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OPEN-ENDED AD HOC INTERGOVERNMENTAL COMMITTEE FOR THE NAGOYA PROTOCOL ON ACCESS TO GENETIC RESOURCES AND THE FAIR AND EQUITABLE SHARING OF BENEFITS ARISING FROM THEIR UTILIZATION

Second meeting

New Delhi, 9-13 April 2012

Item 4.2 of the provisional agenda*

CAPACITY-BUILDING AND DEVELOPMENT: SUBMISSION BY THE SECRETARIAT OF THE WORLD TRADE ORGANIZATION

Note by the Executive Secretary

1. The Executive Secretary is circulating herewith, for the information of participants in the second meeting of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing, information submitted by the Secretariat of the World Trade Organization on capacity-building activities undertaken by the World Trade Organization, including information on technical assistance activities related to the Agreement on Trade-Related Aspects of Intellectual Property Rights.
2. The document is being circulated in the original form and language in which it was made available to the Secretariat.

* UNEP/CBD/ICNP/2/1.



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11 November 2011

Dear Mr. Djoghla,

Thank you for your communication of 6 October 2011, in which you invited relevant organizations, including the WTO, to fill out two questionnaires regarding domestic needs and priorities for capacity-building and development in support of the implementation of the Nagoya Protocol on ABS, and proposed elements of a strategic framework capacity building and development under the Nagoya Protocol. As background to this process, I am pleased to provide an update of the capacity-building activities undertaken by the WTO on related matters.

With respect to capacity building and development in support of the implementation of the Nagoya Protocol on ABS, while we do not have any activities specifically tailored to this specific theme, WTO technical assistance activities do regularly provide an update of the discussions in the WTO on the relationship between the TRIPS Agreement and CBD, and this work also routinely includes diverse perspectives on the issues on the part of active national delegations. Under this general subject, therefore, we do address the Nagoya Protocol as it has been raised by our Members in their discussions on the relationship of the TRIPS Agreement with the CBD in general.

In particular, between 1 October 2010 and 30 September 2011, the WTO organized 25 technical assistance (TA) activities in relation to the TRIPS Agreement with focus on assisting our Members to understand rights and obligations and supporting our Members to participate fully and substantively in the WTO ongoing work on TRIPS matters, in particular building their capacity to assess what is at stake for them in issues under negotiations. Details of our capacity building activities relating to TRIPS and intellectual property issues in general over this period are available in the latest version of the Secretariat's annual report to the Council for TRIPS, WTO document IP/C/W/557 (a copy is attached for ease of reference).

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Most of these technical cooperation activities have a specific programme dealing with the issue of the relationship between the TRIPS Agreement and the CBD. It should be noted that while preparing these programmes, the Secretariat has paid increasing attention to building self-sustaining capacity in developing countries, including through the training of trainers and strengthening nationally-based expertise. For example, the Secretariat organizes jointly with WIPO two regular events for participants from developing countries: one, an annual colloquium for IP teachers and two, an advanced course for IP government officials and policymakers; these aim at building independent capacity to analyse policy issues from the perspective of distinct national needs and priorities.

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The Secretariat also organized a number of national workshops upon the request of our Members, which make the technical assistance activities more tailored to meeting the diversity of needs and interests of our Members. These activities routinely deal with the issue of the interaction between TRIPS and the CBD.

I hope that the above background information is useful, but we are of course available to assist with any further details.

Yours sincerely,



Antony Taubman
Director
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**Council for Trade-Related Aspects of
Intellectual Property Rights**

WTO SECRETARIAT TECHNICAL COOPERATION IN THE TRIPS AREA

Note by the Secretariat

This document has been prepared under the Secretariat's own responsibility and without prejudice to the positions of Members and to their rights and obligations under the WTO.

This document reports on the WTO Secretariat's technical cooperation activities concerning TRIPS undertaken between 1 October 2010 and 30 September 2011. It covers activities that specifically relate to intellectual property (IP) and the TRIPS Agreement, as well as some activities of a broader character which have a significant IP component. It follows the previous report to the TRIPS Council contained in document IP/C/W/553, dated 25 October 2010.

Main Orientations

1. The Secretariat's technical cooperation activities in relation to TRIPS continue to focus on assisting Members to understand the rights and obligations, including the available options, which flow from the TRIPS Agreement and relevant decisions of WTO bodies. In particular, Members receive assistance regarding the flexibilities in the TRIPS Agreement, including the Paragraph 6 Mechanism on TRIPS and public health, and the interplay between TRIPS standards and policy choices, as well as notifications and reviews of national legislation. Technical cooperation activities also aim to support Members to participate fully and substantively in the WTO's ongoing work on TRIPS matters, in particular building their capacity to assess what is at stake for them in issues under negotiation, examination or review. The Secretariat has paid increasing attention to building self-sustaining capacity in developing countries, including through the training of trainers and strengthening regionally-based expertise.
2. Technical cooperation is driven essentially by demand from Members. The diversity of needs and interests identified by Members has led to increased tailoring and focussing of technical assistance activities on specific areas of interest or sectoral policy themes, complementing the activities that provide general overviews of the TRIPS Agreement. The Secretariat also assisted countries to prepare for accession to the WTO and trained officials of acceding countries. The technical assistance programme further prioritized assistance to least developed countries, in the light especially of the needs assessment and coordination of technical assistance foreseen in paragraph 2 of the Decision on the Extension of the Transition Period under Article 66.1 for Least Developed Country Members.¹ The emphasis on the individual priority needs of LDCs was carried through in

¹ The Decision of the Council for TRIPS of 29 November 2005 (IP/C/40) extends the transition period for least developed country Members until 1 July 2013 and calls for them to provide information to the Council for TRIPS, preferably by January 2008, on their individual priority needs for technical and financial cooperation in order to assist them taking steps necessary to implement the TRIPS Agreement.

programme delivery and through closer interagency coordination. The past focus on ensuring complementarity and cooperation with other intergovernmental organizations has been further enhanced, with a particular focus on coordinating on public health and IP technical assistance with WIPO and the WHO. Technical cooperation on TRIPS has been delivered through information and advice given to Members in Geneva, and through study programmes, training courses, seminars and workshops for developing countries in Geneva and elsewhere.

Information and Advice to Members

3. Secretariat officials have provided information in response to questions put to them by representatives of Member governments on a wide range of IP matters, e.g. notification and review procedures, the meaning of particular provisions of the TRIPS Agreement, the options available under these provisions and matters under discussion or negotiation in the TRIPS Council. Both Geneva delegations and visiting officials raise such matters, and similar requests result from direct contacts from officials in capitals on issues such as domestic draft legislation or the ongoing work and negotiations in the TRIPS Council. Officials from acceding countries have also asked for and received advice and information on a host of IP issues.

4. To facilitate the process of LDC needs assessment and coordination of technical co-operation established by the TRIPS Council in 2005, and at the request made by Angola and Tanzania on behalf of the LDC Group at the Council's meeting on 8 June 2009, the Secretariat convened a regional workshop on needs assessment for French-speaking Africa (Dakar, Senegal, 9-11 November 2010), mirroring the two regional workshops previously held respectively for English-speaking Africa and for the Asia Pacific Region (see IP/C/W/553, para. 4). October 2011 will see a culminating workshop in Geneva which will draw together the experience harvested from these regional workshops, and consider the way ahead.

Seminars, Workshops, Training Courses and other Technical Cooperation Activities

In Geneva

5. TRIPS issues have continued to figure prominently in the context of broader training courses, seminars and workshops held in Geneva. For example, the regular WTO Trade Policy Courses, the Introduction Courses for LDCs, the "Geneva Weeks" for Non-Residents, and other events held in Geneva included presentations on the TRIPS Agreement and the ongoing work and negotiations in the TRIPS area. The first Advanced Trade Policy Course, held in Geneva for English-speaking countries from 13 September to 2 December 2010, also included a visit to WIPO, learning about that Organization, its conventions and activities. In addition, the Secretariat organized a number of special study programmes for government officials.

6. The Eighth joint WIPO-WTO Colloquium for Teachers of Intellectual Property from Developing Countries, convened from 20 June to 1 July 2011, was a major element of Geneva-based technical assistance in this period. For the WTO, it formed part of the wider approach in the WTO Biennial Technical Assistance and Training Plan 2010-2011 towards cooperation with the academic community in developing countries aimed at local capacity building on WTO matters. The main objectives of the Colloquium were to update university teachers of IP in developing countries on the activities and instruments of WIPO and the WTO, to strengthen the independent research and teaching capacity of developing countries on IP law and policy, and to provide a forum for exchange of information and ideas between the teachers and the two Secretariats on these matters. The Colloquium programme emphasized recent developments and policy issues under debate in the two Organizations. In addition to speakers from the two Secretariats and from the WHO and the UPOV, several Geneva-based delegates as well as representatives from industry and NGOs shared views on certain topical issues under discussion or negotiation. Participating university teachers also made

presentations on selected topics.² Papers presented at the Colloquium of 2010 have been compiled and published by WIPO and the WTO and are available on line as an edited volume, intended to provide a resource for researchers and analysts covering contemporary IP and TRIPS issues from the perspective of a wide range of developing countries.³

7. The third joint WIPO-WTO Advanced Course on Intellectual Property was held on 16-27 May 2011 as an important component of the Geneva-based activities. This initiative drew on the experience of earlier successful Colloquium for teachers of IP, and applied a similar programme structure and pedagogic strategy, but was tailored and focussed on government officials and public sector policymakers instead of university teachers and researchers. The course also built on the notion of gradual and progressive learning: in order to qualify for the course, the candidates had to complete the WTO eTraining TRIPS Course or possess commensurate knowledge or professional experience. Most of the selected participants had completed either the WTO eTraining Course or the WIPO Distance Learning Course, and the course was able to work from a truly advanced baseline and thus explore cutting edge issues through interactive debate and practical case studies, so as to strengthen the capacity of government officials and policymakers to critically review policy options and their implications, and to learn from the wide range of practical experiences covered in the programme.⁴

Outside Geneva

8. An important part of WTO technical cooperation in the field of IP has been the organization of, or participation in, international, regional and national seminars, workshops and other events outside Geneva. The Annex to this document lists the technical cooperation missions outside Geneva organized by, or involving, staff of the WTO Intellectual Property Division.

9. In accordance with the above-mentioned WTO Biennial Technical Assistance and Training Plan 2010-2011, two regional workshops with a focus on certain topical issues under discussion, examination or negotiation in the TRIPS context, in particular TRIPS and public health, biotechnology/traditional knowledge/biodiversity, and geographical indications were held during the reporting period: in Vienna, Austria, from 26 to 28 January 2011, for Central and Eastern Europe, Central Asia and Caucasus, and San José, Costa Rica, from 8 to 11 March 2011. The aim of the workshops was to provide information and an opportunity for an exchange of views among countries of the region that would facilitate their effective participation in the ongoing negotiations or discussions. Another objective was to provide an improved understanding of the WTO and the TRIPS Agreement, including the health-related flexibilities in that Agreement and the operation of the Paragraph 6 System. The programmes for these workshops provide for presentations by WTO staff members and representatives of WIPO and WHO.

10. Other important elements of the Secretariat regional technical assistance activities included two workshops on IP held in Singapore. The first one was held from 1 to 4 November 2010 under the Singapore-WTO Third Country Training Programme. This event followed a new and improved format designed to respond to demands from Members and Observers to put WTO and TRIPS rules into the larger context of policy choices in the area of IP policy, with a particular focus on current developments and challenges. Focussing on copyright and enforcement, this advanced workshop combined in-depth explanation of the international regime of relevant IP rules in TRIPS and WIPO treaties with a comprehensive analysis by international academics of IP policy options available under the international regime in these areas. Another workshop was convened from 9 to 11 February 2011

² For the programme, go to:

http://www.wto.org/english/tratop_e/trips_e/wipo_wto_colloquium_program11_e.pdf.

³ http://www.wto.org/english/tratop_e/trips_e/wipo_wto_colloquium_aug11_e.pdf

⁴ For the programme, go to: http://wto.org/english/tratop_e/devel_e/train_e/course_details_e.htm

by the Singapore Government through the initiative of the Temasek Foundation. This was a pilot-level project to combine expertise in the WTO in the areas of IP and trade economics, with a view to developing capacity on the specific role of IP rights in relation to technology transfer in certain technological sectors, with a particular focus on climate change and environmentally friendly technology.

11. In addition, the WTO organized five national seminars or workshops devoted to IP matters, in cooperation with the host country (Samoa, from 13 to 14 October 2010, Trinidad and Tobago, from 27 to 28 January 2011, Bahamas, from 1 to 2 February 2011, Israel, from 21 to 22 February 2011 and Ecuador, from 11 to 13 May 2011). WIPO sent a speaker to the national workshops in Samoa and Ecuador.

12. One of the features of activities during the recent years has been the broader WTO events outside Geneva which have included a significant TRIPS component. The Secretariat contributed, in partnership with universities, to six WTO regional Trade Policy Courses with an important IPR component. In the context of co-operation with universities, the staff of the Intellectual Property Division has also participated in the 1th Summer Programme on WTO organized by the Shanghai Institute of Foreign Trade which took place in Shanghai from 6-12 July 2011.

eTraining

13. A TRIPS module in the WTO eTraining Courses is an important component of WTO technical cooperation in the field of IP. These are web-based courses for developing countries and economies in transition, which are either WTO Members or observers. Participants have online access to course material, background documents, interactive sessions (chat, discussion forum and enquiry board). They are assisted throughout the course by a tutor, a course administrator and a helpdesk. The course took place from 18 October to 10 December 2010, in Spanish. An important new feature is that since January 2011 eTraining is available in English, French and Spanish all-year-round. In the invitations to workshops and other training activities on the TRIPS Agreement, the Secretariat recommended giving priority to officials having successfully completed the WTO TRIPS eTraining course.

Cooperation with WIPO and other Intergovernmental Organizations

14. As indicated in this note and earlier reports submitted to the Council for TRIPS, cooperation with WIPO has been a key feature of WTO Secretariat technical cooperation in the TRIPS area. This has been based on the 1995 cooperation agreement between the two Organizations, Article 4 of which deals with legal-technical assistance and technical cooperation⁵, and the WIPO-WTO Joint Initiative on Technical Cooperation for Least-Developed Countries, launched in June 2001. In response to paragraph 4 of the Decision on the Extension of the Transition Period for Least-Developed Country Members⁶, and based on the 1995 Cooperation Agreement as well as the 2001 WIPO-WTO Joint Initiative, the two Organizations have further intensified their cooperation.

⁵ The Agreement between the World Intellectual Property Organization and the World Trade Organization came into effect on 1 January 1996. Article 4 of the Agreement provides for the International Bureau of WIPO to make available to developing country WTO Members which are not members of WIPO the same legal-technical assistance relating to the TRIPS Agreement as it makes available to member states of WIPO which are developing countries. The WTO Secretariat is required to reciprocate. The Agreement also provides for the International Bureau and the WTO Secretariat to enhance cooperation in their legal-technical assistance and technical cooperation activities relating to the TRIPS Agreement for developing countries, so as to maximize the usefulness of those activities and ensure their mutually supportive nature.

⁶ See above footnote 1. Paragraph 4 of the Decision states that "in order to assist least-developed country Members to draw up the information to be presented in accordance with paragraph 2 and with a view to

15. The WTO Secretariat has also cooperated in the provision of technical cooperation in the area of TRIPS with other intergovernmental organizations. In particular, this period saw an increased focus on activities on public health and IP in dialogue with the WHO and WIPO, including the strengthening of coordination on relevant technical cooperation and the provision of factual background information. Among others, the three organizations jointly organized a technical symposium on "Access to Medicines, Patent Information and Freedom to Operate" in Geneva on 18 February 2011.⁷ The symposium's objective was to address the growing importance of the patent information for public health, and more specifically to highlight the importance of easy access to patent information for providing access to medicines. It provided an opportunity for participants with different backgrounds, coming from Governments, civil society organizations and industry, to share experiences, take stock and look at future needs.

making technical assistance and capacity building as effective and operational as possible, the WTO shall seek to enhance its cooperation with the World Intellectual Property Organization and with other relevant international organizations."

⁷ For more information see http://www.wto.org/english/news_e/news11_e/trip_21jan11_e.htm

ANNEX

Technical Cooperation Missions in the TRIPS Area from 1 October 2010 to 30 September 2011 (Activities outside Geneva. For Geneva-based events, see paragraphs 5 to 7 above)

Date	Place	Mission
13-14 October 2010	Apia, Samoa	WTO National Seminar on the TRIPS Agreement
13-14 October 2010	Istanbul, Turkey	TRIPS Sessions in WTO Short Trade Policy Course for CEECA
19-21 October 2010	Ho Chi Minh City, Viet Nam	Conference on Sustainable Technology Transfer
1-4 November 2010	Singapore	WTO Advanced Regional Workshop on Challenges for a Modern Copyright System for WTO Members and Observers in Asia and the Pacific
9-10 November 2010	Dakar, Senegal	WTO Workshop for LDC Members and Observers from French-speaking Africa on the "Assessment of Priority Needs to Implement the TRIPS Agreement"
15-16 November 2010	Manzini, Swaziland	TRIPS Sessions in WTO Regional Trade Policy Course for English-Speaking African Countries
15-17 November 2010	Cotonou, Benin	TRIPS Sessions in WTO Regional Trade Policy Course for French-Speaking African Countries
26 November 2010	Montevideo, Uruguay	TRIPS Sessions in WTO Short Trade Policy Course for ALADI Members
26-28 January 2011	Vienna, Austria	WTO Regional Workshop on Intellectual Property and Public Policy for CEECA
27-28 January 2011	Port of Spain, Trinidad and Tobago	WTO National Seminar on TRIPS and Public Health
1-2 February 2011	Nassau, Bahamas	WTO National Seminar on TRIPS for Customs Officials
9-11 February 2011	Singapore	WTO Third Country Training Programme on "Promoting Green Innovation"
21-22 February 2011	Israel	WTO National Seminar on TRIPS
8-11 March 2011	San José, Costa Rica	WTO and IICA Regional Workshop on Intellectual Property and Public Policy

Date	Place	Mission
22-24 March 2011	Bogota, Colombia	TRIPS Sessions in WTO Regional Trade Policy Course for Latin America
11-12 May 2011	Abu Dhabi, United Arab Emirates	TRIPS Sessions in WTO Short Trade Policy Course for Arab and Middle East Countries
6-10 July 2011	Shanghai, China	TRIPS Sessions in WTO 4 th Summer Programme
11-13 May 2011	Quito, Ecuador	WTO National Workshop on TRIPS, Intellectual Property and Public Policy
20-21 September 2011	Istanbul, Turkey	TRIPS Sessions in WTO Short Trade Policy Course for CEECA
