



## ANNUAL REPORT (2013) OF THE COUNCIL FOR TRIPS

### 1 GENERAL

1.1. Since the period covered by its 2012 report<sup>1</sup>, the Council for TRIPS has held three formal meetings, on 5-6 March, 11-12 June and 10-11 October. The minutes of these meetings are to be found in documents IP/C/M/72, IP/C/M/73 and IP/C/M/73/Add.1, and IP/C/M/74 and IP/C/M/74/Add.1.<sup>2</sup>

1.2. The meeting in March was chaired by Ambassador Dacio Castillo (Honduras) and the subsequent meetings by Ambassador Alfredo Suescum (Panama).

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 Council for TRIPS. 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. To date, 130 Members have notified, pursuant to Article 63.2, all or part of their implementing legislation relating to all provisions of the Agreement. 103 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. 134 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.

### 3 REVIEWS OF NATIONAL LAWS AND REGULATIONS

3.1. At its meeting in March, the Council completed its reviews of the implementing legislation of Cuba and Maldives. At its meeting in October, it initiated the reviews of the national implementing legislation of Montenegro and the Russian Federation, and took note of the outstanding material

<sup>1</sup> Document IP/C/62.

<sup>2</sup> Documents IP/C/M/74 and IP/C/M/74/Add.1 to be circulated.

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

required to complete the pending reviews of two other Members. It rescheduled the review of the national implementing legislation of Tajikistan to its meeting in June 2014, and agreed to revert to the arrangements for that review at its meeting in February.

#### **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.

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

5.1. At its meetings in March and June, the Council continued its examination of the scope and modalities for such complaints. At its meeting in October, the Council agreed<sup>4</sup> to recommend, pursuant to the Decision of the Ministerial Conference of 17 December 2011 (WT/L/842), that the Ninth Session of the Ministerial Conference decide as follows:

"We take note of the work done by the Council for Trade-Related Aspects of Intellectual Property Rights pursuant to our Decision of 17 December 2011 on "TRIPS Non-Violation and Situation Complaints" (WT/L/842), and direct it to continue its examination of the scope and modalities for complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 and make recommendations to our next Session, which we have decided to hold in 2015. It is agreed that, in the meantime, Members will not initiate such complaints under the TRIPS Agreement."

#### **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. 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. During the reporting period, Switzerland shared information on a bilateral agreement at the Council's October meeting.

#### **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 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 has been circulated in document IP/C/66. The Council agreed to forward to the General Council a proposal for a decision

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<sup>4</sup> The Council agreed on its recommendation *ad referendum*. Members were given until close-of-business on Monday 21 October 2013 to consider the text of the decision. Since no objections were received by then, the recommendation is considered as agreed by the Council.

to extend the period of acceptance by Members of the Protocol Amending the TRIPS Agreement until 31 December 2015.<sup>5</sup>

## **9 IMPLEMENTATION OF ARTICLE 66.2**

9.1. At its meeting in March, the Council followed up its tenth annual review of developed country Members' reports on their implementation of Article 66.2. It requested the Chair to consult on the request by Haiti on behalf of the LDC Group that the Council adopt the proposed format for reports submitted by developed country Members under Article 66.2 contained in a communication by Angola on behalf of the LDC Group (IP/C/W/561).

9.2. At its meeting in October, the Council took up its eleventh annual review of developed country Members' reports on their implementation of Article 66.2. For this review, the Council received the first 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: Japan; New Zealand; Canada; the European Union and individual member States, namely Belgium, Finland, France, Ireland, Slovakia, Sweden and the United Kingdom; as well as Norway; Switzerland; the United States; and Australia. This documentation is being circulated in document IP/C/W/594 and addenda. The Council also continued its discussion on the request by Haiti on behalf of the LDC Group that the Council adopt the proposed format for reports submitted by developed country Members under Article 66.2 contained in a communication by Angola on behalf of the LDC Group in document IP/C/W/561.

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

10.1. At its meeting in March, the Council followed up its annual review of technical cooperation held at its meeting in November 2012. The Council had before it a communication from Madagascar identifying its priority needs for technical and financial cooperation (IP/C/W/584).

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 Council for TRIPS 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: Japan; New Zealand; Canada; the European Union and individual member States, namely Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, the Netherlands, Portugal, Romania, Slovenia, Spain and the United Kingdom; as well as Norway; Switzerland; the United States; and Australia (being circulated in IP/C/W/593 and addenda). Updated information was also received from the WCO, OECD, WHO, UNCTAD; FAO, and WIPO (being circulated in IP/C/W/591 and addenda), as well as from the WTO Secretariat (IP/C/W/590 in French and Spanish, and IP/C/W/590/Rev.1 in English). In addition, at its meeting in October, the Council had before it a communication from Togo identifying its priority needs for technical and financial cooperation (IP/C/W/597).

## **11 REQUEST FOR AN EXTENSION OF THE TRANSITIONAL PERIOD UNDER ARTICLE 66.1 OF THE TRIPS AGREEMENT**

11.1. At the request of Nepal on behalf of the LDC Group, at its March meeting the Council had on its agenda an item on "Request for an Extension of the Transitional Period under Article 66.1 of the TRIPS Agreement". It had before it a request initially presented by Haiti on behalf of the LDC Group under "Other Business" at the Council's meeting in November 2012 (IP/C/W/583). The Council agreed to revert to the matter at its meeting in June 2013, and requested the Chair to hold consultations with a view to resolving the matter at that meeting. At its meeting in June, the Council adopted a decision on "Extension of the Transition Period under Article 66.1 for Least Developed Country Members" (IP/C/64).

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<sup>5</sup> Document IP/C/65.

## **12 PROPOSED MEASURE BY NEW ZEALAND: NOTIFICATION CIRCULATED IN DOCUMENT G/TBT/N/NZL/62, DATED 24 JULY 2012, ON A PROPOSAL TO INTRODUCE PLAIN PACKAGING OF TOBACCO PRODUCTS IN NEW ZEALAND**

12.1. At the request of the Dominican Republic, at its March meeting the Council had on its agenda an item on "Proposed Measure by New Zealand: Notification Circulated in Document G/TBT/N/NZL/62, Dated 24 July 2012, on a Proposal to Introduce Plain Packaging of Tobacco Products in New Zealand".

## **13 INTELLECTUAL PROPERTY AND INNOVATION: SMALL AND MEDIUM-SIZED ENTERPRISES**

13.1. At the request of Chile, Korea, Chinese Taipei, and the United States, at its March meeting the Council had on its agenda an item on "Intellectual Property and Innovation: Small and Medium-Sized Enterprises".

## **14 INTELLECTUAL PROPERTY, CLIMATE CHANGE AND DEVELOPMENT**

14.1. At the request of Ecuador, at its June meeting the Council had on its agenda an item on "Intellectual Property, Climate Change and Development". It had before it a submission from Ecuador entitled "Contribution of Intellectual Property for Facilitating the Transfer of Environmentally Rational Technology" (IP/C/W/585), which Ecuador had initially presented under "Other Business" at the Council's meeting in March.

## **15 INTELLECTUAL PROPERTY AND INNOVATION: COST-EFFECTIVE INNOVATION**

15.1. At the request of Canada, Chile, the European Union, Korea, Switzerland, Chinese Taipei, and the United States, at its June meeting the Council had on its agenda an item on "Intellectual Property and Innovation: Cost-Effective Innovation".

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

16.1. At the request of Ecuador, at its October meeting the Council had on its agenda an item on "Contribution of Intellectual Property to Facilitate the Transfer of Environmentally Rational Technology".

## **17 INTELLECTUAL PROPERTY AND SPORTS**

17.1. At the request of the European Union, Jamaica, Mexico, Trinidad and Tobago,<sup>6</sup> and the United States, at its October meeting the Council had on its agenda an item on "Intellectual Property and Sports".

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

18.1. 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.

## **19 OTHER BUSINESS**

19.1. At the Council's meeting in June, Nicaragua and Cuba raised, under "Other Business", the issue of a proposal for an EU directive on tobacco products.

19.2. At the Council's meeting in October, the Dominican Republic raised, under "Other Business", the issue of an announcement of 18 September by the Government of Ireland regarding the

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<sup>6</sup> Trinidad and Tobago joined the other cosponsors of the item after the circulation of the proposed agenda for the meeting.

legislative programme for the autumn session 2013 which includes generic packaging of tobacco products under Section C.

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