on the outcome of the tenth meeting of the Conference of the Parties to the CBD held in Nagoya, Japan in October 2010, and on the suggestion that the WTO Secretariat be requested to update three factual notes that summarized the points delegations had made in the Council's past discussions on these three agenda items. In response to a request from delegations, the WTO Secretariat held a briefing, back-to-back with the Council's meeting in February, on the relationship between the TRIPS Agreement and the CBD to provide factual background information in order to enable delegations to engage in substantive discussions and to facilitate the Council's consideration of this matter.

### **5 NON-VIOLATION AND SITUATION COMPLAINTS**

5.1. At the Council's meeting in February, the Chair drew the Council's attention to the decision of the Ninth Ministerial Conference to extend the moratorium on such complaints until its Tenth Session to be held in 2015 (WT/L/906). At its meetings in February, June and October, the Council continued its examination of the scope and modalities for such complaints. At its meetings in June and October, the Council had before it a communication from the United States on "Non-Violation Complaints under the TRIPS Agreement (IP/C/W/599). In response to a request from delegations, the Secretariat held a briefing, back-to-back with the Council's meeting in February, on non-violation and situation complaints to provide factual background information in order to enable delegations to engage in substantive discussions and to facilitate the Council's consideration of this matter.

### **6 REVIEW OF IMPLEMENTATION OF THE TRIPS AGREEMENT UNDER ARTICLE 71**

6.1. No statements were made or documents submitted by delegations under this agenda item.

### **7 REVIEW OF THE APPLICATION OF THE PROVISIONS OF THE SECTION ON GEOGRAPHICAL INDICATIONS UNDER ARTICLE 24.2**

7.1. No statements were made or documents submitted by delegations under this agenda item. The Chair invited those delegations that had not yet provided responses to the Checklist of Questions (IP/C/13 and Add.1) to do so, and said that those Members that had already provided responses could provide updates to the extent there had been any significant changes to the way they provided protection to geographical indications. In line with the Council's recommendation made in March 2010, he also encouraged Members to share information on bilateral agreements related to the protection of geographical indications into which they had entered.

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## **8 REVIEW UNDER PARAGRAPH 8 OF THE DECISION ON THE IMPLEMENTATION OF PARAGRAPH 6 OF THE DOHA DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH**

8.1. At the Council's meeting in February, the Chair recalled the decision taken by the General Council to extend the period of acceptances of the Protocol Amending the TRIPS Agreement until 31 December 2015 (WT/L/899). He updated delegations on the status of acceptances of the Protocol and encouraged Members that had not yet notified their acceptance to ensure that necessary measures were being taken at domestic level in order to proceed in a timely fashion.

8.2. At its meeting in October, the Council took up the annual review, pursuant to paragraph 8 of the Decision, of the functioning of the system set out in the Decision. The Council's report to the General Council on the operation of the system set out in the Decision will be circulated in the IP/C/- series of documents.

## **9 IMPLEMENTATION OF ARTICLE 66.2**

9.1. At its meeting in February, the Council followed up its eleventh annual review of developed country Members' reports on their implementation of Article 66.2.

9.2. At its meeting in October, the Council took up its twelfth annual review of developed country Members' reports on their implementation of Article 66.2. For this review, the Council received the second set of updates to the fourth set of new detailed reports on actions they had taken or planned in pursuance of their commitments under Article 66.2 from the following developed country Members: Australia; Japan; New Zealand; Canada; Norway; Switzerland, the European Union and individual member States, namely Austria, Belgium, Denmark, Estonia, Finland, France, Ireland, Luxemburg, the Netherlands, Slovakia, Spain, Sweden and the United Kingdom; as well as the United States. This documentation is being circulated in document IP/C/W/602 and addenda.

## **10 TECHNICAL COOPERATION AND CAPACITY-BUILDING**

10.1. At its meeting in February, the Council followed up its annual review of technical cooperation held at its meeting in October 2013. The Council had before it a communication from Togo identifying its priority needs for technical and financial cooperation (IP/C/W/597).

10.2. At its meeting in June, the Council invited developed country Members to supply information on their activities pursuant to Article 67 of the TRIPS Agreement prior to the annual review of technical cooperation at its meeting in October. Intergovernmental organizations that have observer status in the TRIPS Council were invited to provide information on their activities of relevance and, further, the WTO Secretariat was requested to report on its activities. In preparation for the annual review it held at its meeting in October, the Council received updated information from the following developed country Members: Australia; Japan; New Zealand; Canada; Switzerland; Norway; and the European Union and individual member States, namely Austria, Bulgaria, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, the Netherlands, Portugal, Slovenia, Spain, Sweden and the United Kingdom; as well as the United States (being circulated in IP/C/W/601 and addenda). Updated information was also received from the WCO, WHO, FAO; UPOV; WIPO; UNCTAD; and the GCC (being circulated in IP/C/W/603 and addenda), as well as from the WTO Secretariat (IP/C/W/600).

## **11 CONTRIBUTION OF INTELLECTUAL PROPERTY TO FACILITATE THE TRANSFER OF ENVIRONMENTALLY RATIONAL TECHNOLOGY**

11.1. At the requests of Ecuador, at its meetings in February and June the Council had on its agenda an item on "Contribution of Intellectual Property to Facilitate the Transfer of Environmentally Rational Technology". Ecuador referred to its earlier submission entitled "Contribution of Intellectual Property for Facilitating the Transfer of Environmentally Rational Technology" (IP/C/W/585 in English and French, IP/C/W/585/Rev.1 in Spanish). At the Council's meeting in October, Ecuador informed the Council, under the agenda item "Other Business", that it was undertaking a process of domestic consultations of which the Council would be informed in due course.

## **12 INTELLECTUAL PROPERTY AND INNOVATION: UNIVERSITY TECHNOLOGY PARTNERSHIPS**

12.1. At the request of the United States, at its February meeting the Council had on its agenda an item on "Intellectual Property and Innovation: University Technology Partnerships".

## **13 CONCERNS WITH RESPECT TO MEASURES RELATED TO PLAIN PACKAGING OF TOBACCO PRODUCTS AND THEIR COMPATIBILITY WITH THE TRIPS AGREEMENT**

13.1. At the request of Cuba, at its February meeting the Council had on its agenda an item on "Concerns with Respect to Measures Related to Plain Packaging of Tobacco Products and Their Compatibility with the TRIPS Agreement". At the request of Ukraine and the Dominican Republic<sup>4</sup>, the Council had the same item again on its agenda at its meeting in October.

## **14 INTELLECTUAL PROPERTY AND INNOVATION: INNOVATION INCUBATORS**

14.1. At the request of Chinese Taipei and the United States, and co-sponsored by Panama, at its June meeting the Council had on its agenda an item on "Intellectual Property and Innovation: Innovation Incubators".

## **15 INTELLECTUAL PROPERTY AND INNOVATION: PROMOTING AWARENESS; CASE STUDIES**

15.1. At the request of the European Union, Switzerland and the United States, at its October meeting the Council had on its agenda an item on "Intellectual Property and Innovation: Promoting Awareness; Case Studies".

## **16 OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS**

16.1. The Council continued its consideration of the pending requests for observer status from international intergovernmental organizations, and requested the Chair to continue his consultations on the requests from the five IGOs that had recently provided updated information, as well as on the requests from the remaining seven organizations that had not yet updated their information.

## **17 OTHER BUSINESS**

17.1. At the Council's meeting in October, Bangladesh, on behalf of the LDC Group, raised, under "Other Business", the issue of "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".

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<sup>4</sup> The Dominican Republic cosponsored the item after the circulation of the proposed agenda for the meeting.