



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

**MINUTES OF MEETING**

HELD IN THE CENTRE WILLIAM RAPPARD ON 16-17 MARCH 2023

*Chair: H.E Ambassador Dr Lansana Gberie (Sierra Leone)*

*Addendum*

The present document contains the statements made during the Council for TRIPS meeting held on 16-17 March 2023.

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\*A record of statements as delivered in the formal session of the Council. Some statements have been lightly edited as appropriate to ensure the consistency of presentation.

## **1 NOTIFICATIONS UNDER PROVISIONS OF THE AGREEMENT**

### **1.1 WTO Secretariat**

1. The Council has received the following notifications from Members since its meeting in October 2022. Under Article 63.2:

- A number of the member States of the European Union have notified a significant number of primary and secondary domestic laws relating to the substance and the administration of their respective IP systems. These EU member States are Bulgaria, Latvia, Austria, Lithuania, Denmark, Italy, Portugal, and Ireland. Given the number and diversity of notifications I will not attempt to summarize them here – also because we know that Members will provide a brief introduction of their submissions shortly.
- Canada has notified an amended set of patent rules.
- Ukraine has notified two laws relating to geographical indications and a cabinet resolution addressing issues of the National Intellectual Property Authority.
- Costa Rica has notified a significant number of laws and regulations relating to the entirety of its substantive IP system.
- Japan has notified consolidated versions of the Trademark Act and the Designs Act.
- Hong Kong, China has notified Rules and an Ordinance related to Registered Designs.
- Chinese Taipei has notified its Copyright Act, its Patent Act, as well as Enforcement Rules of the Patent Act.
- Saudi Arabia has notified the Law and implementing regulations relating to Arbitration. It has also notified Executive Regulations relating to the Copyright Law and the Patent law.
- Australia has notified amended Copyright Regulations which extend protection for secondary uses of foreign sound recordings to additional countries that provide equivalent protection to Australian sound recordings.
- The United Kingdom has notified regulations related to the market organization and protection of agricultural products, food and drink after its withdrawal from the European Union.
- The Gambia has notified its 2021 Intellectual Property Bill and related 2022 Regulations.
- The Republic of Korea has notified its Agricultural and Fishery Products Quality Control Act.

Under Article 69, which regards contact points for IP enforcement Ireland, El Salvador, the European Union and The Gambia have notified such contact points since the last meeting.

2. Finally, the Council for TRIPS has also received responses to the Checklist on issues of Enforcement, which are part of Members' obligation under Article 63.2. Since our last meeting, Austria, El Salvador, Botswana and The Gambia have submitted new or updated responses this Checklist.

3. This concludes the overview of notifications received since our meeting in October 2022.

### **1.2 Canada**

4. Canada would like to briefly take the floor to notify Canada's recent regulatory amendments to the Patent Rules, as provided under document [IP/N/1/CAN/P/20](#). These amendments streamline the patent examination process to better ensure efficient and timely processing of patent applications.

The amendments also enable Canada to meet certain international commitments under the Patent Cooperation Treaty.

5. By way of brief overview, the amendments introduce reasonable limits on patent application processing and application sizes, while also providing the flexibility to exceed those limits, subject to the payment of additional fees. For instance, new to the Canadian patent system is a request for continued examination, which will enable continued examination of the application after the three-report limit is reached. This is expected to encourage faster disposition of patent applications. A new fee for excess claims for applications that exceed more than 20 claims is intended to encourage applicants to file compact applications and discourage the filing of an unnecessarily large number of claims. Lastly, a new notice from the Canadian Intellectual Property Office to applicants named a "conditional notice of allowance" will serve to fast-track the granting of a patent when only minor defects remain in the application. Canada would be pleased to provide further information on these amendments to any interested Member or Observer at their request.

### 1.3 United Kingdom

6. The United Kingdom considers the WTO notification system to be an essential element of transparency between WTO Members. Since our last update we have notified on several new items, largely relating to geographical indications and the 'UK's exit from the European Union.

7. We also notified two amendments to the UK Trademarks Act 1994 which, firstly, will provide the right for holders of unregistered -Known Marks to prohibit the use of a conflicting trademark, where it is being used on dissimilar goods or services.

8. It also amends a nuance in our existing trademark law which means that now the "well-known mark" provisions will apply to the UK as well as third countries. Historically, UK-based individuals and businesses have been able to rely on alternative provisions within common law and the Trademarks Act to enforce their rights. For example, where they hold a registered mark or can seek recourse through the tort of passing off. We therefore took this opportunity to extend the well-known mark provisions to ensure that existing well-known mark provisions under the Trademarks Act 1994, will now include the UK in scope.

9. We would again like to thank the Secretariat for the efficiency and ease of use of the e-TRIPS system and continue to encourage other Members to use it.

### 1.4 Australia

10. The Copyright (International Protection) Amendment Regulations 2022 extended protection for secondary uses of sound recordings in Australia to recordings from an additional seven countries which provide equivalent protection to Australian sound recordings. These countries are Belize, Congo, Cook Islands, Kiribati, Sao Tome and Principe, Senegal and Vanuatu. Australia will be pleased to provide further information to these seven countries or other interested Members upon request and would also like to extend our thanks to the Secretariat for its assistance in submitting this notification.

### 1.5 Ukraine

11. Ukraine is pleased to present its three notifications of recent institutional and legislative developments in the field of intellectual property. Let me start with the notification [IP/N/1/UKR/14](#) which informs about institutional changes in the performance of the functions of the National Intellectual Property Authority, established by the Law of Ukraine № 703-IX of 16 June 2020.

12. Since 8 November 2022, according to the Resolution of the Cabinet of Ministers of Ukraine, the state organization ""Ukrainian National Office of Intellectual Property and Innovations"" (UANIPPIO) has been fulfilling above-mentioned functions, while, from the same date, the State Enterprise ""Ukrainian Intellectual Property Institute"" has stopped all its activities as National IP office.

13. The UANIPPIO is now responsible for registration of intellectual property rights, maintaining state registers, support of the activities of collegial bodies and international cooperation. It performs informational and publishing activities, gives consultations on IPRs granting procedures and

protection, assists in search for an investors and IP commercialization, and provides other state services in the IP sphere based on the principles of transparency, professionalism, decency and support. By transferring these functions, Ukraine is completing the institutional reform of national IP system and the implementation of relevant legislation. We strive for our National IP office to become a modern, professional, technological and transparent full-cycle hub as a "single-window" for innovators that constitutes the conceptually new approach to providing services in the field of intellectual property.

14. As regards to Ukraine's other notifications [IP/N/1/UKR/13](#) and [IP/N/1/UKR/15](#), these concern laws of Ukraine, recently adopted in the area of geographical indications (GIs). Particularly, the Law of Ukraine №2572 defines peculiarities of legal protection of GIs for agricultural products and foodstuffs. It lays down rules for application of quality schemes, establishes criteria for granting legal protection, and sets out registration requirements and the conditions for the use of registered GIs and traditional specialties guaranteed. The Law also includes provisions on control measures and provides for liability for its violation. Implementation of provisions of this Law should enable consumers to distinguish and to be better informed about quality specifics, characteristics and features of products while also supporting producers in promotion of their sales.

15. The Law of Ukraine № 2800 aims to determine the specifics of the registration, use and protection of GIs for spirit drinks. It includes definitions, categories of spirit drinks, provisions on registration procedure, including requirements for the content of specifications and application process. Also provides for the rules on certification, labelling, state control and liability for violations in order to prevent the unauthorized use of registered GIs of spirit drinks.

16. The above-mentioned laws were developed with the view of implementing provisions of appropriate Regulations of the European Union and adopting the EU's best practices and experience in area of GIs. Taking this opportunity, I would also like to thank the WTO Secretariat for the assistance provided in processing notifications. To conclude, let me reassure the WTO Members that IP continues to be of vital importance to Ukraine's economy placed on a war footing.

17. Acknowledging the necessity of improvement of the IP system, these days we are fighting for the preservation of principles of freedom and independence while the terrorist regime of the Russian Federation continues terrorizing Ukrainian civilians. The war of aggression conducted by the Russian Federation against Ukraine directly influences the IP sphere as well. For example, the protection of some geographical indications is in fact suspended because the respective regions are under the temporary Russian occupation. We are honored to join the discussions under the proposed Agenda but it is unacceptable to do it with a country that has been violating international law, killed civilian people, destroyed civilian infrastructure facilities, including educational and medical institutions, cultural and religious buildings.

18. We are confident, that development of effective IP system and improvement of national legislation in this area, despite the full-scale Russia's invasion, will provide proper level of IP rights protection and foster additional opportunities for producers and creators, promoting innovations and investments that are essential for Ukraine's reconstruction and recovery following our victory. We would like to thank all WTO Members who continuously support not only us, but also the very democratic principles of peaceful development.

## **1.6 Hong Kong, China**

19. Pursuant to Article 63.2 of the TRIPS Agreement, Hong Kong, China submitted two notifications [IP/N/1/HKG/38](#) and [IP/N/1/HKG/39](#) on 18 November 2022. The first notification is related to the amendment to the Registered Designs Ordinance introduced under the National Flag and National Emblem (Amendment) Ordinance 2021 to the effect that a design is not registrable if it consists of or contains the national flag or the national emblem of the People's Republic of China or their designs.

20. The second notification is related to the amendment to the Registered Designs Rules to provide that evidence of consent to the registration of a design (on which any armorial bearings, etc. appears) is subject to the new prohibition under the Registered Designs Ordinance.

## 1.7 Korea, Republic of

21. Korea provided a notification to the WTO on 23 February 2023, regarding the amendment of 'Agricultural and Fishery Products Quality Control Act' in accordance with Art. 63.2 of the TRIPS Agreement, which can be found in document [IP/N/1/KOR/23](#).

22. Although the law contains provisions on geographical indications, making it subject to the WTO notification, the amendment at issue is not related to a GI, and it is only administrative in nature, such as safety inspection. However, we provide this notification on the general transparency dimension. In case we have an amendment directly related to GI, we will certainly provide a notification accordingly. Regarding other TRIPS-related amendments and notifications recently provided, we will provide explanation in the next regular TRIPS meeting.

## 1.8 Chinese Taipei

23. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would like to make a brief introduction on one of our three notifications circulated recently. [IP/N/1/TPKM/36](#) (Amendments to the Enforcement Rules of the Patent Act). Articles 67 and 80 of the Enforcement Rules of the Patent Act were amended. The key points of the amendments include the following: when requesting for recordation of pledge establishment of a patent right, the patentee or the pledgee is exempt from providing a patent certificate, streamlining the administrative process. Under circumstances when there are changes to the particulars in the patent certificate, the patentee may file an application for a replacement or a re-issuance. When the Specific Patent Agency replaces or reissues a new patent certificate, the nullification of the original patent certificate shall be published in the Patent Gazette.

## 1.9 European Union

24. Before introducing the notification made by the European Union and its member States we would like to thank the Ukrainian authorities for their intervention today and for complying with the notification obligations of the TRIPS Agreement under the unprecedented circumstances caused by the brutal and unprovoked illegal invasion of Ukraine by the Russian Federation. The European Union can only admire efforts of Ukrainian authorities in a situation where even the Ukrainian capital is under constant fire from Russian attacks on non-military targets and where Russia illegally occupies parts of the Ukrainian territories – I think the sandbags in Mr Ovechkin's office during his earlier remote intervention were quite telling – and also the impact of the Russian occupation on GIs.

25. The EU appreciates that one of the notifications, namely [IP/N/1/UKR/15](#), concerns the implementation of EU Regulation 2019/787 of the European Parliament and of the Council on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) N° 110/20. This implementation is one important step in the process of Ukrainian accession to the EU as, indeed, on 23 June 2022 the EU granted Ukraine the status of a candidate for accession to the European Union. The EU stands firmly by Ukraine and its people in this unparalleled crisis and will provide further political, financial, military and humanitarian assistance to Ukraine.

26. Now, moving to the EU and its member States' notifications, the European Union and its member States place a high emphasis on notifications as an important tool to increase transparency in the WTO including in the IP context. We are therefore happy that as many as eight EU member States have since October 2022 provided extensive notifications to the WTO in the area of intellectual property to make sure that their notification record in this area is fully up to date. I will now present the notification made by Bulgaria, Latvia and Austria, and the remaining notifications will be presented online by my colleague Pierre-Yves who is in Brussels. I start with the Bulgarian notifications and here we are talking about all together 18 notifications from [IP/N/1/BGR/3](#) until [IP/N/1/BGR/21](#).

27. In 2022 Bulgaria kept up with the continuing notification obligations and supported this Council's monitoring function by providing updates to its initial submissions. The notified laws and regulations under Article 63.2 of the TRIPS Agreement can be grouped in two categories:

- The main laws and regulations
- Secondary laws: national laws which are not dedicated to intellectual property rights as such, but which nonetheless pertain to the availability, scope, acquisition, enforcement and prevention of abuse of intellectual property rights.

28. The main IP legislation includes the following:

- 1) Copyright and Related Rights Act; notification [IP/N/1/BGR/3](#),
- 2) Industrial Design Act; which is [IP/N/1/BGR/4](#),
- 3) Trademarks and Geographical Indications Act; notification [IP/N/1/BGR/5](#),
- 4) Act on Patents and Registration of Utility Models; notification [IP/N/1/BGR/6](#),
- 5) Act on Protection of New Plant Varieties and Animal Breeds; notification [IP/N/1/BGR/7](#),
- 6) Act on The Topology of the Integrated Circuits; notification [IP/N/1/BGR/8](#),

29. These acts consolidated or replaced previous versions of notified legal acts. They incorporate all amendments that have been made in the period from 2010 until 2022. These are not initial notifications by their nature but rather updated versions that refer back to laws that have been notified earlier.

30. The other pieces of main IP legislation are:

- 7) Regulation of the Council of Ministers N° 102 of 30 May 2022 for the Repeal of Legislative Acts of the Council of Ministers; [IP/N/1/BGR/19](#),
- 8) Regulation of the Council of Ministers N° 242 of 27 December 1999 on the Tariff of Fees Collected by the Patent Office of the Republic of Bulgaria; [IP/N/1/BGR/21](#). The aim of notifying the abovementioned regulations is to inform the membership that previously notified regulations have been repealed.
- 9) Regulation of the Council of Ministers N° 120 of 25 March 1997 on the establishment of Council for copyright and neighboring rights protection; [IP/N/1/BGR/9](#). This Regulation has been amended as of 8 July 2022 in line with the initiated institutional changes in Bulgaria which led to amendments in the composition of the Council for Copyright and Neighboring Rights Protection.

31. Now, moving to the secondary legislation. It includes the following:

- 1) Constitution of the Republic of Bulgaria;
- 2) Protection of Competition Act;
- 3) Code of Civil Procedure;
- 4) Administrative Violations and Penalties Act;
- 5) Administrative Procedure Code;
- 6) Judiciary System Act;
- 7) Penal Code;
- 8) Penal Procedure Code;



32. All of the abovementioned legal texts have been submitted initially in 1998. The notified last versions incorporate all amendments and consolidations until 2022.

9) Regulation of the Council of Ministers N° 233 of 8 November 2000 on the Foreign Trade Regime of the Republic of Bulgaria;

10) Regulation of the Council of Ministers N° 15 of 31 January 2006 Amending Regulatory Acts of the Council of Ministers.

33. The aim of notifying the abovementioned regulations was to inform that previously notified regulations have been repealed. This concludes the presentation of Bulgarian notifications.

34. I will now move on to notifications made by Latvia and here we have 14 notifications ranging from [IP/N/1/LVA/2](#) until [IP/N/1/LVA/15](#). The most significant changes have been the new Trademark Law and corresponding Cabinet Regulations. Regarding the new Trademark Law, Latvia is preparing the official translation and therefore, the notification will be submitted at a later stage. On the Cabinet Regulation N° 266 which is [IP/N/1/LVA/2](#):

- Cabinet Regulation N° 266 Adopted 27 April 2021 Regulations Regarding Applications for the Registration of Trademarks, Transfer of Rights and Licensing Thereof has been elaborated on the basis of the delegation established in Article 28, Paragraph 8, Article 29, Paragraph 11 and Article 30, Paragraph 6 of the Trademark Law, thus applying the provisions of the Trademark Law which transposes the provisions of the Law of the European Parliament and of the Council of 16 June 2015 on the Trademark Registration, Transitional and Licensing of Rights to a Trademark. Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the member States relating to trademarks, as well as on the basis of the Singapore Agreement on Trademarks of 27 March 2006, in force in Latvia since 16 March 2009, which sets out the elements of the administrative procedures for the registration of trademarks in the member States of that Agreement.

35. I will now provide additional information on Trademark Law: on 6 March 2020, the Trademark Law entered into force and the Law on Trademarks and Indications of Geographical Origin expired. The Trademarks Law implements Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the member States relating to trademarks. The Trademark Law regulates legal relations in the field of registration and protection of trademarks and collective marks, as well as protection of geographical indications. However, it also regulates legal relations in the field of the protection of the registration of certification marks.

36. As regard of some other changes: the latest amendments to the Patent Law in [IP/N/1/LVA/3](#) have been drafted in order to provide for the introduction of a unitary European patent, which will coexist with national patents and the classical European patent. Unitary Patents will make it possible to get patent protection in up to 25 EU member States by submitting a single request to the European Patent Office (EPO), making the procedure simpler and more cost effective for applicants. Considering that on 1 June 2023 Unified Patent court will enter into force, the Patent law has been amended accordingly.

37. Another change is the latest amendments to the Law on Industrial Property Institutions and Procedures, notification [IP/N/1/LVA/4](#), that implements Directive (EU) 2015/2436 as mentioned before. The latest amendments will further provide for the possibility for interested parties to lodge an application with the Board of Appeal for Industrial Property for the revocation or cancellation of a trademark.

38. As regards Copyright Law, which is notification [IP/N/1/LVA/9](#) - majority of the amendments were the result of the transposition of the European Union directives in the field of copyright and related rights. As for Law on Collective Management of Copyright, notification [IP/N/1/LVA/10](#) - the law was elaborated to implement the European Union directive N° 2014/26/EU on collective management of copyright.

39. Finally, some further information on the remaining notifications:

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- Notification [IP/N/1/LVA/5](#) is Cabinet Regulation N° 732 Adopted 15 December 2015 on Price List of Paid Services of the Industrial Property Board of Appeal. The Rules determine fees, payment procedures and concessions for the services provided by the Industrial Property Board of Appeal.
  - Notification [IP/N/1/LVA/6](#) is Cabinet Regulation N° 719 Adopted on 15 December 2015 on Procedures by which a Person Handling Registration or Post-registration Procedures shall Submit Documents to the Patent Office.
  - Notification [IP/N/1/LVA/7](#) is a Law on Designs. The law regulates legal relations in the field of registration, use and protection of designs.
  - Notification [IP/N/1/LVA/8](#) is a Law on the Protection of Topographies of Semiconductor Products. The law determines how topography in the Republic of Latvia is protected and registered in the Patent Office.
  - Notification [IP/N/1/LVA/11](#) is a Cabinet Regulation N° 556 Adopted 2 September 2020 on the Procedures for the Registration, Protection, Supervision and Control of Geographical Indications, Designations of Origin and Traditional Specialties Guaranteed of Agricultural Products and Foodstuffs. The Regulation prescribes the procedures for the registration, protection and supervision of geographical indications of agricultural products and foodstuffs, including spirit drinks and wines and also the procedures for the supervision and control of the scheme of protected designations of origin and the scheme of traditional specialties guaranteed in conformity with the EU law.
  - Latvian notification then [IP/N/1/LVA/12](#) is a Law on the Supervision of the Handling of Food. The Law determines the competent authority to supervise and control the protection of geographical indications and names of the place of origin, and also of traditional specialties.
  - Notification [IP/N/1/LVA/13](#) is Cabinet Regulation N° 764 - Adopted 22 December 2015 - Regulations Regarding the Sample Forms of the Registration Procedure of Designs and the Sample Registration Certificate Thereof. The Regulation determines specimen of application forms required for the registration of designs and a specimen of the design registration certificate.
  - Notification [IP/N/1/LVA/14](#) which is Customs Law and Amendments were made to the Customs Law to make sure that disputes regarding the violation of intellectual property rights are resolved in a civil procedure.
  - Final notification, [IP/N/1/LVA/15](#) which is Cabinet Regulation N° 468 from 2017 on the Rules on certain types of customs control that includes procedure described in Section 14.5 of the Customs Law.

40. That concludes the Latvian notifications, and the next notifying member is Austria and here we have six notifications. Austria notified a rather wide variety of laws, namely the latest versions of their Patent Act, Copyright Act, Trademark Protection Act, Design Law and Collecting Societies Act and the EU on behalf of Austria is happy that all these measures are now completely up to date in the WTO's files.

41. The Copyright Act, the Trademark Protection Act and the Design Act have been amended various times since 1996. These amendments are based in particular on the implementation of the European directives. As regards copyright, most recently, in 2021, Directive (EU) 2019/790 on copyright in the digital single market was implemented. As for trademarks, most recently Directive (EU) 2015/2436 mentioned already before was implemented and finally, as regards designs, one of the later amendments concerns the implementation of EC Directive 2004/48/EC on the Enforcement of Intellectual Property Rights, *inter alia*, by changing the procedure in regard to registration and cancellation of designs by entrusting the "Oberlandesgericht Wien", with appeal procedures in second instance.

42. When it comes to patents, the Patent Act 1970 was amended by the Federal Law Gazette N° 149/2004 which changed the structure of the patent application procedure (formal grant, publication of patent applications after 18 months) and combined the fee provisions regulated in individual acts into a single act. The amendment Federal Law Gazette I N° 126/2013 changed the system of instances in connection with invention protection rights. The second instance is now the Vienna Higher Regional Court; if a third instance decides, it is the Supreme Court. The amendment Federal Law Gazette I N° 71/2016 abolished the dual structure of the Patent Office and dissolved the partial legal capacity. Furthermore, it was clarified that not only conventional breeding methods of animals and plants are excluded from patenting, but also the conventionally-bred animals and plants themselves.

43. Finally, with regard to Austria, the Austrian Collecting Societies Act 2016 specifies the rights and obligations of collective management organizations and Independent collective management organizations towards their beneficiaries, users and the regulatory authorities.

44. This concludes my part of the notifications made by the EU and its member States and I hope my colleague Pierre Yves in Brussels will raise the flag and continue with the presentation of notifications by Lithuania, Denmark, Italy, Portugal, and Ireland. Pierre-Yves's flag is up so, thank you.

45. Thanks a lot Martin. Yes, Lithuania notified five pieces of law ranging from [IP/N/1/LTU/2](#) until [IP/N/1/LTU/6](#).

- [IP/N/1/LTU/2](#) is Law on Designs concerns procedural amendments, in *concreto* technical amendments concerning link to other state registers. There is also a special provision concerning calculation of time limits during the state of emergency.
- [IP/N/1/LTU/3](#). The Law on the Legal Protection of Topographies of Semiconductor Products. It contains technical amendments concerning the management of the register.
- [IP/N/1/LTU/4](#) is a Law on Trademarks. It is an implementation of the EU Directive 2015/2436 on Trademarks.
- [IP/N/1/LTU/5](#) on Patent Law. The law is an alignment with Patent Law Treaty and is supplemented with provisions concerning Unitary patent. Again, there are technical amendments concerning link to other state registers and a special provision concerning calculation of time limits during the state of emergency.
- [IP/N/1/LTU/6](#) is a Law on Fees for the Registration of Industrial Property Objects sets out amendments of amounts and payment of applicable fees.

46. That is it for Lithuania. Now switch to Denmark. Denmark notified ten pieces of law ranging from [IP/N/1/DNK/3](#) until [IP/N/1/DNK/5](#).

- [IP/N/1/DNK/3](#): the Consolidated Plant Variety Protection Act, N° 1131 of 3 July 2020. The Act contains provisions on the rights for plant breeders to have their new plant varieties protected and to the entitlement to charge royalty for the use of propagating material of the protected variety and liability to punishment.
- [IP/N/1/DNK/4](#) is The Consolidated Patents Act, N° 90 of 29 January 2019. The Act contains provisions and basic principles on patents. Included are provisions on patent applications and examination, licensing and transfer, termination of patent, liability to punishment and liability for damages.
- [IP/N/1/DNK/5](#) is the Consolidated Secret Patents Act, N° 107 of 24 January 2012. The Act contains provisions for inventions relating to war material or processes for the manufacture of war material.
- [IP/N/1/DNK/6](#) - The Consolidated Employees' Inventions Act, N° 104 of 24 January 2012. This Act contains provisions on the inventions made by employees. Included are provisions

on the employee's right to apply for patent and the employer's right to transfer of the right to the invention.

- [IP/N/1/DNK/7](#). The Consolidated Utility Models Act, N° 91 of 29 January 2019. The Act contains provisions relating to utility models.
- [IP/N/1/DNK/8](#). The Consolidated Inventions at Public Research Institutions Act, N° 210 of 17 March 2009. The Act contains provisions on patents related to research results produced with the help of public funds.
- [IP/N/1/DNK/9](#). The Consolidated Trademarks Act, N° 88 of 29 January 2019. This Act contains provisions on trademarks in respect of goods or services which are the subject of registration or of an application for registration, or to which rights are acquired through use, and international registrations with validity in Denmark.
- [IP/N/1/DNK/10](#). The Consolidated Designs Act, N° 89 of 29 January 2019. The Act contains general provisions and basic principles on designs. Included are provisions on applications and examination, licensing and transfer, termination of registrations, liability to punishment and liability for damages.
- [IP/N/1/DNK/11](#). The Consolidated Protection of Topographies of Semiconductor Products Act, N° 92 of 29 January 2019. This Act contains provisions on the protection of Topographies of Semiconductor Products.
- [IP/N/1/DNK/12](#). The Trade Secrets Act, N° 309 of 25 April 2018 on Trade Secrets.

47. I switch now from Denmark to Italy. Italy provided one notification:

- [IP/N/1/ITA/8/REV](#). 1. As for Italy, the point on the agenda is not new in substance and it was already presented at last Council for TRIPS in October 2022. The translation in English we provided last year was incomplete, therefore a revised version with the complete translation has been put in the agenda of the March 2023 Council for TRIPS. But in substance there are no changes compared to the legislation presented in October 2022.

48. In 2020, the Industrial Property Code of 2005 was amended by the Legislative Decree N° 34 of 19 May as regards the historic national brand. The procedure introduced in 2019 concerning companies owing historic national brands deciding to relocate abroad was repealed, together with the corresponding support fund.

49. The next EU member State is Portugal:

- [IP/N/1/PRT/2](#) is the Decree-Law N° 110/2018 of 10 December (approving the new Industrial Property Code). This is a General Code on IP comprising general rules on all industrial property and specific rules on patents, utility models, semiconductor topographies, designs or models, trademarks, appellations of origin and geographical indications and trade secrets. The general rules contain provisions on administrative and judicial processes, transfers of licenses, extinctions of rights or infractions.
- [IP/N/1/PRT/3](#). It is Order N° 112 — A/2019 of 1 July and Resolution N° 680/2022 of 9 June 2022 updating industrial property fees. As the title indicates, the order provides fees linked to the filing of industrial property rights.

50. Finally, I take the floor on behalf of Ireland:

- [IP/N/1/IRL/2](#) - this particular notification relates to the Irish Trademarks Rules 1996 legislation, which prescribes for the practices and procedures to be used in relation to the provisions of the Trademarks Act 1996. The Rules prescribe for:
  - the forms to be used for an application for registration of a Trademark,
  - the fees payable in relation to any matter under the Act and Rules,

- 
- the renewal, restoration, division and merger applications or registrations,
  - Collective and Certification Marks,
  - the rules regarding the Trademarks Register and the revocation, invalidation and rectification of the Register,
  - the registration of Trademark Agents,
  - the powers and duties of the Controller of Intellectual Property Rights,
  - application to and Orders of the Court and a number of other miscellaneous matters.
- [IP/N/1/IRL/3](#) called the "COMMUNITY TRADEMARK REGULATIONS, 2000 (Statutory Instrument Number 229/2000)" which extends the provisions of section 25 of the Trademarks Act, 1996 which deals with infringing goods, materials or articles and the power of seizure and search in relation to such goods to cover a community trademark as well as a registered trademark. Community trademark is European Union trademark.
  - [IP/N/1/IRL/4](#). It is the "COURTS OF JUSTICE ACT, 1924". The Act for the establishment of Ireland's Courts of Justice, pursuant to Ireland's Constitution, which provides for the establishment of the High Court of Ireland and the Supreme Court of Ireland, which under the "COMMUNITY TRADEMARK REGULATIONS, 2000" are respectively designated as community trademark courts of first instance and second instance.
  - [IP/N/1/IRL/5](#). The "COURTS (SUPPLEMENTAL PROVISIONS) ACT, 1961" provides supplementary provisions on certain staffing and jurisdictional issues related to all levels of Ireland's Courts, including the High Court of Ireland and the Supreme Court.
  - [IP/N/1/IRL/6](#). It is the "CONSUMER INFORMATION ACT, 1978" which provides for the establishment of Ireland's Office of the Director of Consumer Affairs and makes provisions in relation to the information given in connection with goods, services, accommodation or facilities, provided in the course trade which intends to protect consumers against false or misleading claims about goods, services and prices. The Act provides that the fact that a trade description is a trademark, or part of a trademark, within the meaning of the Trademarks Act, 1963, does not prevent it from being a false trade description when applied to any goods, except where certain conditions, which are set out in the Act, are satisfied.
  - [IP/N/1/IRL/7](#). The "JURISDICTION OF COURTS AND ENFORCEMENT OF JUDGMENTS ACT, 1998" which is an Act to consolidate the jurisdiction of Ireland Courts and enforcement of Judgements Acts, from 1988 to 1993.
  - [IP/N/1/IRL/8](#). Ireland's "COPYRIGHT AND RELATED RIGHTS ACT, 2000" which contains provisions in respect of copyright, protection of the rights of performers and rights in performances. It also contains provisions for licensing and registration schemes for copyright and related rights. This Act restates the law in respect of Council Directive 91/250/EEC on the legal protection of Computer Programs and Council Directive 93/98/EEC on Harmonizing the Term of Protection of copyright and certain related rights (giving effect to Article 2.1). It also gives effect to several other EU directives.

51. That finishes the notification from the EU and the EU member States.

#### **1.10 Japan**

52. This delegation is pleased to inform the Council for TRIPS that Japan recently amended both its Design Act and its Trademark Act. The amendments have been notified to this Council in accordance with Article 63.2. The reference numbers are [IP/N/1/JPN/65](#) for the Design Act and [IP/N/1/JPN/66](#) for the Trademark Act. We would like to take this opportunity to briefly explain these amendments.

53. The amendments to both the Design Act and the Trademark Act are based on one primary factor, which is to prevent the influx of counterfeit goods from overseas in response to the increase in counterfeit goods being imported for private use.

54. Textual amendments were made so that acts by overseas vendors such as commercially bringing counterfeit goods into Japan via postal mail shall be treated as infringements of design and trademark rights. The Government of Japan will continuously fulfill its obligation to ensure the accessibility and transparency of the Japanese intellectual property system.

#### **1.11 Costa Rica**

55. Costa Rica is grateful for the opportunity to discuss the notifications that we have submitted under this item on the Council's agenda. Firstly, we wish to point out that the notifications were submitted as part of my delegation's efforts to bring us up to date. In this connection, we would like to thank the Secretariat for the annual reporting on notifications, as this helped identify the need for the notifications that we had previously sent to the TRIPS Council to be updated.

56. There have been significant intellectual property rights related regulatory developments in Costa Rica since we last submitted notifications on our legislation, which is reflected in the wide range of notifications under consideration today. Most of the legal reforms mentioned in these notifications stem from the implementation of the commitments taken on by Costa Rica under the Free Trade Agreement between the Dominican Republic, Central America and the United States, which entered into force in Costa Rica in 2009.

57. These reforms include regulatory amendments in various intellectual property related spheres, including, *inter alia*, copyright and related rights, trademarks and other distinctive signs, geographical indications, patents, new plant varieties and the enforcement of intellectual property rights. They are part of wider efforts to recognize the importance of intellectual property as a driver of innovation and inclusive economic development and to meet the highest international protection standards.

58. As part of these efforts, the Interinstitutional Coordination Commission for the Protection of Intellectual Property was established under Executive Decree No. 35631 J COMEX MICIT SP H of 30 September 2009 as an interinstitutional coordination body fostering the coordination of the work carried out by various state entities on intellectual property matters. This Commission is made up of representatives from the Ministries of Justice, Foreign Trade, Public Security, Science and Technology and Culture and Youth. They also form part of the Registry of Intellectual Property, the Directorate General of Customs, the Public Prosecutor's Office, the Judicial Investigation Body and the Judicial Academy.

59. In view of the large number of regulations notified and the time constraints, we will focus in this meeting on introducing the reforms of the regulatory frameworks for copyright and related rights, trademarks and distinctive signs and geographical indications. We will address the reforms introduced in other relevant areas at the next meeting of the Council.

60. With regard to copyright, the legislation on copyright and related rights was updated by increasing the scope of protection to include scientific works in addition to works in the literary and artistic fields (Law No. 8686 of 21 November 2002). Furthermore, the basic principle of non-discrimination is explicitly incorporated to ensure that the works of authors, artists, performers, producers of phonograms and other foreign right holders, whether or not domiciled in Costa Rica, are granted protection no less favourable than that accorded to the works of Costa Ricans, including any benefit arising from this protection.

61. Pursuant to the commitments taken on under trade agreements and multilateral instruments, the definitions of "broadcasting", "cinematographic work" and "performer" have been introduced into the Law, while certain concepts relating to the ownership of different types of works have also been delineated. Furthermore, a number of clarifications regarding moral rights have been incorporated.

62. The legislation guarantees that the author's consent does not negate the need for the performers' consent and *vice versa*. The baseline legislation on trademarks and distinctive signs is Law No. 7978 on Trademarks and Other Distinctive Signs and its implementing regulations



(Executive Decree No. 30233 J). A number of the Law's articles were amended by Law No. 8632 of 28 March 2008.

63. Trademark legislation is far-reaching and recognizes collective trademarks, certification marks, design marks, sound marks, three dimensional marks and well-known trademarks, to name a few examples.

64. Stricter rules were established on the registration of signs, with a view to preventing the registration of identical or similar signs likely to cause confusion due to similarity, even where the products or services are different but may be associated with those protected by a trademark or geographical indication previously registered or whose registration is pending.

65. It is important to point out that well-known trademarks do not need to have been registered in order for the Registry of Intellectual Property to reject identical or similar signs for any good or service. Our Registry has developed procedures to ensure that these processes are handled properly and in a timely manner.

66. Title VIII of Law No. 7978 on Trademarks and Other Distinctive Signs includes provisions on geographical indications and appellations of origin. These regulations were amended by Law No. 8632 of 28 March 2008. The rules and procedures for the implementation of this Title were laid down in Executive Decree No. 33743 COMEX J issued on 17 May 2007 and subsequently amended by Executive Decree No. 41572 COMEX J of 6 February 2019. The above-mentioned regulations established a sui generis system to protect geographical indications. In our legal system, trademarks do not prevail over geographical indications or vice versa. Instead, priority is afforded to whichever was registered first.

67. Geographical indications and appellations of origin are registered with the Registry of Intellectual Property. The relevant application may be submitted by the production sector or by a competent public authority, depending on its statutory powers and whether it has been duly authorized to do so by producer groups.

68. Protection does not extend to any generic terms contained in a geographical indication. A term is deemed to be generic when it is considered as such by experts and the general public in Costa Rica. Monitoring the use of signs is the responsibility of the regulatory councils, which are private bodies made up of producers.

69. With regard to foreign geographical indications, the procedure is simplified because such indications are duly registered in their country of origin and, as a result, there is no need for an additional technical study. The regulations indicate that a summary of specifications and proof of registration in the country of origin should be provided.

70. Before closing my statement, I would like to extend my delegation's thanks to the Secretariat's Intellectual Property, Government Procurement and Competition Division, whose collaboration has been key in the submission of these notifications. We also wish to highlight how useful the e-TRIPS tool was in this process, allowing for its quicker completion. On that note, I wish to conclude my statement and express our readiness to respond to Members' questions.

### **1.12 The Gambia**

71. The Gambia has notified the Intellectual Property Bill 2021 which was informed by the studies and consultations carried out during the development of the intellectual property policy. Some of the rights that will be protected under new IP bill include geographical indications, traditional knowledge and genetic resources, unfair competition, and trade secrets. The bill merges the industrial property office and the copyright office to streamline the efficient administration of intellectual property rights in The Gambia. It also provides an opportunity to domesticate all the IP protocols and treaties that The Gambia is a signatory to, or plans to sign in the future. The bill is now before the national assembly for enactment.

### 1.13 Russian Federation

72. My delegation did not plan to intervene on this item of the agenda however I have to comment some statements made. The Russian Federation wants to attract once again Members' attention that the inappropriate and misleading political statements made by some Members integrated in the agenda are out of the mandate of the Council for TRIPS. They only impede the work of the Council.

### 1.14 WTO Secretariat

73. The significant work of delegations going into the submission of notifications is monitored and recognized in the Annual Report on Notifications and other Information Flows that the Secretariat prepares annually. This is the third year that we are preparing this overview and I hand over to my colleague Natalie Carlson who is primarily responsible for an introduction of this year's report.

74. The Secretariat circulated a note entitled "Annual Report on Notifications and Other Information Flows" on 2 March 2023, carrying document symbol [IP/C/W/696](#). This report updates the first two such reports, which were warmly received by Members in 2021 and 2022. Like those reports, this year's report offers a factual overview of submission rates and trends for each of the primary TRIPS transparency mechanisms: notifications of laws and regulations; contact points; responses to the checklist on enforcement, and checklists relating to the reviews under Articles 24.2 and 27.3(b). It also discusses developed Members' annual reports under Articles 66.2 and 67.

75. The reports in this series are a continuation of the Secretariat's efforts to improve the factual information available to Members regarding the operation of the Council's transparency function. They seek to help Members make use of the publicly available e-TRIPS data, and to offer the Council for TRIPS a service of annual reporting on transparency mechanisms that is customary in other comparable WTO bodies. The current report covers submissions circulated from 1995 to the end of 2022, with a particular emphasis on 2022 submissions.

76. Following a brief introduction, the Report begins by updating Members on the rate at which they have taken up the e-TRIPS system. Since its 2019 launch, Members have increasingly opted to use the e-TRIPS Submission System to efficiently make transparency-related submissions to the Council online. In 2022, 86% of submitting Members used the system to submit 95% of all submissions.

77. The companion e-TRIPS Gateway, in turn, also continued to grow as a popular resource for Members who seek to access and analyse the data contained in Members' submissions. The number of daily page views for the Gateway nearly doubled from 2021 to 2022.

78. Having updated Members on e-TRIPS usage, the report then addresses each TRIPS transparency mechanism in turn in section 3. Each sub-section begins with a brief overview of the nature of the commitment (which stems either from the TRIPS Agreement itself, or subsequent decisions of this Council), and then summarizes the submissions circulated since 1995, with an emphasis on those circulated in the last year. We identify discernible trends and offer supporting charts, graphs, and tables. I will highlight a few key points related to each transparency mechanism on the next few slides.

79. First, with respect to notifications under Article 63.2 of the Agreement, it is evident that from 1995 through 2002 Members exerted significant efforts to submit initial notifications of their laws and regulations. However, given the ongoing nature of these obligations, and Members' continuously evolving IP systems, fewer notifications of subsequent and revised legislation have been received than would be expected. 36% of Members subject to the Article 63.2 obligation have not notified a new or amended law or regulation in over 15 years.

80. Although the total number of submitted laws and regulations declined in 2022 after the United Kingdom completed its considerable two- year effort to update its legislation, 2022 saw a record level of Member engagement. More Members – 30, or 18% of the membership – notified a law or regulation in 2022 than in any year since 2004. The notifying Members come from diverse regions around the globe and are at different stages of development. Significantly one-third of those who notified a law or regulation in 2022 did so for the first time in 10 or more years – recognizing that it is never too late to reengage and reinvigorate the monitoring function of the Council for TRIPS.



81. We also observed more activity in 2022 with respect to the companion checklist of issues on enforcement. The blue trend line on this slide, showing the cumulative number of Members who have submitted responses, is fairly flat from 2002, indicating that most Members submitted their initial responses over 20 years ago. The yellow trend line, showing the cumulative number of updates received, ticked upward in 2022 after two Members, Switzerland and El Salvador, updated their earlier responses – the first such submissions since 2019.

82. The data also show that some contact point submissions may be in need of updating. Most Members under the obligation to notify contact points under Articles 69 and 67 of the Agreement have done so, but over 50% were submitted more than 10 years ago – and some date back over 20 years. Ten members submitted new or updated Article 69 contact points for cooperation on IP enforcement in 2022, 3 times more than in 2021. But only one Member, Austria, updated its contact point for technical cooperation under Article 67.

83. In addition to notifications, the report also provides information regarding developed Members' annual reports and information submitted pursuant to built-in reviews. Developed Members are to submit annual reports on actions taken or planned in pursuit of their commitment under Article 66.2 to provide incentives to enterprises and institutions for the purpose of promoting and encouraging technology transfer to LDCs. Developed Members have also agreed to annually report on programmes and projects undertaken to provide technical and financial cooperation in favour of developing and LDC Members under Article 67. The report identifies the number of these reports that were received each year, as well as the frequency with which individual Members have submitted reports. During the 2022 reporting cycle, 16 developed Members reported programmes under Article 66.2, one more than the prior year, and 15 developed Members reported programmes under Article 67, two more than the prior year.

84. The final transparency mechanisms addressed in the report relate to the Council's review under Article 24.2 of the application of the TRIPS Section on geographical indications, and the review under Article 27.3(b), relating to domestic frameworks for protecting biotechnology inventions and new plant varieties. The data show only sporadic submissions since Members first agreed to provide information in support of these reviews over twenty years ago. In 2022, Switzerland submitted updated responses to the checklist of questions in the context of the review under Article 24.2. No responses were received to the checklist of questions in the context of the review under Article 27.3(b). There is potential for more engagement in both of these reviews – fewer than one-third of Members have submitted responses to the checklist established by the Council under Article 24.2, and fewer than one-sixth of Members have submitted responses to the checklists established under the Council's review of Article 27.3(b).

85. Much more information on each of the transparency mechanisms introduced during this brief presentation, as well as information on less frequent *ad hoc* notifications, can be found in the report itself. Detailed tables in the Annex to the report supplement the main text by offering data by submission type and by individual Member.

86. We trust that this document will assist Members in enhancing the benefits of the transparency mechanisms set up under the TRIPS Agreement and by decisions of this Council. We encourage Members to review the report closely and to contact us with any questions regarding the data or the procedures for making a notification or other submission.

## **2 REVIEWS OF NATIONAL IMPLEMENTING LEGISLATION**

87. No statements were made under this agenda item.

## **3 IP AND COVID-19**

### **3.1 South Africa**

88. In the MC12 Declaration on the WTO response to the COVID-19 pandemic and preparedness for future pandemics, Members acknowledged that the pandemic has highlighted the importance of working towards enhancing timely, equitable and global access to safe, affordable and effective COVID-19 vaccines, therapeutics, diagnostics and other essential medical goods. We recognized the role of the multilateral trading system in supporting the expansion and diversification of production

of essential goods and related services needed in the fight against COVID-19 and future pandemics. We underscored the critical role that the WTO can play in promoting inclusive growth including industrialization, and development.

89. We wish to recall the statement of the 65 co-sponsors of the TRIPS waiver proposal, at the General Council of March 2023 where the co-sponsors outlined the concerns they have with the scope of the MC12 outcome and the time it has taken the WTO to deliver comprehensive outcomes that are relevant and in the interest of humanity. Importantly, the co-sponsors emphasized that the pace of discussions have outlined the importance of trigger-ready mechanisms to deal with future pandemics and called upon the TRIPS Council to urgently engage on this issue with a view to take this matter forward. We propose that agenda Item 3 be broadened to IP and COVID-19, and Preparedness for Future Pandemics to take into account bullet point 3 on document [WT/L/1142](#).

### **3.2 India**

90. Addressing inequitable access to health products remains a challenge in the context of the current pandemic, and therefore as mandated in the paragraph 23 of the MC12 WTO's response to the pandemic document, a solution to this critical issue is imperative to build resilience for future pandemics. The protracted discussions on the TRIPS waiver proposal and its delayed and limited outcome have highlighted the importance of a mechanism to deal with future pandemics. My delegation hopes that the TRIPS Council will engage on this issue in earnest and good faith to avoid repetition of the past mistakes and learn from our experiences. Further, we have a suggestion to make with respect to the title of this agenda item, which reflects both documents, [WT/L/1141](#) and document [WT/L/1142](#), the Ministerial Declaration on the WTO response to the COVID-19 pandemic and preparedness for future pandemics. As this agenda deals with implementation of MC12 outcomes with respect to this particular Council, this should get reflected in the title itself as this is not just limited to the COVID-19 pandemic.

### **3.3 European Union**

91. I think the item 3, IP and Covid-19 refers to documents that actually pertain narrowly to COVID-19 as such, to the pandemic that we have been discussing in this Council now for a number of meetings, a number of years, and the expansion to future pandemics at this stage does not necessarily seem to be useful, because this is something that we would like to, of course, also discuss internally. So, at this stage, on behalf of the European Union, I would like to further discuss with my capital, with Brussels, and of course we are open also to discussing with our colleagues from South Africa and India about this idea.

### **3.4 United Kingdom**

92. Similar to the European Union, we align ourselves with their comment, and we would also want to take this proposal back to capital to discuss further with colleagues there.

### **3.5 South Africa**

93. Just to thank the EU and the UK. We would like to indicate that the proposal is wholly in line with the Ministerial mandate in paragraph 23 of the Ministerial Declaration on the WTO response to the pandemic. Having said that, we are open to discussing with the colleagues with a view to finding out whether they would like to, at our level, reverse the Ministerial mandate.

## **4 REVIEW OF THE PROVISIONS OF ARTICLE 27.3(B)**

## **5 RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE CONVENTION ON BIOLOGICAL DIVERSITY**

## **6 PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE**

### **6.1 India**

94. Traditional knowledge continues to play crucial roles in economic, social and cultural life and development not only in traditional societies but also in modern societies. Contribution of traditional

knowledge to human development especially in food production, crop yields, health care transforms biodiversity into bioresources. Biodiversity and associated traditional knowledge are an integral strength of today's developing countries, particularly in the areas of agriculture, horticulture, as well as health and wellbeing. Traditional medicine has been an integral resource for health for centuries in communities around the world and it is still a mainstay for some with inequities in access to conventional medicine. The sociocultural practices and biodiversity heritages are invaluable resources to evolve inclusive, diverse and sustainable development. However, biopiracy and misappropriation of traditional knowledge remains a grave threat not only for the traditional, local communities but also for the environment and sustainable development.

95. This speaks to the mutual supportiveness of the two agreements, TRIPS and the CBD, and the need for a linkage. India reiterates its demand of an international enforceable regime to contain misappropriation. Patents should not be granted for existing traditional knowledge and associated genetic resources. Further, where traditional knowledge and associated genetic resources form the basis of scientific development, it is important to have disclosure of source or origin of the resource/knowledge along with disclosure that the access was on mutually agreed terms, thus enhancing transparency about the utilization of genetic resources and/or associated traditional knowledge.

96. Article 16.5 of the Convention on Biological Diversity clearly recognizes "that patents and other intellectual property rights may have an influence on the implementation of this Convention". It mandates that the Parties "shall cooperate in this regard, subject to national legislation and international law, in order to ensure that such rights are supportive of, and do not run counter to, its objectives." Furthermore, the Doha Ministerial Declaration in paragraph 19 has mandated that the TRIPS Council examine the relationship between TRIPS and the CBD, and the protection of traditional knowledge and folklore.

97. However, regrettably, the TRIPS Agreement continues to sideline various IPR-related obligations in the CBD despite a vast majority of the WTO membership being the demanders of this. Despite several submissions, two of which being [TN/C/W/52](#) submitted in June 2008 with the support of 109 Members, followed by the last submission on this issue [TN/C/W/59](#) in April 2011, as well as several rounds of in-depth discussions, progress on this file remains elusive. Some Members have argued that the TRIPS Council is not an appropriate forum for these discussions as WIPO, where the IGC process has not been able to make much headway since years, is the right forum for this discussion. While the same argument could be extended to – as an example – the climate-related discussions at the WTO, since UNFCCC is the mandated forum for climate discussions, we do see the WTO membership engaging on climate-related issues. Given the enforceability of the TRIPS Agreement and the fact that much of the misappropriation is a consequence of trade, there is both the mandate and the need to build the linkage between the TRIPS Agreement and the CBD under the aegis of this Council.

98. Chair, therefore, considering the mandate from the Doha Ministerial Declaration and the 2030 Sustainable Development Goals, targets 2.5 and 15.6, that specifically call for promoting access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, it is our responsibility to take these discussions forward towards an outcome. India is of the view that a formal briefing by the CBD Secretariat on the latest developments of the Nagoya Protocol will be useful for Members. We also support updating the three factual briefs by the Secretariat on these issues, and India remains committed to constructively engage and build momentum on these important issues.

## **6.2 Bangladesh**

99. The delegation of Bangladesh delivers this statement in its national capacity. On agenda items 4, 5 and 6, or the so-called Triplets, the position of Bangladesh has not changed. In this regard, to avoid repetition, I refer to my delegation's statement delivered during the previous TRIPS Council meetings. Bangladesh supports discussions towards a progress on these issues and stands ready to engage constructively with Members.

### 6.3 Indonesia

100. On this agenda item, we would like to refer to our previous statements on agenda items 4,5 and 6 as our position remains unchanged. Although Article 27.3(b) excludes patentability for animals and plants, our delegation further stresses the need to amend this article. Indeed, we need to prevent misappropriation and misuse of genetic resources and traditional knowledge. The impact of patentability of microorganisms on genetic resources can have both positive and negative effects. At the same time, there is a need to balance the protection of intellectual property rights with the fair and equitable sharing of benefits arising from the use of genetic resources.

101. Given the potential for misappropriation and exploitation of traditional knowledge and genetic resources, we need to ensure that the patenting of microorganisms derived from genetic resources should also respect the rights of the countries and communities that provide these resources. This could involve the inclusion of provisions that require the disclosure of the origin of genetic resources used in patent applications, as well as guidelines for the fair and equitable sharing of benefits arising from the use of genetic resources.

102. This is also in line with the proposal contained in document [TN/C/W/59](#), in which Indonesia and other like-minded Members, have proposed to add a mandatory disclosure requirement with a view to strengthening the effectiveness of Article 29 of the TRIPS Agreement. In reviewing the TRIPS Agreement, Members should strive to strike a balance between the promotion of innovation and the protection of traditional knowledge and genetic resources, while also facilitating access to technology and knowledge transfer, particularly for developing countries and LDCs.

103. Indonesia further emphasizes the importance of balancing the implementation of the TRIPS Agreement with the importance of fulfilling the CBD commitments. It would be in our best interest to invite the CBD Secretariat to brief the Council on the Nagoya Protocol and its developments.

### 6.4 Tanzania, on behalf of the African Group

104. On behalf of the African Group, I would like to briefly reiterate our long-standing position on the three agenda items which is clearly known by this Council:

- It is important to review Art 27.3(b) to incorporate among others, a limit to protection of certain life forms, oblige s disclosure requirement on origin of genetic resources, tradition knowledge and folklore, and right holders to be held responsible to share benefits with custodians or owners of genetic resources, traditional knowledge and folklore.
- Members should also be obliged to prohibit misappropriation of genetic resources and traditional knowledge.

105. Furthermore, the African Group would like to continue to insist on the need to invite the CBD Secretariat to update Members of the Council on the implementation of the Nagoya Protocol. This request is in line with the WTO mandate stipulated in the Marrakesh Agreement with respect to cooperation with other international organizations on matters relating to the WTO. Once again, we urge Members to act amenably on this matter.

### 6.5 Peru

106. Peru's position on agenda items 4, 5 and 6 has not changed. We would like to stress, however, that while there are still no substantive discussions in this Council, countries such as Peru continue to experience misappropriation of our genetic resources and traditional knowledge.

107. According to the National Commission for the Protection of Access to Peruvian Biological Biodiversity and to the Collective Knowledge of Indigenous Peoples, 285 cases of biopiracy related to 42 genetic resources of Peruvian origin have been identified to date. This represents an increase of almost 40 cases since our last meeting in this Council in October. Moreover, 2022 saw the second highest number of biopiracy cases since this Council began its work, reflecting the importance, timeliness and urgency of addressing this issue.

108. The solution that we have consistently proposed, and believe could address this international issue, is the inclusion of an obligation to disclose the origin of resources. Article 29 of the TRIPS Agreement does not suffice, as it does not require patent applicants to disclose the country of origin or provide evidence of compliance with prior informed consent and benefit-sharing. We are aware of the diverging positions, which is precisely why we believe it is necessary to reinitiate the dialogue and discussions that will enable us to make progress on this matter. We thus reiterate our support for the participation of the CBD Secretariat, so that it can shed more light on the issue and on how both instruments can support and reinforce each other. We also think that it would be worthwhile to update the Secretariat's notes.

109. Lastly, regarding the position of some Members that WIPO is the best forum for addressing these issues, we believe that those discussions do not preclude discussions from being held in this House, from our own perspective, and see them as complementary.

## **6.6 South Africa**

110. We would like to recall our previous statements on these items. As indicated previously, in this discussion we often lose the relative importance of the individual components making up the 'Triplets'. The Doha Ministerial Declaration instructed the TRIPS Council as part of its work programme to review Article 27.3(b) as well as examine the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. These are important mandated issues which remain an integral part of the Doha round single undertaking.

111. Biopiracy remains a pervasive problem and in the absence of a multilateral solution, as applicable under the TRIPS Agreement, national disclosure requirements will remain inadequate. It is encouraging that WIPO is making progress in the area of genetic resources, and we would urge that the WTO does not make this another area of interest to developing countries, where we adopt a siloed and non-responsive approach.

112. Discussions in this forum and those under the auspices of the IGC at WIPO are complimentary and not mutually exclusive. In this regard, we welcome the progress made at the recent WIPO General Assembly where consensus was reached on a diplomatic conference dealing with genetic resources. The WTO membership should certainly take note of such developments. As indicated previously, our delegation would welcome a briefing from WIPO in this regard. Similarly, it would be useful for the CBD Secretariat to brief the TRIPS Council on the CBD and other implementation issues under the Nagoya Protocol as well as any new developments.

113. We also wish to raise once more the issue of the update of the three technical notes contained in documents [IP/C/W/368/Rev.1](#), [IP/C/W/369/Rev.1](#) and [IP/C/W/370/Rev.1](#). It would be appropriate for the Secretariat to update the information contained in these notes in a neutral manner to further facilitate discussions among Members.

114. Finally, we are concerned about the lack of progress on issues of interest to developing countries due to the blockage of discussions by a few Members. This does not augur well for a system that is balanced and is expected to address the interests of all. We would like to suggest that we revive our discussions by encouraging Members to share experiences on how they regulate R&D on genetic resources, what measures they have put in place to incentivize benefit-sharing between the providers and the user prior to access, mechanisms that have been put in place to strengthen the ability of indigenous people and local communities to benefit from the use of traditional knowledge, and measures implemented to promote technology transfer and cooperation to build research and innovation capacity in developing countries, among others.

## **6.7 Brazil**

115. As other delegations, I would like to reaffirm Brazil's statements on these topics. As our position remains the same, I would like to seize this occasion to reaffirm our position on the importance of the predisposal of disclosure and benefit-sharing. We understand, as other delegations that have taken the floor before, that it would be very useful for the discussions that we have here in the TRIPS Council, that we could count on the support and guidance of the CBD Secretariat on the relationship between the IP agenda that we have here and those related to biodiversity.

116. We also understand that the existence of ongoing negotiations at WIPO should not be understood to preclude discussions on these topics at the TRIPS Council. The mere fact of reading the TRIPS Agreement, that makes reference to several of the topics that we also have at WIPO, means if those topics are in the TRIPS Agreement and they are also at WIPO there is no reason for them not to be also discussed here.

117. In this connection I would strongly encourage Members to fully engage in the preparatory work for the diplomatic conferences on genetic resources and intellectual property rights that is expected to take place early in the next year. This was a mandate that was given by the Nagoya Protocol and at that time the agreement that all Members had was that those discussions would have been dealt with at WIPO. Therefore, we are really positive on a final result on that at WIPO.

### **6.8 Japan**

118. Japan's position also remains unchanged. There are concerns that the introduction of the disclosure requirement in the IP system would discourage industries from conducting research and development activities on biological materials.

119. This delegation believes the WIPO IGC is the most appropriate forum for holding technical discussions on genetic resources, traditional knowledge and folklore from IP aspects. Given that detailed discussions have been continuously held at WIPO IGC, we should avoid duplication of discussion. The delegation of Japan remains willing to contribute to evidence-based discussions on these issues in a constructive and effective manner.

### **6.9 United States of America**

120. The position of the United States is well-known from our previous statements, so I will be brief. Regarding genetic resources, traditional knowledge and traditional cultural expressions, we continue to believe that WIPO is the best forum to address these issues under the IGC current mandate. The WIPO IGC is tasked with addressing unresolved issues and working on a common understanding of core issues based on an evidence-based approach and examples of national experiences. While the 2022 General Assembly of WIPO took a decision to convene a diplomatic conference to conclude an international legal instrument related to intellectual property, genetic resources and traditional knowledge associated with genetic resources no later than 2024, significant gaps in views, positions and scope of the subject matter remain. The United States will continue to engage constructively in technical discussions at WIPO's IGC. With respect to the various requests made today, the United States is not in a position to support these requests, but remains open to discussions, including bilaterally with delegations, in-between, and at the margins of the TRIPS Council meetings.

### **6.10 Chairperson**

121. To go back to the statement by the United States. If you recall South Africa introduced a new element – to have WIPO brief the Council. Is that also something that could be discussed? Is this agreeable? It is a new element entirely, I believe.

### **6.11 United States of America**

122. We will consider that, but we are not in a position today to support that request.

### **6.12 World Intellectual Property Organization**

123. WIPO is ready to supply this briefing. We have taken note of the request at the last session of the TRIPS Council, and at this session, and we remain available to provide this briefing at the required time.



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

### **7.1 South Africa**

124. It is well established that proponents of the application of non-violation complaints under the TRIPS Agreement have not provided concrete examples of the kind of scenarios under which an otherwise TRIPS-consistent measure would impair or nullify benefits beyond those arising from the obligations set out in the Agreement. Having said this Chair and as we have indicated in the past, we stand ready to discuss our ideas with delegations on NVCS.

### **7.2 Bangladesh**

125. The delegation of Bangladesh delivers this statement in its national capacity. As an interim arrangement, Bangladesh supported the extension of the moratorium until the 13th Ministerial Conference. Bangladesh is in favor of establishing a permanent moratorium on this issue. To avoid repetition, I refer to our delegation's previous statements on this issue. Bangladesh is ready to engage with Members on this issue.

### **7.3 Tanzania, on behalf of the African Group**

126. Non-violation and situation complaints remain a priority issue for the African Group, and our long-standing position has not changed on the matter. In our view, the moratorium should remain as a permanent feature of the TRIPS Agreement. It is clear with the African Group that, should the moratorium expire, it will not trigger an automatic application of subparagraphs 1(b) and 1(c) of Article XXIII of GATT 1994 on the dispute settlement mechanism, without having adopted by consensus the scope and modalities. For this, the proponents have not brought any proposal on that matter, and that clearly indicates the difficulties which were predicted from the very beginning of the establishment of the Agreement, that non-violation and situation complaints should not be applicable for this particular agreement due to the flexibilities that have been well considered, so to speak. Nevertheless, the African Group remains committed to work with other Members on the in-built mandate to examine the scope and modalities.

### **7.4 India**

127. India's position on the issue of non-violation complaints under the TRIPS Agreement remains unchanged. India looks forward to working with like-minded Members in making non-violation complaints inapplicable to the TRIPS Agreement.

### **7.5 Kenya, on behalf of the ACP Group**

128. The ACP Group recalls its position on this issue and continues to call for the making of the moratorium permanent. The ACP Group recalls its position on this issue and continues to call for the making of the moratorium permanent. We however remain open to further discussions on the moratorium.

### **7.6 Indonesia**

129. Indonesia's position remains unchanged from the previous meeting regarding the extension of the moratorium of non-violation and situation complaints (NVSC) to the upcoming MC13. We would also like to reiterate on the negative impact of such complaints, particularly its linkages with the development issue.

130. As we all know, the NVSC provision allows a WTO Member to file a complaint with the WTO's Dispute Settlement Body even if the measures at hand do not technically violate the TRIPS Agreement. While this provision can be important for protecting intellectual property rights, it is prone to misuse and can create uncertainty for businesses and investors. That is why Indonesia believes it is important to maintain the moratorium on NVSCs. This moratorium has been in place since the TRIPS Agreement came into force in 1995, and it provides a degree of stability and predictability in the international trade system. It is especially important for developing countries, which often have weaker economies and less bargaining power in international trade negotiations.

131. By maintaining the moratorium on NVSCs, developing countries and LDCs will have a degree of protection against potential trade disputes with more powerful countries. This will allow them to focus on implementing their development objectives and promoting innovation, without the threat of costly legal challenges.

## **8 REVIEW OF THE IMPLEMENTATION OF THE TRIPS AGREEMENT UNDER ARTICLE 71.1**

132. No statements were made under this agenda item.

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

133. No statements were made under this agenda item.

## **10 FOLLOW-UP TO THE TWENTIETH ANNUAL REVIEW UNDER PARAGRAPH 2 OF THE DECISION ON THE IMPLEMENTATION OF ARTICLE 66.2 OF THE TRIPS AGREEMENT**

### **10.1 WTO Secretariat**

134. Thank you, Chair, for the opportunity to present the Secretariat's report on the sixteenth Annual Workshop on the Implementation of Article 66.2 of the TRIPS Agreement: Incentives for Technology Transfer to LDCs, which took place over the past two days.

135. We offer our sincere thanks to you, and to their excellencies Ambassador Hassan of Djibouti and Ambassador Rahman of Bangladesh, for your invaluable support for the Workshop. This high-level engagement has been indispensable in ensuring that the Workshop contributes substantively to the work of this Council and is responsive to the needs and priorities of LDC Members.

136. We are also most grateful to each of the representatives and experts of the participating LDC and developed country Members. Participants included capital- and Geneva-based experts from 18 LDC Members and from nine developed country Members. Their substantive contributions, active engagement and commitment to dialogue ensured the success of the Workshop.

137. As part of the continuous efforts to respond most effectively to the needs and priorities for technology transfer identified by our LDC Members, and at the request of the LDC Group, the Secretariat prepared a note comprising a summary of responses to the survey that the Secretariat developed and circulated as an optional tool in 2021 and 2022. This note is circulated as room document [RD/IP/52](#) in both English and French. The Secretariat would welcome comments, suggestions as well as further input for improvement.

138. We would like to highlight several general observations. The four fields of technology that LDC Members most commonly reported as priorities for technology transfer were environment and climate change, agriculture and food, public health and pharmaceuticals, and information and communication technologies or ICT. These priority fields of technology coincided to a significant extent with the actual technology programmes reported. Other priority technology fields include manufacturing, construction, infrastructure and transport, and mining.

139. Concerning the range of incentives presented in the reports, the survey of LDC Members most commonly identified as relevant government-sponsored and funded joint research and development activities, including the dissemination of knowledge and skills. Building on these survey results, this year's Workshop focused on further strengthening the capacity of LDC Members to identify their priority needs for creating a sound and viable technological base. This, in turn, would enable the more precise focusing and tailoring of incentives for promoting technology transfer to LDCs to enhance their relevance and impact. Attention was also paid to how to measure impact, with some discussion covering the importance of tracking sustained impact.

140. To this end, we also invited our sister international organizations to share their experience and expertise as well as to report on their activities in supporting LDCs to undertake needs assessments for technology transfer in various priority fields. We therefore warmly thank our WIPO, WHO and



UNCTAD colleagues who significantly enriched the discussion, and welcome the further strengthening of our collaboration and practical cooperation in this vital area.

141. The Workshop was also grounded in the considerable practical insights provided by experts from LDC Members who presented on their national experiences and challenges in identifying needs and priorities for technological development, and in seeking to respond to those needs, once identified. Experts from developed country Members also shared their experiences with tailoring technology transfer programmes, and their impact on LDCs' priority needs whilst providing updated and complementary information to their respective reports submitted in 2022. The Workshop concluded with a roundtable discussion which enabled LDC participants to give their feedback on these reports.

142. In an effort to improve the value and impact of this annual dialogue between LDC Members and developed country Members, the Secretariat compiled key messages from Workshop participants and speakers in the form of an informal resource document, which was made available in both English and French. The Secretariat also continued its practice of preparing a summary on the technology transfer programmes reported by the developed country Members. The summary presented at the Workshop provided an overview of these programmes reported in 2021 and 2022, as part of one reporting cycle, with a focus on agriculture, environment, and public health as the three priority fields for technology transfer.

143. This summary only seeks to build on the continuous efforts to enhance transparency, and to provide an overview of the detailed and diverse information contained in the reports. The compilation is purely a factual resource, and it does not attempt to analyse or interpret the reported information. As advised to the Council at its last meeting, the Workshop comprises a workshop segment and a reporting and review segment within the formal meeting of the Council. Therefore, we have arranged for the attendance of capital-based LDC participants at today's Council meeting as their national delegations, and again thank them for participating in this agenda item.

144. We conclude by expressing deepest appreciation to our Members for their continuing guidance and support for this work, and in particular, the close guidance and engagement of the LDC Group. We look forward to Members' further guidance arising from today's Council discussion.

## **10.2 Bangladesh, on behalf of the LDC Group**

145. Under this item, the delegation of Bangladesh delivers this statement on behalf of the LDC Group. The LDC Group thanks the reporting countries for submitting their respective reports of 2022 to the Council for TRIPS on how each is implementing its obligation under Article 66.2 of the TRIPS Agreement. The LDC Group also thanks the Secretariat for its report today. The LDC Group is grateful to the Secretariat, particularly, the team of the IP Division and ITTC, for organizing the annual Workshop held on 14-15 March 2023. This is a unique opportunity for informal dialogue between the LDCs and developed country Members on the necessity of the right kind of technology required for the LDCs. Our Group thanks all the participants, from the LDCs and developed countries, for their contribution to the Workshop.

146. We fully understand the effort involved in compiling a large part of the relevant programmes out of the many valuable projects that are implemented under each country's official development assistance (ODA). The LDC Group acknowledges the valuable socio-economic benefits generated by each of the projects reported and urges other developed country Members who also have valuable development cooperation projects or programmes, to share these. Last year, on behalf of the LDC Group, we provided opinions to each individual reporting delegation on their 2021 reports. We trust that those comments were helpful for their reports in the next cycles.

147. The LDCs are looking for new specific incentives introduced by developed countries to encourage companies, enterprises, institutions or other entities located in their territories to promote technology transfer to LDCs, in fulfilment of their obligation under Article 66.2 of the TRIPS Agreement. The LDCs are specifically looking for technologies and skills to improve the quality, local value addition and global competitiveness of their products, as well as integration into global supply chains.

148. We know that several national and international entities are working towards achieving the UN-led sustainable development goals (SDGs), and we would call for closer coordination as the same developed country governments are involved in these efforts. Where "capacity building" is mentioned in the programme or project description, and where a conscious effort is made to upgrade skill levels and to transfer technology to LDCs, it would be worth knowing what actual impact was made with respect to technology absorption in the LDCs concerned. In other words, could the reporting countries kindly share with the LDCs the final project evaluation report? This is a necessary tool for evaluating all such ODA projects related to capacity building.

149. While almost all reporting countries have reported on a large number of very useful ODA projects aimed at meeting social or other laudable objectives (such as improving health, education, gender equality, community integration/democratic participation, road safety, climate change, environmental/biodiversity conservation, natural disaster management, infrastructure, effective administration, governance or regulation, implementation of WTO agreements, or meeting SDG objectives, other than SDG 17), and while these may very well have one or other useful technologies applied or used (such as digital/ICT tools), we would not assume that this would automatically lead to the promotion and encouragement of technology transfer to LDCs in the projects that ought to be reported under the TRIPS Article 66.2 obligation unless this was the principal objective of these projects.

150. While a number of reported ODA projects may involve introducing new products into the industrial or agricultural sectors of LDCs by foreign consultants or companies or entities, if these do not involve any actual technology absorption in the LDC concerned, even if it does result in the use of new products in that LDC, these should not be reported under the Article 66.2 obligation.

151. The LDC Group accepts that many projects reported have a mix of developing countries and LDCs as beneficiaries. However, we request developed countries to separate the budget and goal allocation for LDC beneficiary countries and not to report the names of developing country beneficiaries. For regional integrated projects, the names of these developing country beneficiary countries may be relevant but should always be placed in parentheses. It is necessary to have the final allocation for each LDC, and the LDC Group very much appreciates the EU's effort to do so for the EU projects. The LDC Group encourages other reporting Members to follow this excellent example.

152. While most reporting countries have, in recent years, separated the Article 66.2 and Article 67 reports to avoid duplication, some reporting Members still duplicate these projects/programmes on IP training etc. The LDC Group requests reporting Members to avoid such double counting in their future reports.

153. The LDC Group requests more specific information and the correct websites with contact points for each relevant project, which should include, at the minimum, the name of the persons responsible for the project and their emails. Many reporting countries have already provided this. Therefore, it should not be difficult for other reporting Members. We also hope that the priority technology sectors highlighted by the LDCs will be considered by the developed countries when initiating the next targeted projects and programmes in this regard.

154. Articles 7 and 8 of the TRIPS Agreement provide that IP rights should contribute to the promotion of technological innovation and transfer and dissemination of technology. We understand that the aim is clearly to support the socio-economic development in developing countries and LDCs. This also matches with the core objective of the 2030 Agenda for the SDGs: leave no one behind.

155. Some LDC Members are in the row of graduation from the LDC category. Their GDP may have increased, but this does not necessarily mean that they have fully developed their institutional capacity to access and regulate technologies required for creating a viable technological base. They need technology transfer support and realistic timeframe for applying the provisions of the TRIPS Agreement. The LDC group stands ready to engage constructively with Members.

### **10.3 Tanzania, on behalf of the African Group**

156. The African Group welcomes the reports submitted by some developed countries in relation to the implementation of Article 66.2 of the TRIPS Agreement. Also, we commend the Secretariat for

once again having successfully organised the Workshop on this matter, bringing in colleagues from capital to participate as a means of promoting information sharing and frank exchange of views. We welcome this practice to continue and encourage beneficiaries to thoroughly examine the impact and deficiencies of the reported implementation projects in their respective countries.

157. Furthermore, we would like to echo the LDCs' call on the need to establish clear definitions, parameters and indicators to evaluate the implementation efficacy of Article 66.2. We also urge developed countries to align their reports to the LDCs proposed template as described in document [IP/C/W/664](#). Apparently, most of the reports do not discern elements of technology transfer, except for reports from few developed Members containing meaningful implemented projects, other than merely producing list of workshops and trainings which are meant to address different objectives.

158. The African Group would like to insist on the importance of ensuring that this obligation is honoured and thus we will continue to follow-up with great interest on the implementation of Article 66.2, to ensure that the intended benefits for LDCs are accrued.

#### **10.4 Sierra Leone**

159. Sierra Leone thanks the Secretariat, particularly the team of the IP Division and ITTC, for organizing the annual Workshop on the implementation of Article 66.2 of the TRIPS Agreement from 14 to 16 March 2023. We are particularly grateful that despite the ongoing global challenges, the Secretariat was able to organize the Workshop and continue the exchange on this important issue. We believe this platform provides an unparalleled opportunity for the participants, both from the LDCs and developed countries, to have a need-based and focused discussion on technology transfer issues. We trust these dialogues will inform the Secretariat and developed country Members on future technical assistance and technology transfer programmes.

160. While acknowledging the valuable socio-economic benefits generated from previous and ongoing projects under Article 66.2, we request support in the form of technology transfer in the following sectors: agriculture and trade; health; education in the form of specialized skills training; tourism and energy and infrastructure to meet the government of Sierra Leone's development agenda that aims to achieve middle-income status by 2039. Sierra Leone thanks developed country Members for their annual reports under TRIPS Article 66.2 and encourages them to continue assisting LDCs and increase their outreach and the level of assistance in the transfer of technology under Article 66.2.

161. In the interest of promoting the effective implementation and impact of Article 66.2, my delegation kindly suggests reporting countries to share with LDCs the final project evaluation reports, particularly with respect to technology absorption in the LDCs concerned. We also encourage that the priority technology sectors highlighted by the LDCs in our respective presentation during the Workshop be considered by the developed countries when initiating the next targeted projects and programmes in this regard. We stand ready to continue our constructive engagement with Members.

#### **10.5 United Kingdom**

162. The United Kingdom remains committed to implementing Article 66.2 of the TRIPS Agreement aimed at promoting and encouraging technology transfer to LDC Members. The UK was pleased to be able to participate in the recent Workshop, held over 14-15 March, on the implementation of TRIPS Article 66.2, where an expert from the UK provided an overview of some of our programmes to promote and encourage technology transfer, including both national and international partnerships; as well as research priorities; and Product Development Partnerships.

163. The UK would like to extend our gratitude to delegations who attended and contributed to the discussions in this workshop. The sessions were an excellent forum for sharing Members' experiences on programmes and ways in which transferring technology to LDCs has been incentivised and we look forward to participating in future sessions to help LDCs build their viable technological base.

## 10.6 Nepal

164. I am delivering this statement as a capital-based Workshop participant from Nepal. I would like to thank the WTO ITTC for organizing this important Workshop. I also thank the focal point of the LDC Group, Mr Deva from Bangladesh. I commend the report of the Secretariat.

165. I would like to thank the Members who have been providing incentives as can be seen in the annual reports. LDCs lag behind industrial development due to a limited technological base as well as other structural problems. As a preliminary observation, the incentives offered seem to be limited in view of the spirit of the TRIPS Agreement.

166. I request developed Members to provide incentives which are implementable, precise, and effective. The support should create a sound and viable technological base in the LDCs including Nepal. I have already shared Nepal's needs and priorities during my presentation at the Workshop. Now I would like to highlight a few points again:

- Technology transfer on the priority exportable goods identified in the Nepal Trade Integration Strategy, including geographical indications.
- Support for technology to institutions involved in innovation and development.
- Assistance to establish the National Gateway on Technology Transfer.
- Technology transfer on the commercialization of geographical indications

## 10.7 Benin

167. The delegation of Benin would like to thank you for having convened the Council for TRIPS and takes this opportunity to express its profound gratitude for your initiatives and the constructive interaction, which have enabled LDCs to enjoy certain opportunities in the context of implementing Article 66.2 of the TRIPS Agreement.

168. Our thanks also go to the Members of the Organization, developed countries and the heads of partner institutions and organizations that have launched and implemented projects benefiting Benin. My delegation is grateful to the WTO for its invitation to this Workshop, which is highly rewarding in terms of the sharing of experiences and good practices. Benin associates itself with the statement made by the LDC Group and by the African Group. We look forward to continuing existing partnerships and remain available for ever more fruitful collaborations.

169. Lastly, my delegation invites all Members to work to further increase visibility and diversify opportunities in order to enable our country to meet the numerous existing challenges with regards to the transfer of technology and expertise in important fields such as agriculture, environment, public health and training of our country's young professionals.

## 10.8 Bangladesh

170. Bangladesh aligns with the statement delivered on behalf the LDC Group. I deliver this statement at national capacity. My delegation thanks the Secretariat, particularly the team of the IP Division and ITTC, for organizing the annual Workshop on the implementation of Article 66.2 of the TRIPS Agreement from 14 to 15 March 2023. This was neatly designed with the most relevant sessions and speakers.

171. During the time of pandemic, with travel restrictions and other sanitary measures in place, we could not come to Geneva in person. The Workshop provides an opportunity for participants, from both the LDCs and developed countries, to meet each other in Geneva. This is truly a good opportunity to learn from each other.

172. The capital based LDC colleagues provided feedback through a voluntary survey. The information shared by the LDCs may be helpful for the Secretariat to know the priorities of the LDCs and design future technical assistance programmes in this regard. My delegation requests the

Secretariat to compile the list of technologies identified by the LDCs in the Workshop and report to the next meeting of the Council for TRIPS.

173. My delegation has tentatively prioritized the following sectors for technology transfer to my country:

- Agriculture and Food;
- Environment and Climate Change;
- Public Health and Pharmaceuticals;
- Information and Communication Technology (ICT), e-commerce;
- Construction/Infrastructure/Transport;
- Manufacturing and Mining.

174. Bangladesh hopes that developed country Members will be able to initiate targeted activities and projects to transfer specific technologies in those specific priority areas in my country. My delegation thanks the developed country Members for their annual reports under TRIPS Article 66.2 and we are happy that most of the 2022 reports are following the format suggested by the LDC Group. My delegation acknowledges the valuable benefits generated by the projects presented by the developed country delegates in the Workshop.

175. We expect that the annual reports should specify the beneficiary LDCs and identify the specific technology that has been transferred. There is also a mixture of technical assistance (under Article 67) initiatives like legal training and drafting. We request the reporting countries to kindly share with the LDCs the final project evaluation report. This is a necessary tool for evaluating the projects related to capacity building. In conclusion, the delegation of Bangladesh strongly suggests the Secretariat to continue to organise this annual Workshop in the future.

## **10.9 Switzerland**

176. Switzerland was pleased to participate in this year's interactive Workshop on Article 66.2 of the TRIPS Agreement. We welcomed this opportunity to hear from LDC delegations about their needs and experiences in technology and knowledge transfer. We appreciated the sharing of LDCs' perspectives on the challenges they face in undertaking needs assessments. The Workshop resulted in multiple opportunities for direct contact and rich discussions among participants.

177. One of the key challenges LDCs mentioned in identifying needs and in taking full advantage of technology transfer, was the lack of technical skills, training and human capacity. We are pleased that many of the Swiss activities reported under Article 66.2 address this need and contribute to the capacity building of LDCs and transfer of technology to them. We will continue our efforts in this regard.

178. Switzerland made a presentation at this year's Workshop, comprising a brief update on our latest report under Article 66.2. In that presentation, we highlighted two programmes in areas of priority for LDCs: sustainable agriculture and information and communications technology (ICT). The first presentation, made by the Swiss State Secretariat for Economic Affairs, focused on the e-commerce and Digital Economy Programme. The second, delivered by the Swiss Agency for Development and Cooperation, highlighted the Solar Irrigation for Agricultural Resilience Project, including relevant technology transfer.

179. My delegation would like to thank the Secretariat for the organization of the Workshop. The constructive discussions held throughout the Workshop contribute to the continued collaboration on technology and knowledge transfer between LDCs and developed country Members. We also thank the Secretariat for its summary listing all incentives and projects implemented by the donor countries as well as for including LDCs' valuable feedback in that summary.

180. Switzerland remains actively committed to engage in the TRIPS Council's discussion on the implementation of Article 66.2 and to encourage technology and knowledge transfer to LDCs, thereby increasing, hopefully, LDCs partners capacities to create, and enabling an environment to promote investment and attract technology and knowledge transfer.

#### **10.10 Haiti**

181. Let me begin, on behalf of the Haitian delegation, by thanking the WTO Secretariat for organizing this important Workshop. My delegation would like to commend the efforts of developed country Members for providing general assistance in the area of technology transfer to LDCs through their various technical assistance programmes aimed at LDCs.

182. However, in line with the implementation of Article 66.2 of the TRIPS Agreement on incentives for technology transfer to LDCs, my delegation would encourage other developed country Members to fulfil their commitments to these small economies, with a view to helping them reduce the existing gaps between developed country Members and LDCs in the area of technology. Today, the issue of technology transfer is of paramount importance to developing countries, in particular LDCs. The issue is also cross-cutting, insofar as it relates to other areas, including security, infrastructure, renewable energy, climate change, agriculture, health, education and e-commerce.

183. My delegation aligns itself with the statement delivered by the LDC Group to follow up on the TRIPS Agreement, and more specifically Article 66.2, relating to technology transfer concerns. We would also like to point out that LDCs are still waiting for the implementation of certain provisions, which has yet to take place since the Agreement was concluded.

184. My delegation would also like to stress the importance of technology transfer in addressing illegal immigration and employment-related challenges faced by both developing and developed countries alike. We would also like to take this opportunity to draw Members' attention to the current lack of security in the country, which is having detrimental consequences across all areas because it threatens the very existence of the country's rights, including industrial and intellectual property rights. This situation should have been acknowledged some time ago. The field of intellectual property faces many challenges. Industrial property as a whole poses a major obstacle to economic development, and patent law, which dates back over a hundred years, does not reflect present-day realities and opportunities in the field of intellectual property.

185. Given the situation, the Haitian delegation would also like to draw the attention of developed country Members to the cross-cutting role of technology transfer in peacekeeping, treating diseases and developing the country's economic and industrial sector. In accordance with Article 66.2, the Haitian delegation would like developed country Members to pay considerable attention to Haiti in relation to these issues.

#### **10.11 Mali**

186. My name is Ms. Kourtoume Ba and I am the head of the Technique and Technology Transfer Department at the Malian Centre for the Promotion of Industrial Property (CEMAPI) in Bamako, Mali. It is a great pleasure and honour for me to present to you my report on the state of the environment, technology and food in some Asian, Middle Eastern and sub-Saharan regions, especially Mali, at the Workshop on the implementation of Article 66.2 of the TRIPS Agreement. There are five main points that have caught my attention. The first is whether my country can receive assistance for the development of human resources in environmental studies. The second concern is agricultural training for young people. The third is improving road conditions in sub-Saharan areas, particularly in Mali. The fourth is ensuring the financial autonomy of women. The fifth is improving and increasing the number of health structures.

#### **10.12 United States of America**

187. Just over a year ago, the Russian Federation began its brutal and unprovoked full-scale invasion of Ukraine. The Russian Federation continues to inflict death and destruction on Ukraine and the Ukrainian people. The United States of America reiterates its condemnation of Russia's brutal, unprovoked and unjustified war of aggression against Ukraine. The United States will continue to support Ukraine's courageous efforts to defend itself, uphold its territorial integrity and protect



its population. As President Biden reconfirmed during his visit to Kiev our long-term commitment to Ukraine is unwavering and we will work to build a coordinated approach to assistance and to help Ukraine to use the rebuilding process to achieve best practices for laws, regulations and standards across sectors. We call on Russia to immediately cease its use of force against Ukraine, refrain from any further threat or use of force against any other Member and immediately withdraw all its military forces from the territory of Ukraine.

188. The United States attributes great importance to this review with respect to the obligations under Article 66.2. I would also like to take a moment to thank the Workshop participants and the Secretariat for its smooth organisation. The presentations and statements by all those involved were interesting and insightful and we look forward to continuing this dialogue. Our 2022 submission is an update to our 2021 report, detailing progress in the past year to our programmes aimed to support LDCs in fostering the necessary environment to encourage the effective, voluntary transfer of technology to LDC Members on mutually agreed terms.

189. The US submission details programmes ranging from intellectual property and trade capacity building to the health, labour, and environmental sectors. Similar to previous submissions, this report includes comments from host country governments and private sector representatives regarding the value of several of the programmes listed in the report.

190. The United States believes that, for Article 66.2 of the TRIPS Agreement to function effectively, there must be a robust dialogue between developed country and LDC Members. Strong communication between partners is critical to ensure targeted incentives remain responsive to the self-identified technology transfer interests and needs of LDC Members. The United States strives to make this a priority in all our engagements with our host government partners around the world and will continue to explore ways to improve upon the process as we go forward.

191. Our 2022 report describes over 135 programmes that show how the US Government is working to transform lives. However, no report can truly represent every activity that directly or indirectly incentivizes enterprises and institutions for the purpose of promoting and encouraging technology transfer. Our report attempts to describe the most significant activities and programmes and to convey the breadth and depth of efforts by the United States.

192. We thank the Secretariat for the opportunity to highlight a few of programmes at the Workshop. The United States is proud of our rich heritage of private sector-led ingenuity and innovation. We fully support voluntary technology transfer on mutually agreed terms.

### **10.13 European Union**

193. I would like to congratulate and thank the Secretariat for the organisation of the Workshop and the LDCs for their kind and very proactive participation. The very frank and positive dialogue we had was very useful, and I look forward to contributing to our discussion further. As mentioned several times, the European Union and its member States take our commitment under Article 66.2 of the TRIPS Agreement very seriously. We provided proof year after year of having promptly and attentively reacted to natural, social, health, climate, food, agricultural and economic changes by implementing projects specifically tailored to the current needs of LDCs individually, or their regional organizations. We try to match with the needs and priorities as identified by the survey.

194. The EU has submitted its annual report which provides a detailed update on the EU technology transfer programmes. This document was circulated in accordance with the Decision of 19 February 2003. Our programmes cover the period of July 2021 to July 2022 and can be found in the e-TRIPS portal. I would like to thank again the Secretariat for the help and support with the use of this tool because it is not very easy to manage having many member States and also our own programmes.

195. As said, in addition to the EU-financed programmes, this year, Austria, the Czech Republic, Finland, Germany, Ireland, Spain and Sweden sent reports to the European Commission on technology transfer. As the United States of America said, our report submitted is not an exhaustive list of all the programmes provided but gives a vast range of examples. Moreover, it is quite complete even if we cannot cover all the initiatives done and maintained between private entities. Our report

has a total of 123 technology transfer programmes, including 24 projects funded by the EU institutions.

196. In our view, the main incentive to promote technology transfer provided to EU enterprises, companies or universities are the grants, but also the public-private partnerships financed by the EU institutions and the EU member States. Our main financial source is the Horizon Europe framework programme with a total budget of EUR 96 billion. At the workshop, the Secretariat mentioned the EU several times, as an example, the EU supports the financing of 39 environment programmes benefitting around 41 LDCs, and around 20 agriculture programmes in the period of 2021--2022.

197. Considering the packed agenda for today' for the meeting, and as we have already presented our report in autumn last year, we would like to refer only to our interventions on this topic in previous meetings and in the last Workshop. I would like just to mention that something was shared with the LDCs on the importance of absorptive capacity of LDCs for successful technology transfer. We agree with many LDCs that absorption capacity is very important and notably the training as highlighted by Switzerland.

198. Finally, I would like to mention two topics or issues raised by the LDCs. The first is the definition of clear evaluation and the sharing of this evaluation tool which is certainly something we have to progress on and the need to raise and organise a dialogue at national level in the LDCs for them to be ready to receive and manage properly all the technology transfer programmes provided by the developed countries. On a more practical aspect, we will try next time to improve our reporting, and I know that we were congratulated for the quality of our report, but it can be improved with the links, people and contact points. We will also improve the drafting of the potential or the actual output for the next report. Thanks a lot for the open, kind and very positive debate we had.

#### **10.14 Australia**

199. Australia would like to thank the Secretariat and other Members for their efforts in ensuring a successful Workshop. Our impression is that the Workshop has become more focused over the years, and this reflects the strong leadership of the LDC Group as well as the hard work of the Secretariat.

200. Australia was pleased to present on technology transfer projects under the Regional Cooperative Agreement for Research, Development and Training related to Nuclear Science and Technology for Asia Pacific. Projects relate to the use of radiation technology in the fields of medicines, wetlands management, with Bangladesh, Nepal, Cambodia and Lao PDR, all participating LDCs. We would again like to thank colleagues for this opportunity share our own experiences, and to hear experiences from other Members, particularly those from the LDC Group on their own experiences and importantly their priorities for technology transfer.

#### **10.15 Japan**

201. The delegation of Japan would like to thank the Secretariat for organizing the Workshop on the implementation of Article 66.2 of the TRIPS Agreement. Japan also participated in the Workshop, which worked to advance cooperative activities and enhance mutual understanding between LDC and developed country Members.

202. Japan believes that activities in our report contribute to creating a sound and viable technological base in LDCs, which will bring about further technology transfer by enterprises and institutions in developed countries. Japan will continue to make its utmost efforts to improve the business environment and make it even more conducive to transfer technology. We look forward to working further with LDC Members in this context.

#### **10.16 Canada**

203. As the G7 leaders recently noted and other Members noted today, Canada condemns Russia's illegal, unjustifiable and unprovoked war, disregard for the charter of the United Nations and indifference to the impact that this war is having on people worldwide, including through undermined global food and energy security. Russia's actions are also contravening the principles and values of the foundation of the WTO including other Members shared notion of fairness and openness. We reiterate our call for the Russian Federation to end its invasion.



204. Canada would like to thank the Secretariat for organizing the thematic discussions during the annual Workshop on the implementation of Article 66.2 of the TRIPS Agreement. Canada welcomes the exchange of views and experiences on the implementation of this commitment, including the opportunity to hear directly from LDC Members on their technology transfer interests and priorities in meeting their respective national development objectives.

205. This exchange remains key to ensuring that LDC Members have an opportunity to provide feedback on specific projects and on their priority needs, and to help provide that technology transfer incentives continue to enable LDCs to address emerging development challenges in creating a sound and viable technological base. We similarly benefit from hearing the experiences of other developed country Members, in sharing and identifying best practices and commonalities, to better inform how future incentives for technology transfer can respond to LDC Members' priorities over time.

206. Canada is pleased to have the opportunity to present on key updates from its 2022 annual report (which can be found under document [IP/C/R/TTI/CAN/3](#)), and to participate in this week's panel discussion on developed country Members' experiences in providing incentives to promote and encourage technology transfer. In this spirit, Canada would be pleased to discuss our report, and any of the projects or initiatives detailed therein, with any interested Member.

207. We look forward to further dialogue through the annual Workshop and discussions here in the TRIPS Council, and once again thank the Secretariat for convening this week's Workshop, and all Members for their constructive engagement on this important commitment.

#### **10.17 Norway**

208. On the Workshop, I would like to say thanks to the Secretariat and the LDC participants. The Workshop was really an excellent opportunity to exchange directly with LDCs and engage in frank dialogue. One useful take away, from our perspective, was that LDCs rightfully called for needs-based programming of the incentives and technology transfer within the identified priority areas, and this is actually matched by our insistence that our actions are demand-driven and the fact that LDC priority areas for technology transfer in agriculture, renewable energy and health are also within Norway's priority areas.

209. Bottom line, I want to encourage LDC participants to reach out to the contacts of the Norwegian incentive providing agencies provided in my presentation; to investigate potential for further support. I would also like to state that we hear you to a larger degree on the need to include the actual results of our activities and to try to tailor our future reporting to better fit with incentives and technology transfer. This point is well taken, in general, and we should try to do that.

210. Lastly, I would like to reiterate that we strongly condemn Russia's illegal war on Ukraine, and we stand in solidarity with Ukraine and the Ukrainian people.

#### **10.18 Malawi**

211. Malawi would like to express its sincere gratitude to both the WTO and developed countries for the multiple efforts and work done thus far on the implementation of Article 66.2 of the TRIPS Agreement. The level of implementation may seem low due to multiple challenges faced in the continent as well as at the national level. Malawi would like to guarantee the implementing partners as well as all developed countries offering these incentives that it is keen to coordinate with all local authorities involved in these various incentives to own, as well as to successfully implement these incentives. The Workshop organised this week is proof as to how important these discussions are to all LDCs. It is our hope that these efforts continue so that we will gradually be able to see a number of countries graduating from the LDC status. I would like to end my statement with a quote from Henry Ford: "Coming together is the beginning, keeping together is progress but working together is success".

#### **10.19 Sudan**

212. I would like to thank the Secretariat for holding a very interesting and successful Workshop on the implementation of Article 66.2 on incentives for technology transfer. Sudan aligns itself with the statement made by the LDC Group and would like to stress for consideration the importance of

technology transfer related to the priority needs in LDCs' infrastructures, renewable energy, agriculture, health, education, capacity building and technical support. I thank the WTO for giving the LDC Group this opportunity to attend this meeting.

## **10.20 South Africa**

213. We would like to reiterate that Article 66.2 of the TRIPS Agreement places a legal obligation on developed country Members to provide incentives to enterprises and institutions in their territories for the purposes of promoting and encouraging tech transfer to LDCs. Fulfilment of this obligation would contribute to the objectives of the TRIPS Agreement, in particular Article 7, which posits that the protection and enforcement of IPRs should contribute to the promotion of technological innovation and the transfer and dissemination of technology. Clarification of various issues could amplify the impact of technology transfer-related initiatives that have been undertaken. These include, *inter alia*, definitional issues around what constitutes technology transfer, to what extent incentives provided can be considered additional to official development aid and the robustness of evaluations undertaken to understand the impact of initiatives that have been taken.

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

### **11.1 Bangladesh, on behalf of the LDC Group**

214. Bangladesh delivers this statement on behalf of the LDC Group. The LDC Group welcomes the programs reported by developed country Members under Article 67 of the TRIPS Agreement. These reports provide information on a wide range of programmes and activities customized for the beneficiary Members. These programmes are critically important for the LDCs. Our Group also thanks the Secretariat for managing the e-TRIPS gateway regarding TRIPS related data and information.

215. We sincerely thank the developed country Members and IGOs for their help and would like to encourage them to continue their valuable support for the developing countries and particularly the LDCs and those on the graduation track.

### **11.2 WTO Secretariat**

216. During the Council meetings of October 2021 and March 2022, the delegation of Bangladesh requested the WTO Secretariat to organize a dedicated annual workshop to monitor progress on IP-related technical cooperation under Article 67 of the TRIPS Agreement, similar to the workshop we organise for the implementation of Article 66.2. In response to this request, the Secretariat is planning to organize such a workshop on 12-14 June 2023 to help inform dialogue among Members. The aim is also to provide specific input to the Council with a view to improving overall coordination and the matching of programs with priority needs. Thirty places are available in this workshop for allocation to a selection of applicants from beneficiary LDC and Developing Members and Observers.

217. The programme is envisaged to consist of two segments: a two-day workshop segment on 12 and 13 June, and a final segment, on 14 June, involving participation in, and contribution to, deliberations under Council agenda item "Technical Assistance and Capacity Building". The final segment of this workshop is optional, but participation is strongly encouraged. The Secretariat will reach out to delegations in the near future in regarding possible speakers and topics and further details will be communicated to delegations in due course.

### **11.3 Bangladesh**

218. Thank you Chair and thanks to the Secretariat for initiating this. As you referred to Bangladesh's request on this matter, in fact, one of the critical elements would be, and we strongly urge to include, that it is basically to avoid the duplication of reporting between Article 66.2 and Article 67. If you can take note of our request.

## **12 PARAGRAPH 8 OF THE MINISTERIAL DECISION ON THE TRIPS AGREEMENT ADOPTED ON 17 JUNE 2022**

### **12.1 Tanzania, on behalf of the African Group**

219. I am taking the floor on behalf of the African Group. First, to continue to register our disappointment with the December 2022 decision to extend the deadline set by Ministers during MC12. As alluded by the African Group Coordinator in the General Council meeting last week, the extension clearly indicates the absence of political will to duly implement consensual decisions taken by our Ministers. Indeed, the failure to timely address a critical issue like this does not instil optimism needed to address contemporary challenges that the World Trade Organization faces. The longer it takes to deliberate on the extension of the MC12 TRIPS Decision to cover the production and supply of diagnostics and therapeutics, the less credible contribution WTO will make to the lifesaving efforts for COVID-19 patients.

220. The African Group did show maximum flexibility in agreeing to the extension of the six-month continuation. It was done in good faith to accommodate the request of some Members to undertake domestic consultations, which apparently some Members are using as an excuse from engaging and establishing new narratives, which we find somehow disturbing. We call on those Members to finalize their domestic processes as soon as possible for the decision to be adopted well before MC13.

221. We believe the decision will guarantee developing Members and LDCs equitable and affordable access to therapeutics and diagnostics through diversified production and supply. We would like also to call upon the Council for TRIPS to commence discussions in any format, formal or informal, small groups or larger groups, to discuss substantive issues on this matter as soon as possible towards concluding the matter. I would like to assure you, Chair, and Members, that the African Group is committed to work collaboratively with other Members for an expeditious outcome on this agenda item.

### **12.2 South Africa**

222. My delegation is fully aligned with the statement just delivered by my brother the distinguished delegate of Tanzania on behalf of the African Group. As at 7 March, COVID-19 had claimed over 6.8 million lives. Despite being the product of publicly-funded research, COVID-19 vaccines were subjected to IP-backed monopolies that greatly enriched a handful of companies that experienced record profits. Some of these entities are unsure of what to do with the profit garnered.

223. According to a study published in *Nature* by Moore and others in 2022, an estimated 1.3 million fewer people would have died in 2021 alone if COVID-19 vaccines were distributed equitably.<sup>1</sup> This led the United Nations Secretary General to describe vaccine inequity as "the biggest moral failure of our times".<sup>2</sup> The prioritization of monopoly profits over the lives of people in developing countries fuelled vaccine inequality and has been carried over to COVID-19 therapeutics and diagnostics.

224. Against this backdrop, the co-sponsors of document [IP/C/W/669/Rev.1](#) are disappointed that the membership is yet to decide on extension of the MC12 Decision on the TRIPS Agreement to cover therapeutics and diagnostics. The extension of the MC12 Decision is a credibility issue for the World Trade Organization. A solution on vaccines alone is not sufficient.

225. As stated by co-sponsors in our 12 December draft decision contained in document [IP/C/W/694](#): "diagnostics and therapeutics are essential tools for a comprehensive approach to fight the pandemic, that it is not over. Omitting these tools will deter the effectiveness of the decision that aims at timely and affordable access to effective vaccines against the ongoing COVID-19 pandemic".

226. A decision on vaccines only was agreed on the understanding that Members are committed to take a decision on extension to therapeutics and diagnostics no longer than six months, as entailed in paragraph 8 of the MC12 Decision. This was accompanied by assurances that certain Members merely required a few months to conduct domestic consultations. It is disappointing that we have

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<sup>1</sup> <https://www.nature.com/articles/s41591-022-02064-y>

<sup>2</sup> <https://press.un.org/en/2022/sgsm21137.doc.htm>

been engaged in circular discussions and the WTO is yet to take a decision in this regard. The co-sponsors engaged in good faith in all discussions and provided ample evidence on the IP-related challenges to accessing therapeutics and diagnostics and these were also highlighted by the World Health Organization in its input to the Council for TRIPS.

227. The Act-A Facilitation Council Working Group Report on Diagnostics and Therapeutics of September 2022 confirmed the concentration of manufacturing which contributes to inequitable roll-out of COVID-19 diagnostics and therapeutics, which threatens to undo public health gains achieved throughout the pandemic. More recently, in February 2023, the ACT-A Monitoring and Tracking Task Force noted that there is a gap in access to oral antiviral licence agreements to generic suppliers, as they do not apply to upper middle-income countries (UMICs). Access to antivirals by many UMICs remains limited to their ability to reach agreement with originator companies.<sup>3</sup>

228. Addressing inequitable access to health products remains a critical issue in the context of the current pandemic and to help us build resilience for future pandemics. The only sustainable means of achieving this objective and bolstering health security is to diversify the quantity and geographical scope of countries that can produce the needed products.

229. The co-sponsors have spent over two years demonstrating how intellectual property barriers have hampered these efforts through extensive written and oral submissions. Our submissions have been supported by peer reviewed academic research, civil society and Nobel laureates alike. In contrast, the only contrary data that has been provided by the opposing perspective is from the stakeholders with an interest in the retention of intellectual property barriers.

230. The inordinately delayed and limited MC12 outcome was a missed opportunity for the WTO to make a meaningful contribution to global efforts to contain the COVID-19 pandemic. As stated in an open letter by current and former heads of state, Nobel laureates and leaders of intergovernmental, and non-governmental organizations that was published just last week on 11 March 2023, and I quote: "Governments at the World Trade Organization (WTO) took too long and did too little to address this barrier for COVID-19 vaccines. WTO Members should move to approve an intellectual property waiver for COVID-19-related vaccines and extend that decision to cover COVID-19 tests and treatments. That would dramatically improve access to all of these lifesaving products. Developing countries should exercise their rights to use the full flexibilities of the TRIPS agreement to protect public health".

231. Global health experts have been consistently clear about the need for a comprehensive approach to dealing with the pandemic. This is exemplified by various drafts of the pandemic treaty developed under the auspices of WHO. They are centred on an approach that deals with all pandemic products.

232. In contrast, the WTO has prioritized an artificially limited scope that protects monopolies and super profits, rather than global public health. This dismal failure to respond in a timely manner to the call for a multilateral solution in the form of a comprehensive waiver necessitates that Members consider trigger-ready mechanisms as part of preparedness for future pandemics.

233. Many of us feel that our lives have returned to normality, and some may be tempted to simply move on. However, COVID-19 is not over and all of us remain vulnerable, more so people in countries that have low vaccination rates, as they are vulnerable to variants. The words of Ambassador Tovar da Silva Nunes of Brazil are apt, and I quote: "We owe to present and future generations equitable and timely access to medical countermeasures when fighting the next pandemics, ensuring that the most vulnerable people, especially the underprivileged and indigenous peoples, are saved."

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<sup>3</sup> [https://www.who.int/docs/default-source/coronaviruse/act-accelerator/tmtf-report-2.pdf?sfvrsn=c275dd3b\\_2&download=true](https://www.who.int/docs/default-source/coronaviruse/act-accelerator/tmtf-report-2.pdf?sfvrsn=c275dd3b_2&download=true)

### 12.3 Bangladesh, on behalf of the LDC Group

234. I deliver this statement on behalf of the LDC Group. Regarding paragraph 8 of the Ministerial Decision on TRIPS waiver, the LDC Group aligns with the statement delivered by the delegation of South Africa on behalf of the co-sponsors of document [IP/C/W/669/Rev.1](#).

235. We are disappointed that Members could not agree within the deadline to follow the good gesture of our Ministers on extending the TRIPS waiver decision to cover COVID-19 diagnostics and therapeutics. In December 2022, the Council for TRIPS recommended that the GC would extend the deadline that ended on 17 December 2022. We earlier pointed out that the extended deadline must not change the MC12 Decision and its scope. It is unfortunate that till the last General Council on 7 March 2023, we could not make a decision on this issue.

236. We cannot ignore the threat of the future pandemics and the necessity of affordable and timely access to diagnostics and therapeutics. We do not want more deaths, human sufferings, shutdowns, travel restrictions and disruptions. Preparedness is always better than the last minutes' efforts. Therefore, the MC12 Decision on the TRIPS waiver should be extended to cover COVID-19 therapeutics and diagnostics, as soon as possible. The LDC Group looks forward to continuing meaningful discussions on this important file.

### 12.4 Nepal

237. I align with Bangladesh, the focal point of the LDC Group and wish to add few points:

- A pandemic is a global problem; it may appear anytime, in any place, and radiates throughout the world. Therefore, dealing with the present and the preparation for the future is also necessary.
- We cannot forget the wounds and scars caused by the COVID-19 pandemic. There are still many cases identified in many countries and viruses may appear in other forms.

238. Our Ministers at MC12 mandated to accomplish the work within the six months, but the discussion was inconclusive in the given time by the MC12. COVID-19 vaccines are part of a set; the vaccine alone cannot save lives. Therefore, we are urging Members to consider the extension of the TRIPS waiver to the production and supply of COVID-19 diagnostics and therapeutics. We call upon Members to engage constructively and demonstrate flexibility at the maximum possible level.

### 12.5 Egypt

239. Egypt aligns itself with the statement delivered by South Africa on behalf of the co-sponsors, and Tanzania on behalf of the African Group, and other co-sponsors' statements. We regret that we did not reach a decision on the extension of the TRIPS waiver to cover therapeutics and diagnostics by the deadline of 17 December 2022, as per the mandate in paragraph 8 of the MC12 Decision. We showed maximum flexibility in agreeing to continue the discussions for six months. We tried to accommodate some Members who expressed a desire to conduct domestic consultations. We urge Members that are conducting domestic consultations to expedite their internal processes and give due consideration to the technical input of the World Health Organization (WHO), World Intellectual Property Organization (WIPO) and other relevant international organizations.

240. In this regard, we are calling on the Council for TRIPS to invite the WHO, and other relevant organizations to provide us with the recent developments of the situation, from the substantive and technical point of views. My delegation would like to refer to the submission of the co-sponsors at the General Council of document [WT/GC/W/860](#) that calls on the membership to agree on the extension of the Ministerial Decision to cover COVID-19 therapeutics and diagnostics, and we call on the Council for TRIPS to embark on the discussion on this proposal, and we expect our trade partners to engage constructively with us in the discussion. The extension of the MC12 TRIPS Decision to therapeutics and diagnostics is "unfinished business" regarding its development dimension. It was put on a fast track as a post-MC12 deliverable. We joined the consensus at the time to extend the deadline to reach a decision, but now we believe that we should reach a decision to extend the decision to therapeutics and diagnostic. On the other hand, and in relation to the discussion on

Intertem 3 (IP and COVID-19), it should be noted that the pace of the discussions has outlined the importance of commencing discussions on a triggering mechanism to deal with future pandemics.

## **12.6 Kenya, on behalf of the ACP Group**

241. The ACP Group urges Members to fulfil the mandate from our Ministers of MC12 in paragraph 8 of the Ministerial Decision on the TRIPS Agreement. We thank you for the report and look forward to the results of the ongoing deliberations in capitals that have been reported here and in the General Council. We remain optimistic that the necessary discussions can be expedited to arrive at a decision on this matter.

## **12.7 Indonesia**

242. My delegation would like to echo the statement of our colleagues from Tanzania and South Africa. On that note we also refer to our previous statements on this agenda item. COVID-19 has inevitably shown the spectacular gap of inequality in and between countries, with an unprecedented worsening of poverty, particularly in developing countries.

243. It further revealed that despite how interconnected we are, the asymmetries among countries run deep. Such asymmetries can be seen in aspects such as mobilizing resources to deal with and recover from the crisis. Another example is in terms of getting equitable and affordable access to vaccines and relevant countermeasures.

244. In this institution, we talk about development as a horizontal and cross-cutting issue and how the WTO could play a role in maintaining a path to achieve the Sustainable Development Goals. Thus, the response to and recovery from COVID-19 and the execution of the right to development are intrinsically linked and should support the 2030 Sustainable Development Goals.

245. The Ministerial Decision on the TRIPS Agreement has been an important catalyst for our government to further carry out the development of mRNA vaccines. This is conducted through government-to-government and government-to-business cooperation, which includes provisions on technological transfer for mRNA production.

246. In this regard, it is our hope that the extension of the TRIPS waiver could further support developing countries to further develop and gain access to the much-needed COVID-19 therapeutics and diagnostics, especially in the view of pandemic preparedness, prevention, and response. This is also in line with growing acknowledgement of the importance of ensuring equitable and universal access to safe, affordable, quality and effective vaccines, therapeutics and diagnostics, as stated in the G20 Bali Leaders Declaration agreed to last year.

247. But even if some Members have not utilized the Decision as argued, that does not negate the importance of having sufficient policy space at hand in times of emergency. To illustrate this point, just because an airline has not experienced an accident, does not mean that they can take away the life jacket prepared for each passenger.

248. Having said that, solving vaccine availability, accessibility and affordability is not enough. As we have stated again and again, COVID-19 countermeasures also include therapeutics and diagnostics. Without these, we only give the world a half-hearted solution at best.

249. With this in mind, Indonesia would like to reiterate our suggestions for this issue moving forward:

- One, the Council for TRIPS shall continue to conduct substantive discussions on extension to cover therapeutics and diagnostics. These discussions, whether in formal or informal settings, should be guided by WHO as the leading actor in the fight against the COVID-19 pandemic.
- Two, in the interim, Members that are conducting domestic consultations must update the membership on a regular basis.



- Three, to avoid a prolonged negotiation, it is necessary to be equipped with a trigger-ready mechanism to deal with future pandemics. The TRIPS Council, in this regard, will need to urgently engage on this issue on the basis of submissions by Members.

250. Indonesia stands ready to work with other Members constructively.

## 12.8 China

251. In January 2023 Tedros Adhanom Ghebreyesus, Director General of the World Health Organization, pointed out that the COVID-19 response remains hobbled in too many countries, unable to provide vaccines, therapeutics and diagnostics to those in need. The pandemic still constitutes a public health emergency of international concern. As a populous developing Member with more than 190 million people over 65 years old, China faces large demand for COVID-19 therapeutics.

252. As Members may be aware, China has recently experienced an intensive outbreak of COVID-19. During that time, people suffered from a severe lack of therapeutics, especially the vulnerable groups. The main reason was that the prices of some widely-recognised oral antiviral treatments, such as Paxlovid and molnupiravir, were too high to afford and the amount available was accordingly far from enough. To make things worse, China has been excluded as a potential beneficiary of the Medicines Patent Pool (MPP). Therefore, we fully understand the challenges and difficulties faced by the proponents. We believe that to improve accessibility and affordability of diagnostics and therapeutics is crucial for developing Members to combat COVID-19 and save more lives.

253. It is also indispensable for the global effort to ultimately conquer the pandemic. China has always actively participated in the discussions on the issue of the TRIPS waiver and our substantial commitment to the waiver of COVID-19 vaccines safeguarded the successful conclusion of the Ministerial Decision on the TRIPS Agreement at MC12.

254. For the next step, China calls upon Members to further strengthen solidarity through collective efforts so as to bridge the gaps as early as possible and address the legitimate concerns of developing Members on COVID-19 diagnostics and therapeutics. As always, China will continue to actively engage in future consultations and make our due contribution.

## 12.9 India

255. The enthusiasm and spirit of solidarity that Members exhibited to achieve the outcome on TRIPS at MC12, regrettably, could not be sustained for long, it seems. On paragraph 8 of the MC12 Decision, all we could achieve within the stipulated six months was to decide to extend the timeline. As we are aware, the polycrisis is disproportionately impacting the developing countries, including LDCs. Uncertainties surrounding the pandemic, the persistent inequities on access and affordability of therapeutics and diagnostics exacerbate these vulnerabilities and continue to challenge the global recovery, especially for developing countries including the LDCs, making it crucial to enable and empower these countries to combat the health crisis. We seem to ignore the warnings that pandemics similar to COVID-19 could be a more frequent occurrence as we face increased risk from emerging pathogens due to enhanced globalization and other factors. We at the World Trade Organization (WTO) however, could not deliver and respond timely in contributing to global interventions for combating COVID-19. And the longer it takes for us to decide, the less efficacious the outcome will be, as we have seen with the Decision on vaccines.

256. Though we note that one Member is undertaking an internal analysis on this issue, it does not limit in any way other Members to engage at the Council for TRIPS for striving to achieve a common understanding. This will make effective use of the period up to October 2023 and enable us to build consensus to deliver on this issue. In this regard, our submission contained in document [IP/C/W/694](#), the decision text, is a good place to begin the conversation. The protracted discussions on this matter in unprecedented times like these, underscore the need for mechanisms that help deal with future emergencies in a timely and effective manner. We hope to see substantive discussions and good faith engagement in this regard as well at the Council for TRIPS.

### 12.10 United States of America

257. The United States of America supports extending the deadline for making a decision on whether or not to extend the Ministerial Decision to cover COVID-19 diagnostics and therapeutics. On 16 December 2022 we asked the US International Trade Commission to launch an investigation into COVID-19 diagnostics and therapeutics and to provide information and market dynamics to help inform the discussion around supply and demand, price-points and the relationship between testing and treating and production and access. The International Trade Commission issued a notice in our Federal Register on 6 February which contains all the relevant dates and deadlines for the hearing and submissions. For your information the key upcoming deadlines are as follows:

- 29-30 March 2023: Public hearing.
- 12 April 2023: Deadline for filing post-hearing briefs and statements.
- 5 May 2023: Deadline for filing all other written submissions.

258. The International Trade Commission report is due to USTR on 17 October 2023. The report will be public. We encourage all interested parties to participate in this process. Foreign governments are also welcome to submit their views. As we continue this process, we look forward to continuing to engage with WTO Members.

### 12.11 Brazil

259. Brazil remains fully engaged in the debate on paragraph 8 of the Ministerial Decision on the TRIPS Agreement. Unfortunately, consensus was not achieved in December 2022 on the extension of the June 2022 Decision to cover therapeutics and diagnostics. We support, however, the decision to defer the deadline in order to give Members more time to reach consensus. But it is important to achieve a sounding result that reinforces the WTO's contribution to the capacity of Members in fighting COVID-19, particularly in the developing world. In the same sense, we should not lose the sense of urgency on this matter. COVID-19 continues to inflict a deadly and disproportionate toll on developing and least-developed countries. We urge, therefore, Members to work constructively on a positive and balanced outcome that provides for an enhanced and timely access to COVID-19 essential medical goods at affordable prices.

260. Finally, I would also want to highlight the importance of coherence between the positions that have been shown at the WTO and those shown here at the WTO and World Intellectual Property Organization, particularly in relation to the intellectual property aspects that are being dealt with in the negotiation process of a global accord on pandemic prevention, preparedness and response in the context of the Intergovernmental Negotiating Body (INB) of the World Health Organization. We also thank our colleague from South Africa for mentioning the comments made by Ambassador Tovar at the INB where we are honoured to have him among its members, and we count with the strong support of the South African delegation on the negotiations taking place at the WHO in this aspect.

### 12.12 Switzerland

261. During the meetings of the Council for TRIPS since September 2022, Switzerland has made its position regarding an extension clear. In their joint communication document [IP/C/W/693](#) dated 1 November 2022, Mexico and Switzerland presented ample evidence that demonstrates that there is no lack of supply and that there is sufficient manufacturing capacity of COVID-19 therapeutics and diagnostics. There is no evidence whatsoever of an intellectual property (IP)-induced access problem, which is why Switzerland does not support an extension. The developments of the recent months buttress our position.

262. Switzerland remains convinced that sustainable and equitable access to COVID-19 vaccines, diagnostics and therapeutics is only possible within the context of a valid, trustworthy and reliable WTO regulatory framework, of which TRIPS and IP protection are essential components. IP is an access enabler. Through licensing, patents and other IP rights allow the legally safe and expeditious sharing of technology and necessary know-how. Thus, patents function as bridges, bringing developers, manufacturers, research and development (R&D) and generic pharmaceutical companies together in partnerships to fight the pandemic together more effectively and more



expeditiously. Suspending IP rights will block the bridges across which these partnerships can work with each other. This would be counterproductive.

263. By safeguarding the TRIPS Agreement and ensuring reliable international IP protection, the WTO maintains a key element of, and thus contributes usefully to, the response and preparedness for the present and future pandemic.

### 12.13 Japan

264. Japan appreciates the efforts made by the Chair and the Secretariat to continuously provide us with opportunities to discuss this important matter. We also appreciate the contributions made by Members in terms of the documents submitted for this discussion: namely, documents [RD/IP/49](#), [JOB/IP/64](#), [IP/C/W/693](#), [RD/IP/51](#) and [IP/C/W/694](#).

265. While Members have not reached consensus on this issue, we will be able to continue to advance this discussion in a more constructive manner based on the facts and evidence provided by these documents. In order to prepare for future pandemics, it is necessary to have mechanisms that provide strong incentives for the research and development of vaccines, diagnostics and therapeutics. From this perspective, intellectual property rights (IPRs) and the TRIPS Agreement play a crucial role in the research and development of vaccines, diagnostics and therapeutics.

266. With regard to paragraph 8 of the Ministerial Decision, Japan continues to believe that consideration and discussion about its extension for diagnostics and therapeutics should be based on facts and evidence regarding the multifaceted impact of IPRs and the TRIPS Agreement upon the production and supply of diagnostics and therapeutics in the context of COVID-19. In this regard, the documents submitted and the ongoing investigation by USITC provide facts and evidence that will allow Members to proceed more constructively in the discussions. We appreciate these efforts.

267. Japan has shared various types of facts and evidence during previous meetings for the purpose of holding a constructive discussion to reach a consensus-based decision among Members, and we are ready to continue contributing to this discussion in a constructive manner.

### 12.14 United Kingdom

268. The United Kingdom welcomes a return to substantive discussions on this issue in the Council for TRIPS, which is the right venue for Members to consider the evidence relating to the potential extension of the MC12 TRIPS Decision to COVID-19 therapeutics and diagnostics. We recognize this as an important issue, and Members should have the opportunity to seek clarification on the issues that have been raised and to work towards a decision which is underpinned by evidence-based policymaking. We would like to stress the importance of open, inclusive, and transparent processes going forward, as many Members have called for previously.

269. The UK has long maintained that the TRIPS Agreement strikes the correct balance between incentivizing innovation and ensuring access through its flexibilities, including those enshrined in the Doha Declaration. We recognise the essential role of generic manufacturing and believe that, during the life of the patent, this should be enabled by voluntary licensing arrangements which include the transfer of technology and know-how. This collaboration ensures that generic manufacturing adheres to regulatory practices that are internationally recognized so products meet the necessary quality and safety standards. We have noted before that there are approximately 130 voluntary licensing arrangements in place for COVID-19 treatments, which cover most low- and middle-income countries, including important regional manufacturers of generic medicines. We would welcome being made aware of any evidence on how these arrangements fail to meet current international demand.

270. We recognize the proposal for extension from December 2022. The UK has considered this proposal carefully. Our view is we must first form consensus on whether extension is required, based on the available evidence. We have also noted that a number of questions have been raised by Members in relation to this proposal, including, but not limited to, the scope of products covered by the proposal and the implications for dual and multiple use. As has been discussed, COVID-19 therapeutics and diagnostics rely on pre-existing treatments and testing technology, used in different contexts to test and treat other diseases.

271. In this regard, we consider the papers circulated in 2022, by Mexico and Switzerland and by Chinese Taipei, as important contributions to address these unresolved issues. We understand that the questions raised in those papers are yet to be addressed. These relate to, among other things, questions over the scope of the potential extension, as well as to the current supply and demand dynamics for these products.

272. As demonstrated by Chinese Taipei's discussion paper, a key factor to increase production and to enhance access to therapeutics is closer industrial cooperation between originators and generic producers. The UK is ready to engage in conversations on ways to foster industrial cooperation with low- and middle-income countries to achieve this at the Council for TRIPS and in other relevant fora. The UK recognises that COVID-19 remains a serious challenge and that we need to promote equitable and effective distribution of COVID-19 products globally. A holistic response is needed to address the barriers to access, including better health infrastructure and health system readiness, harmonized regulatory mechanisms, as well as effective procurement and distribution strategies.

273. We maintain that changes to the international intellectual property framework, if implemented without substantial evidence, could weaken its ability to incentivize investment and innovation, thus risking our ability to tackle health and other emergencies both now and in the future. As ever, the UK stands ready to engage constructively in an evidence-based conversation on this important question.

#### **12.15 Chinese Taipei**

274. With regard to the current discussion on the possible extension to diagnostics and therapeutics it remains our belief that the issues involved in COVID-19-related diagnostics and therapeutics are quite different from and much more complicated than the issues involved in COVID-19 vaccines. Therefore, it is necessary to have more in-depth discussions, in order to result in an appropriate decision on this important extension issue. We encourage all Members to continue discussions in a transparent, inclusive and evidence- and science-based mode in the Council for TRIPS.

#### **12.16 European Union**

275. The European Union is committed to find a way to advance the discussion of the Council for TRIPS by addressing the questions that remain open, identifying appropriate problems and the ways in which these problems can be addressed. It is clear that at the current stage there is no consensus in the Council for TRIPS. Therefore, the EU supports the continuation of the discussions.

#### **12.17 Korea, Republic of**

276. We have had a series of fact and evidence-based discussions on deciding whether to extend the Ministerial Decision to therapeutics and diagnostics. But Members do not appear to have a common understanding regarding whether intellectual property constitutes a barrier to the accessibility of COVID-19 therapeutics and diagnostics, which is one of the key issues on this matter. My delegation welcomes the continuation of substantive discussions in the Council for TRIPS as agreed in the March 2023 General Council and reiterates the importance of having fact- and evidence-based discussions in order to reach a conclusion that is suitable for the fast-changing circumstances of the COVID-19 pandemic.

#### **12.18 Singapore**

277. Given that the deadline extension was unavoidable, we must use the additional time we have been granted in a pragmatic and productive manner. It is imperative that we take a fact-based approach in our discussions here. In this regard, Singapore believes that the papers tabled by Chinese Taipei and Switzerland and Mexico serve as useful bases for discussions, and we look forward to engaging on the questions posed in these papers.

278. We must also adopt a holistic approach and take into account the complex mix of factors that affects access to diagnostics and therapeutics. In addition to supply chains bottlenecks, such as export restrictions and other key barriers, including regulatory bottlenecks, lack of demand forecasting and simply a low demand for COVID-19 diagnostics and therapeutics. We must also consider these multifaceted challenges in order to achieve our shared objective of improving access

to diagnostics and therapeutics. Lastly while we consider the extension of the TRIPS Decision, we must preserve incentives for innovation, which enable pharmaceutical companies to respond quickly to the current pandemic and to future pandemics.

### 12.19 Norway

279. Norway's point of departure is that we need to strike a balance between, on the one hand, ensuring that IP-rights do not constitute a barrier to solving the current or future health crises, and on the other hand, preserving incentives for innovation. We do see possible challenges posed by an open-ended mechanism. The lack of definitions or a clearly defined scope can lead to legal uncertainty for governments and businesses alike. This clarity will not be achieved if the decision is extended *mutatis mutandis*. Norway will continue to engage constructively.

## 13 INTELLECTUAL PROPERTY AND INNOVATION: CROSS-BORDER COOPERATION AMONG IP OFFICES

### 13.1 Japan

280. On behalf of co-sponsors of our submission [IP/C/W/697](#), I am delighted to outline our proposal. This year, Friends of IP and Innovation members are planning to make IP and Innovation series focus on cross-border cooperation. As the first of this series, we thought it would be interesting and beneficial to discuss cooperation efforts among intellectual property offices or IP offices at this meeting.

281. IP office in each country or region plays a significant role in ensuring an IP system suitable to effectively promote and protect IP rights in accordance with respective laws and regulations which comply with the TRIPS Agreement. Through these activities, IP offices encourage the creation of inventions and designs, protecting business credibility in trademarks, and contributing to the development of each region or country's economy.

282. However, it should be also recognized that IP offices do not focus only on the activities in their own jurisdictions. IP offices may also seek to actively cooperate with each other, toward enhancing legal certainty and predictability, and in turn support cross-border trade and investment. By encouraging IP offices to improve their IP systems, and by fostering an environment that promotes certainty and predictability, the trade and investment environment in each region or country can be improved. As a consequence, such cooperation leads to regional economic development as a whole. For better discussion, we proposed several guiding questions as shown in our submission.

283. These are just examples of discussion points. We hope that this topic will facilitate information sharing among Members, help to learn from each other, and support the development of policies in their countries/region that will promote future innovation. We wish many Members could contribute to the discussion by introducing your initiatives. As a kick-off of the discussion, please allow my colleagues to introduce the Japanese experience.

284. Thank you for giving us the opportunity to share our experiences and national policies regarding this agenda item. As presented in the concept paper, building an environment that enables the global protection of industrial property rights can help us to support enterprises in expanding their business outside of their home countries, while also promoting direct investment from abroad into different regions. In other words, cross-border cooperation among Intellectual Property (IP) Offices can help to facilitate industrial development. In addition, the Japan Patent Office (JPO) has been leading various types of cooperation to increase the operational efficiency of IP Offices. The JPO has also been actively assisting the human resource development of foreign IP Offices by providing training programmes. Today, I would like to introduce the initiatives of the JPO and provide an opportunity for other Members to understand the objectives and advantages in order to promote further cooperation in the future.

285. Let me now outline the JPO's initiatives. The Patent Prosecution Highway (PPH) is a programme based on agreement between IP Offices, which enables applicants to request accelerated examinations with simplified procedures in the Office of Second Filing (OSF) when their patent claims have been determined to be patentable in the Office of First Filing (OFF). Applicants can thus enjoy

the benefits of shortened examination pendency and reduced response costs, as well as an increased grant rate.

286. Meanwhile, IP offices can reduce the burden of patent examinations, and improve the quality thereof, by improving the availability of prior art searches and examination results of the First Office through the PPH. This international work-sharing programme will be of great help, particularly for IP Offices in emerging countries, in terms of managing their examination workload more efficiently by allocating additional personnel to non-PPH applications. Moreover, they can expect more patent applications from overseas applicants who prefer the ease of PPH procedures. We would like to emphasize that in all types of PPH, decisions about whether to grant patents remain under the control of the individual offices.

287. The JPO came up with the idea of this work-sharing programme and launched the first pilot programme together with the USPTO in 2006. Since then, the JPO has been working to expand the PPH network and enhance the usability of this framework. A total of 54 IP offices are participating as of today. In addition, the JPO serves as the secretariat of the Global Patent Prosecution Highway (GPPH), a multinational framework launched in 2014.

288. Other initiatives to utilize the examination results of the JPO include the PPH Plus and Cooperation for facilitating Patent Grants (CPG). Under these programmes, applicants who have patent rights at the JPO can apply to have their patent applications for the same invention examined with simplified and accelerated procedures at other offices. The JPO is currently implementing these frameworks with the IP offices in Brunei, Cambodia, and Lao People's Democratic Republic.

289. These initiatives are established following mutual agreements of both parties and are the results of willingness of both offices to work together to improve application pendency and examination quality with respect to the examination systems of each country.

290. The JPO has also been taking the lead in the field of IT systems. The JPO has advocated the establishment of a system to share dossier information, including the status of procedures, as well as examination and document-related data. We have been promoting this initiative named One Portal Dossier (OPD) among the IP5 offices, the IP office in Japan; the United States of America; Europe; China and Korea, Republic of. This system enables examiners to refer to the dossier information of member countries for the purpose of more efficient examinations.

291. The OPD is also now available to applicants on the Internet. In addition, the JPO has contributed to the global expansion of this system through the world's first linkage of OPD with WIPO-CASE, WIPO's dossier information-sharing system, following joint technological development together with WIPO.

292. In addition, the JPO was the first to initiate a framework to electronically exchange priority documents with other IP Offices. This framework significantly reduced the burden and cost of filing procedures for applicants, as well as the burden of document delivery procedures in the respective IP offices. Since the WIPO subsequently developed the Digital Access Service (DAS), the JPO has cooperated with WIPO to develop a DAS environment. The improvement of IT systems is the foundation for examination operations at all IP Offices, and we are eager to continue to promote international discussions on this matter.

293. Along with developing frameworks and systems, the JPO is placing efforts into human resource development in cooperation with foreign IP offices. To this end, the JPO is facilitating direct discussions among examiners, as well as providing trainings for examiners in cooperation with other IP offices. This programme aims to promote mutual understanding and trust-building and improve the harmonization of examination practices among IP offices. Since 2000, the JPO carried out these programmes together with 34 IP offices and organizations, and in 2022 conducted online exchanges with 22 examiners from the IP offices in Europe, China, and the United Kingdom. They compared their examination methods and practices and also exchanged information on search systems, operation of examination guidelines and quality control.

294. The JPO's team of international training instructors, which consists of examiners with extensive examination experiences, provides training programmes for patent examiners from emerging countries. The training programme is tailor-made to meet the needs of every Office, combining

lectures and exercises. In 2022, approximately 230 examiners in emerging countries participated in the trainings. In addition, the JPO has various programs focused on developing human resources in emerging countries. Specifically, the JPO works with the WIPO to conduct high-level policy dialogues; fellowships and IP master's programmes; and to provide support for the development of IT infrastructure.

295. In terms of IP utilization, for example, the JPO has been helping with brand-building in the African region. For the *Taita* Baskets project conducted in cooperation with the IP office in Kenya, we assisted women in rural areas to acquire a collective trademark for their traditional baskets, draft rules for the use of the collective trademark, and quality control of the basket products. Furthermore, the JPO offers training courses for government officers and IP experts in the private sector in emerging countries. Through these training courses, we aim to support human resources who play central roles in developing their respective IP systems, as well as build networks among those talents in emerging countries.

296. Finally, the JPO dispatches its staff members to various regions in order to facilitate communication with other IP offices to promote the above-mentioned initiatives. Specifically, IP attachés are stationed in China, Brazil, Germany, India, Korea, Thailand, Singapore, the United Arab Emirates, and the United States to closely communicate and coordinate with the counterparts of the IP Offices in their respective regions. The above-mentioned initiatives of the JPO can help to build an environment where applicants in Japan and other countries are able to protect their IP rights more smoothly, as well as to streamline the operation of IP offices. Going forward, the JPO is determined to continue promoting these initiatives in cooperation with other IP offices. We sincerely hope that this presentation will be of some use to other Members, and we look forward to listening to other Members share their experiences.

### **13.2 United States of America**

297. The United States of America thanks Japan for drafting this paper on cross-border cooperation among IP offices, and we thank Members for engagement on this important topic. Cross-border cooperation between our IP offices is one of the best ways we can seek to improve IP systems for the benefit of all. The US Patent and Trademark Office engages in extensive cooperation with IP offices around the world. Such cooperation includes experience sharing regarding examination, research collaboration in economic research, exchanges of information regarding IT systems and tools, and establishing a telework environment.

298. The USPTO has also collaborated and shared information with other offices in meeting challenges like handling increased filing periods or responding to the COVID-19 pandemic, whether it be by extending deadlines or accelerating examination for COVID-19 related products. Several of those initiatives have been shared here in this Council. In broad terms, the USPTO maintains several memoranda of understanding with foreign IP offices, which underpin a lot of our cooperation. For example, we maintain a memorandum of understanding with the Canadian Intellectual Property Office, which features ongoing cooperation between operations divisions on trademark and patent examination efficiencies. We also have MOUs with the Uganda Registration Services Bureau, the Department of Intellectual Property of the Kingdom of Bhutan, the Department for the Promotion of Industry and International Trade (DPIIT) in India, and the Saudi Authority for Intellectual Property (SAIP). These are just few examples of the cooperations we maintain. We recently signed an MOU with the IP office of Ecuador, and recently renewed a memorandum with the IP office of Chile for an additional four years. With the IP office of Panama, we have completed a Joint Statement of Intent on Cooperation on Accelerating the Grant of Panama-Related Patent Applications.

299. The USPTO also has significant cooperation with the IP office in Brazil, which includes ongoing information exchanges on a variety of administration and operation topics, including telework, performance management, and quality management, as well as quarterly patent technical calls. Such cooperation may include sending or receiving representatives from or to the foreign offices to observe an office's operations first-hand. During the COVID-19 pandemic, the USPTO has also developed customized educational webinars in support of trademark examination operations for a variety of countries, including El Salvador, Guatemala, Dominican Republic, Costa Rica, and Haiti.

300. On IP enforcement, the USPTO collaborates with other IP offices in educating consumers about the dangers of counterfeit goods and reducing the demand for these goods. For example, the USPTO

makes its "Go for Real" public awareness anti-counterfeiting campaign materials available to other IP offices, and Mexico's IP office, IMPI has been able to adapt those materials for their own public awareness campaign.

301. The USPTO is also an active participant in IP5, ID5, and TM5:

- The IP5 launched in 2007 as a forum for the world's five largest patent offices (China, EU, Korea, and Japan) to exchange views and identify opportunities for cooperation with regard to common challenges, including patent examination workloads, backlogs, patent quality, and inefficiencies in the international patent system. At its annual meetings, it also meets with industry and stakeholders to hear their views.
- The Industrial Design Forum (ID5) brings together the five largest industrial design offices in the world: the China National IP Office (CNIPA), the European Union IP Office (EUIPO), the Japan Patent Office (JPO), the Korea Intellectual Property Office (KIPO) and the USPTO.
- TM5 (Trademark 5) is the name given to a forum of the world's five largest trademark offices. Its mission is to promote cooperation and collaboration among its members. The partners of TM5 exchange information on practices and programs that facilitate increasingly user-friendly and, if possible, interoperable trademark systems. Projects undertaken by TM5 — such as the TM5 ID List and Common Status Descriptors — aim at harmonization and improvement of trademark procedures. Other projects, such as Combatting Bad Faith Trademark Filings and Describing Goods and Services, aim to compare the practices of the partner offices.

302. In terms of cooperation among IP offices that would provide additional benefit, USPTO believes that reciprocal recognition of the validity of priority information for patents and trademarks found on an office's publicly offered website, would be beneficial. In trademarks, reciprocal recognition of the acceptability of classification and identification of products and services in trademark applications would be valuable, such as those found in the ID list maintained by the TM5 partners. The benefits of cooperation among offices are numerous. Many IP offices face similar challenges, and the information sharing that occurs between offices can offer valuable solutions. Cooperation and communication benefits IP office operations, and ultimately stakeholders, by clearing up misconceptions and conveying procedural and substantive details directly between the experts.

### 13.3 Singapore

303. Singapore thanks Japan for drafting the discussion paper and sharing its experiences on cross-border cooperation among IP offices. We are pleased to be a co-sponsor of this paper. Singapore invests heavily in the innovation ecosystem and has developed strong partnerships with many global innovation hotspots. Recognising that IP is a key enabler in delivering successful innovation outcomes, the Singapore Government launched the Singapore IP Strategy (SIPS) 2030, which is a national blueprint that supports enterprises and the wider innovation community. A cornerstone of SIPS 2030 is to forge an IP ecosystem that supports innovation activities and connects well to global markets by strengthening collaboration with our global partners. This collaboration takes place on multiple fronts and have helped to promote greater uniformity and participation in IP, particularly at the regional level.

304. As Chair of the ASEAN Patents Task Force (PTF), Singapore has developed instruments such as the ASEAN Patent Examination Cooperation (ASPEC), which facilitates patent work-sharing cooperation among IP offices in ASEAN. In 2022, the number of ASPEC filings saw a ten-fold increase in applications since 2012 and crossed the 1000-mark for the first time. Singapore also spearheads the development of the ASEAN IP Portal, which houses the online ASPEC platform, to promote access to IP services, databases and information for the region. As Singapore and IP offices in ASEAN continue to work in tandem, plans are also underway to bring on board more useful elements to the ASEAN IP Portal, such as IP training and a directory listing of IP service providers, for the innovation community.

305. We have also partnered with the World Intellectual Property Organization (WIPO) through the WIPO Singapore Office to promote innovation an IP in Southeast Asia. Since 2005, the partnership



has concluded more than 160 technical assistance programmes and over 80 events for some 1,600 participants. In February 2023, Singapore launched the Mentorship for Intangible Asset Transformation (MINT) programme – a joint pilot between WIPO and IPOS that builds upon WIPO's existing IP Management Clinics (IPMC). The MINT programme enables businesses in Singapore to draw on a pool of international IP experts for their entrepreneurial activities. There are ongoing plans to replicate this programme in other parts of the region.

306. Beyond Southeast Asia, Singapore works closely with IP offices and organisations around the world to foster a strong IP community and exchange best practices. In February 2023, Singapore held the 14th Community of Practice (CoP) for patent examiners with generous support from the WIPO Japan Funds-In-Trust. The programme brought together patent examiners from the region and beyond to share knowledge and improve patent prosecution process collaboration in the region.

307. Lastly, Singapore welcomed the establishment of the International Valuation Standards Council (IVSC) Asia Office last year. The new IVSC setup – the first outside of Europe – will contribute to the development of international standards and valuation professionalism across all asset classes, including IP and intangible assets. Singapore is fully committed to working with our innovation partners, including IP offices and organisations, to foster a vibrant IP environment for our businesses, entrepreneurs, and creators.

### 13.4 Switzerland

308. Let me begin by thanking Japan for introducing submission [IP/C/W/697](#). Switzerland is pleased to be a co-sponsor and would like to thank the Members, who shared today their national experiences with the Council for TRIPS.

309. Why is the Swiss IP office cooperating cross border with other IP offices? For three reasons. Let me start with the Swiss IPO perspective. A well-functioning, up-to date IP system is key for an innovative economy and sustainable growth. A regular exchange with Partner IP offices helps the Swiss IPO to keep abreast with the fast pace of developments in the legal, technical, and operational field of intellectual property, sharing lessons, learning from others, exchanging on what worked for them and what did not, to draw relevant conclusions for our own strategy and vision and taking necessary measures to adapt to these new developments. We consider this cross-border cooperation a win-win for both offices involved and beneficial for their efforts to develop the national IP system in an efficient and effective manner.

310. Now, to the right holders' perspective. Transnational protection of intellectual property can be a complex and challenging affair for right holders, particularly MSMEs. Cooperation at the bilateral, regional and international level with other IP offices, including efforts to harmonize, simplify and facilitate procedures for the application, registration and administration of IPRs, keeping the operations and services of the IPO fit for purpose, benefits such the users of the IP system.

311. Thirdly, our technical cooperation partners' perspective. Just as the Swiss IPO learns from others through cross-border cooperation, we share our own experiences and lessons learned with partner offices requesting assistance. Multi-year technical cooperation programmes enable targeted and result-oriented support to achieve progress in a specific field of priority of that partner, be in the IP norm-setting process, building up efficient IPR operations or training expert personnel to more successfully accomplish day-to-day work that their IP office performs.

312. A couple of concrete examples hopefully help illustrate what my delegation just said in a very general manner about the benefits of cross border IPO cooperation. At the regional level, Switzerland interacts extensively with the European Patent Office (EPO), recognizing early the potential of regional cooperation in the field of IP and patents in particular, Switzerland is a founding member of EPO, which, exactly 50 years ago – in 1973 - was funded. EPO acts as the patent examination and granting authority for the vast majority of patents that are valid in the territory of Switzerland. On the one hand, this discharges the Swiss IPO from a considerable workload, delegated to the EPO, allowing for economies in both financial and human resources. And on the other hand, this cooperation provides considerable added value from the right holders' perspective to apply for a patent with a single application not only for protection in the territory of Switzerland but at the same time for up to 40 more EPO member or extension countries. Clearly, this collaboration is the closest and strongest cross-border cooperation the Swiss IPO has with another IP office. Switzerland being

a Member of EPO, is thus also closely involved in institutional and organizational EPO matters, next to the operational collaboration described.

313. In the sphere of regional cooperation, we also mention the European Intellectual Property Office (EUIPO) as a valued cooperation partner of the Swiss IP office. Although an EU institution, the Swiss IPO is in a regular exchange with the EUIPO, be it on substantive or procedural aspects in the fields of shared IP responsibility, and thus predominantly in the field of trademarks and designs. Via the EUIPO, Swiss IP rights holders can directly file a design or register a trademark with effect in all 27 member States of the European Union.

314. Moving to examples of cross-border cooperation with other IP offices at the bilateral level, let me briefly introduce the collaboration that the Swiss IPO has with the UK IP office. In annual meetings at top management level, but also in a continuing and implementing mode at expert level throughout the year, we work on topics of joint interest and priority. We examine together IP developments with a direct impact on the functioning and the services of our IP offices, such as the digitalization of processes and services offered to our customers, the IP right holders. On the policy level, we discuss issues such as IP and frontier technologies, Big Data, Artificial Intelligence and Intellectual Property, the Internet of Things or the metaverse and how our IP offices can prepare and respond appropriately to these technological developments. Exchange of examiners allow for the sharing of experience and learning from each other for the mutual benefit.

315. A practical example of a technical assistance cross border cooperation is the Colombian–Swiss IP Project, phase II. The overall goal of this 4 year-project is to ensure that entrepreneurs, creators, researchers and producers in Colombia benefit from an improved IP system. With this goal in mind, the project provides advice and support in selected areas where the Swiss IPO is able to offer expertise and can help to achieve a tangible impact. Technical capacity building may happen in the form of trainings, workshops and experience sharing. One feature of the project was support for the establishment of Colombia's national IP policy 2022-2031. Moreover, the project promoted the national GI system in Colombia and conducted a legal gap analysis on the industrial design legislation in order to prepare Colombia's accession to the Hague Agreement of WIPO.

316. In another example of a cross border cooperation and assistance among IP Offices, Switzerland and Ghana worked together on topics such as:

- The commercialization of IP rights of research institutions and SMEs.
- The pilot registration of selected Ghanaian geographical indications products, to promote better market access of high-quality agricultural products and handicraft products for the benefit of rural and artisanal communities.

317. As a concluding remark: we note that while the COVID-19 pandemic has been a strain on cross-border cooperation of IP Offices, established partnerships have been able to continue their collaboration, helping the parties involved to better master the challenges they were confronted with in this extraordinary period.

### **13.5 Australia**

318. We also like to thank Japan for coordinating and introducing this communication. IP Australia works with other national IP offices and international organizations such as the World Intellectual Property Organization (WIPO) on various issues relating to the implementation of the IP system. Some of those cooperative efforts include:

- *memoranda* of understanding;
- comment and exchanges of patents' examiner;
- hosting of study visits; and
- other capacity building activities.

319. We found a cooperation with other IP offices has many benefits, which includes:

- sharing information and experiences on common issues;
- improving examination practices;
- enhancing the functioning of the international IP regime, particularly with regard to cross-border issues.

320. Cooperative efforts that harmonise IP office practices and systems directly benefit users of the IP system, through simplifying the process of obtaining IP rights. Users also benefit when IP offices work together to raise awareness of the IP system. And in that regard I would like you to know that IP Australia and WIPO will soon be hosting a series of webinars targeting SME exporters and I will be happy to share the dates of those with any interested delegation. We look forward to further exchanges with Members on their experiences, and how we can all benefit from cross-border cooperation among IP offices.

321. This will be my last intervention in this meeting Chair. I want to say thank to you for all your excellent and good work of this Council over the last year.

### **13.6 Chinese Taipei**

322. We would like to thank Japan for preparing the paper and we are pleased to be a co-sponsor. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu is an open and free market economy with a thriving industrial property landscape. In 2022, the number of invention patent applications received by TIPO exceeded 50,000, representing a 2% annual growth rate. Global statistics indicate that in 2021, TIPO ranked 8th among patent offices in terms of invention patent applications received, with non-resident applications accounting for approximately 60% of the filings. Japan, the US, China, the Republic of Korea, and Germany were the top five countries of origin of said applications. Our local enterprises have been actively developing global patent portfolios. In the past five years, the numbers of invention patent applications from our jurisdiction received by the IP5 reached over 30,000 invention patent applications annually; of these, the majority were received by the USPTO (approximately 19,000 applications), followed by the CNIPA (11,000 applications), and the JPO, EPO, and KIPO (1,000 applications each).

323. TIPO places great importance on examination efficiency and quality to provide better services to our patent applicants, TIPO is actively cooperating with other IP offices to accelerate examination process and reduce costs.

324. To streamline the patent examination process and allow applicants to obtain patent rights swiftly, we have been actively cooperating with other IP offices under the Patent Prosecution Highway (PPH) program and sharing examination results. Additionally, TIPO also works with other IP offices to enhance examination efficiency and minimize time and costs associated with submitting priority documents for cross-border applicants. The Electronic Priority Document Exchange (PDX) Program is another collaboration with our global counterparts, allowing patent and design applicants to transmit their priority documents electronically. In addition, to simplify the procedure for patent applicants to deposit biological materials and reduce the cost arising from making duplicate deposits, we actively promote mutual cooperation with other IP offices on biological material deposits.

325. Apart from efficiency, maintaining high examination quality is of utmost importance to TIPO. We organize activities to exchange information with WTO Members about our legal systems and best practices. We conduct examiner exchanges on a yearly basis with major IP offices to keep abreast of recent developments and to exchange experiences. We also jointly hold IP dialogues and seminars with other IP offices to discuss issues of concern, exchange information, and arrange for our examiners to participate in training courses offered by other IP offices.

326. We have ample resources and expertise in information technology and TIPO is glad to exchange our experiences in establishing IT infrastructure with other IP offices. TIPO has established two patent search information systems, i.e., the TWPAT and GPSS, providing free access for the general public. To optimize the search system, TIPO has signed patent data exchange agreements with major IP offices. TWPAT is a search system for our published patent data, while GPSS collects published global patent data. Collaborative efforts in industrial property across borders can bring mutual benefits to all participating IP offices. TIPO is committed to pursue opportunities to cooperate

with other IP offices, aiming for establishing more comprehensive cross-border IP collaborations that can benefit our IP service users.

### **13.7 United Kingdom**

327. The United Kingdom would also like to thank Japan for drafting the interesting and informative paper on Cross-Border IP Cooperation among IP Offices. The UK IPO greatly values working in close cooperation with the World Intellectual Property Organization, European Patent Office and national IP offices across the world. Innovation is a key driver of economic growth, which facilitates progress and trade across the world.

328. In our view, it is crucial that we work effectively with our global partners in areas of common interest, and to create a positive framework to share and expand expertise and knowledge. We see our collective role as supporting innovators around the globe through enhancing understanding and cooperation between Members as well as the sharing of advice and know-how about the role of IP in different cultures.

329. Therefore, the UK regularly engages in activities to foster direct cooperation, share best practice and to facilitate learning from one another. We already heard about some of the UK-Swiss collaborations in addition notably we have productive co-operation activity on trademark practices across Asia. Most recently holding a successful expert-level exchange with colleagues in China. We are also very proud of our partnership with the Brazilian IP office, where our comprehensive collaboration on developing an IP office for the 21st Century has delivered significant improvements to the quality and waiting times of rights granting services for both domestic and overseas applicants.

330. The UK also recognises that the value of international IP co-operation extends beyond the registration of IP rights. The global community of innovators and creators will also benefit from concerted efforts to build the IP knowledge and skills to fully maximise the opportunities that IP can bring to society. As such, we have helped to set-up and taken part in sessions on IP awareness, such as conferences and seminars, as well as sharing information around developments in relevant laws, policies, and regulations. For example, the UK IPO and Indian IP office enjoy a longstanding relationship underpinned by a joint workplan which underlines the commitment by both partners to enhance the impact of IP protection across our economies.

331. As TRIPS Council Members, we have an opportunity to further our existing cooperation to ensure we can address the challenges that rapid changes in technology, society and the global economy herald. One of those changes has been the rapid growth of e-commerce over the past 5 years, which itself presents both risks and opportunities for rightsholders. Infringing content and counterfeit goods know no borders. Sharing best practice, for example, in anti-counterfeiting activities and provisions is essential to tackle IP infringement online. An example of which is a recent workshop, held in summer last year, on online and offline enforcement best practices for IP enforcement agencies in Viet Nam.

332. By such efforts, we are continuing to improve the capacity and effectiveness of IP enforcement; and laying the foundations to build a comprehensive co-operation programme to prevent and combat infringement of IP rights. The UK continues its commitment to engage with other IP offices more actively. Through this we will continue to build a stronger IP landscape, to benefit and promote innovation, both at home and abroad.

### **13.8 Canada**

333. Canada would like to thank the delegation of Japan for its leadership in drafting the discussion paper on cross-border cooperation among intellectual property offices (under document IP/C/W/697), and for providing us with the opportunity to speak about this important topic today. Canada would like to thank the Secretariat for circulating the discussion paper for today's topic. Canada is pleased to share its national experiences in this area and looks forward to an exchange of views from interested Members on this topic.

334. Canada, through the Canadian Intellectual Property Office (or CIPO), recognizes the importance of cross-border cooperation among IP offices and believes that such efforts are vital to

promoting innovation and the balanced protection of IP rights globally. Indeed, CIPO actively collaborates with other IP offices in various ways. For example, CIPO has delivered the Canadian Patent Law and Examination Workshop (or CPLEW), a 7-day workshop for patent examiners around the world, run by CIPO patent examiners. The CPLEW provides an opportunity to share best practices between IP offices and to engage in in-depth discussions on various patent-related topics affecting all examiners across various offices. Since visiting examiners already possess the knowledge and skills regarding patent examination, the program focuses on Canadian particularities and on delivering interactive activities, such as case studies. During the workshop, Canadian patent law and examination practices are explained and compared with those of participant offices. Guest examiners are also invited to share information on their respective patent office, at their discretion. These topics range from office organization and structure to training programs, and typical workdays or business offerings. Through the CPLEW, patent examiners are able to share best practices with respect to examination under the Patent Prosecution Highway (or PPH).

335. The Patent Prosecution Highway (PPH) is another example of cross-border cooperation between intellectual property (IP) offices. The Canadian Intellectual Property Office (CIPO) currently has partnerships with 25 IP offices under the global PPH pilot programme, and five IP offices under the bilateral PPH pilot programmes. The PPH programme allows participating offices to avoid duplications and improve quality thanks to work-sharing among offices. Patent applicants whose applications are considered receivable by a patent office may request an accelerated examination of the relevant applications by a participating office through a simple procedure, based on the results of the examination by the first office. The growing number of patent offices that are implementing the PPH programme underscores the advantages of cooperation among offices and the transparency within the global system of patents. From the applicants' perspective, use of the PPH reduces waiting time and may also reduce agents' fees due to the potentially lower number of actions needed to be taken by the office to process their application. Furthermore, Canadian applicants are among the most diligent users of the PPH programme.

336. In addition, CIPO has also participated in many bilateral exchanges and interchanges over the years with other IP offices to discuss harmonization of substantive laws, provide training, identify best practices, and collaborate on initiatives to improve the timeliness and quality of granted patents. For instance, CIPO's Programs Branch had an opportunity to engage with the United Kingdom's Intellectual Property Office and the Japan Patent Office to share information and best practices as it relates to the modernization of intellectual property systems and tools. This provided an opportunity to exchange views on the priorities of other offices, as well as the approaches adopted to modernizing and increasing their e-service catalogue.

337. We continue to encourage more cross-border cooperation on the development of common tools, products and processes that could improve patent examination. This type of cooperation could extend beyond the substantive work of examiners to include other operational areas such as IT infrastructure and data-driven decision-making. Cooperation on AI tools for IP offices is also possible. Some offices invest heavily in this area and exchanges of national experiences could be useful to other IP offices. It is also useful to share best practices on how IP offices gather and use data and what tools they use to do so to better inform their clients and allow them to take informed IP decisions. Moreover, it may be useful to discuss the approaches of IP offices in the area of quality and data standards. In closing, Canada would like to reiterate our commitment to international cooperation as we continue to improve the global IP ecosystem.

### **13.9 Hong Kong, China**

338. I would like to first thank Japan for taking the lead in co-ordinating the paper, which Hong Kong, China is pleased to support. As pointed out in the paper, while the industrial property system is based on the principle of territoriality, we see merits in cross-border cooperation among IP offices, as it can greatly contribute to enhancing legal certainty and predictability, thereby supporting cross-border trade and investment.

339. For Hong Kong, China, our Intellectual Property Department has been active in forging ties with IP offices over the world. Such cross-border cooperation takes different forms. First, to strengthen cooperation and exchange with other IP offices, we have signed a number of memoranda of understanding with other IP offices and organisations over the years (such as the IP offices in Australia, Republic of Korea and Mexico respectively, as well as the International Trademark Association).



340. Second, to promote awareness of IP among businesses, we held different workshops and seminars in collaboration with other IP offices. For example, we organised a workshop together with the Republic of Korea and Mexico in 2018 to promote the best practices in licensing for SMEs in the creative industries. We also organised an online workshop with ASEAN in December 2022 to share the best practices in IP commercialisation in a knowledge-based economy.

341. Third, we benefit from cross-border collaboration in human resource development. Following a fundamental review of Hong Kong, China's patent system, we launched an original grant patent system in 2019. The new patent system, which runs in parallel with the existing re-registration system, provides a direct filing route for seeking standard patent protection in Hong Kong, China. To build up the capability of our patent examiners in conducting substantive examination, they have been joining a 4-month comprehensive training provided by the China National Intellectual Property Administration (CNIPA), covering different areas such as patent searches, classification, and substantive examination. In this regard, we are very grateful for the support rendered by the CNIPA. With the benefit of the memorandum of understanding with IP Australia, our Intellectual Property Department also appreciates the collaboration on capacity building, in particular the exchanges and sharing with our patent examiners on different patent issues.

342. Last but not least, Hong Kong, China has been spearheading development as a regional IP trading centre. Our Intellectual Property Department collaborates with the respective IP authorities in Mainland China and the Macao Special Administrative Region in organising exchanges, seminars, symposiums and IP expos for promoting IP awareness, protection, management, commercialisation and our IP professional services, notably in the Guangdong-Hong Kong-Macao Greater Bay Area. Such efforts would not only enhance protection of industrial property across the three jurisdictions, but also contribute to regional economic development through trade and investment.

343. Hong Kong, China will continue to foster collaboration with other IP offices on capacity building and promoting public awareness of the importance of IP in world trade. We look forward to learning about other Members' experiences as we work together to develop a more globalised industrial property system.

### **13.10 European Union**

344. The European Union delegation is very pleased to co-sponsor this agenda item and I would like to thank in particular Japan for the active role in the drafting of the document submitted today to the TRIPS Council. We also thank the US delegate for her full involvement in the coordination of the Group. We are all convinced that IPRs play an increasingly important role in corporate strategy. The intangible assets created through innovation represent a major share of the value of today's businesses. The IPRs associated with intangible assets are the legal guarantee for potential returns on investment in innovation and a means to get funding.

345. In this context, the cooperation between IP offices beyond the frontiers is of a great importance. Within the EU, this cooperation is very intense, not to say "raison d'être" of our group, but also our IP offices (EUIPO), but the national offices as well, have a close relationship with their counterparts all around the world. Our friend from Switzerland evokes the memorandum of understanding with EUIPO but, EUIPO has many memoranda assigned and many memoranda with many, many countries in the world. I will present two examples of cooperation originating in two EU member States; Spain and France, but first, let's talk about the cooperation managed by the EUIPO as such. The EUIPO, the IP agency of the EU, through the European Union Intellectual Property Network has created tools and practices so that businesses, big and small, can benefit from more efficient registration services and increased legal security when applying for a trademark or design.

346. The EU IP Network brings together the EUIPO with the EU national and regional IP offices, as well as international partners, to make IPRs, mainly trademarks and designs more accessible, user friendly and effective. Over the last 12 years, the EUIPO, together with the valuable support of the EU IP network, has been able to drive a cut in registration fees, save costs, create global search tools and modernise the IT infrastructure of IP offices in Europe and worldwide. The EUIPO and the IP offices of the EU member States operate in a two-tier system in which EU rights and national rights work together and complement each other. This means that the EU trademark exists along with national trademarks. This is to say that trademarks registered in the EU member States, and



companies can choose where to protect their brands depending on their business needs. This is an original system of coexistence of property titles.

347. The EU IP network strengthens this whole system connecting IP offices and working to develop online tools that make it easier to apply for a trademark or design, and, on the other, converge on practices so that the process of registering a trademark and design is as similar as possible everywhere in Europe. Currently there are eight projects and 25 subprojects all focused on cooperation and convergence: from developing state of the art online tools for the registration of trade marks and designs to converging the way intellectual property offices register these rights. This is a growing and strong joint effort managed by all our IP offices.

348. The EU IP network entails a massive cooperation effort that needs both creativity and diverse viewpoints to flourish. Around 200 experts make up the network who come from national and regional IP offices, user associations and international organisations like the World Intellectual Property Organization (WIPO), the European Commission and the European Patent Office. The EUIPO experts complement this input with regular technical visits to the IP offices. Internally, within the EU Single Market, we are, frankly speaking, beyond the cooperation *stricto sensu* but rather in a process of convergence. In short, convergence helps reduce, if not eliminate, incidents in which similar trademark and design applications are treated differently. This means that IP offices agree to follow common guidelines regarding certain aspects of how they examine trademarks and designs. These agreements are called common practices and they look into matters like what is considered an acceptable trademark and what is not, or how the passing of a new legal instrument, like a regulation or directive, affects examination of trademarks and designs.

349. Harmonising a specific trademark and design practice takes into account the input from relevant court decisions and the outcome of the EU IP network working groups, where IP experts share their views. The resulting common practices help trademark and design applicants and examiners alike to have a clearer understanding of the principles that are applied in examination. This way anyone can reasonably predict the outcome and benefit from a comparable decision both at EU and national level. To date, 12 common practices have been agreed upon between the members of the network: nine in the field of trademarks and three in designs. But convergence does not stop here, in a fast-evolving world like that of intellectual property there are now also new convergence projects that specifically look into updating the existing practices to the changing circumstances.

350. In respect of online activities, for instance, the EU IP network has been working to create the world's largest databases of trademarks and designs so that anyone interested in IP can search for millions of trademarks and designs from around the world in a single place: TMview, the network's flagship database contains a colossal 100 million trademarks, and there are more than 20 million designs in DesignView. Both tools are available in more than 35 different languages. These databases are complemented by two twin tools, TMclass and DesignClass, which allow applicants to know for what goods and/or services can be registered as a trademark or design.

351. The next step touches upon the examination process. The application is received at the EUIPO or at any of the national IP offices in a back-office system created with the valuable support of the EU IP network. Having a similar back office helps to increase consistency in the decision-making process. The back-office is currently used in 15 IP offices with Sweden joining in December 2022.

352. Let's take now an example of cooperation in one individual EU member State: Spain. Cooperation of the Spanish IP office within the framework of agreements with EPO and EUIPO is common. These agreements include cooperation projects related, in particular, to the development of computer tools and common databases as seen before. Spain has been a pilot, for example, in the development of the Front Office programme developed by the EPO for the management of patent applications. It also participates in the implementation of systems developed by EUIPO, such as, for example, the Back Office programme for designs. The convergence of practices is another of the usual practices carried out by these organisations, with the aim of achieving greater harmonisation in the granting and protection of IP rights in Europe.

353. On the other hand, bilateral cooperation takes place with different States, both within and outside the EU. Within the EU, we could mention the cooperation with Portugal, with whom a MoU was signed in 2022 and, among other issues, within the framework of this collaboration, a joint

study on "Patents and forest fire control" has been carried out. Outside the EU, it is worth mentioning the outstanding cooperation between the Spanish office with Latin America. Within the framework of bilateral agreements with Latin American offices, the *Oficina Española de Patentes y Marcas* (SPTO) set up the Ibero-American Training Programme for Technological Information Searches (CIBIT). The main objective of this programme is to promote the accession of the maximum number of Ibero-American countries to the Patent Cooperation Treaty (PCT), as well as to participate in the training of examiners from those offices of Ibero-American countries that already belong to this Treaty in international search procedures and techniques. In 2022, three Ibero-American patent examiners (specifically from Cuba, Mexico and Uruguay) participated. The main benefits of this kind of cooperation are the harmonisation that comes with the development of similar practices, as well as making it easier for citizens to apply for rights outside their country of origin.

354. Finally, the IT cooperation developed so far has proven to be very effective in Spain. A deepening of these practices, with extension to more countries, could be beneficial for applicants and right holders. I switch now from the Spanish example to the French in order to present an example of cooperation of a European IP office with a regional office in Africa.

355. INPI-OAPI (African Organization for Intellectual Property) cooperation has been long-standing between the two institutes that are connected through their history, their laws and their language. This was consolidated and boosted by the creation in 2019 of a Regional Counsellor for Intellectual Property attached to the Embassy of France in Côte d'Ivoire for West and Central African countries. Currently, cooperation is built on three main pillars: training, support for businesses and geographical indications. Training to upskill OAPI and national IP network officials includes:

- Funding of three candidates per year to pursue CEIPI training (training of patent or trademark engineers in Strasbourg);
- Active participation in the first edition of OAPI's master's degree programme in "Patents and Innovation" aimed at training engineers specializing in supporting innovation through IP;
- Training of magistrate trainers at magistrate academies in the three pilot countries (Côte d'Ivoire, Cameroon and Senegal) in cooperation with WIPO, ENM, INPI and OAPI.

356. Support for businesses:

- Pre-diagnostic training in IP for better IP management in businesses;
- Assistance with structuring OAPI client offer in providing support for businesses;
- Support for implementation, labelling and enhancing the value of geographical indications;
- Co-organization of the ministerial seminar on geographical indications in Abidjan in June 2022 aimed at fostering the promotion and international protection of geographical indications. Following this seminar, OAPI acceded to the Geneva Act of WIPO's Lisbon Agreement (December 2022).
- French structural aid for geographical indications as part of development assistance programmes in partnership with CIRAD and AFD.
- Development aid for industrial and artisanal geographical indications in which INPI has a long and solid experience.
- In conclusion, it is with this very elaborate example of cooperation led by France with a sizeable portion of Africa that I will conclude my remarks.

### 13.11 Korea, Republic of

357. I would like to extend our appreciation to co-sponsors for preparing the discussion paper and sharing national experiences. Although Korea did not join as co-sponsor this time, the Republic of Korea supports the paper, and we recognize the necessity of the relevant discussion. We hope that

today's exchange makes an important step towards discussing further the various methods of cooperation, and thereby enhancing participation of Members and cooperation among their IP offices.

### 13.12 Peru

358. We wish to thank the co-sponsors for their draft and Japan for presenting the document we are discussing. We also appreciate the valuable information shared yesterday that reflects the various initiatives that are being taken at different levels to strengthen cooperation between IP offices. We agree on the importance of and need to strengthen ties between offices in order to promote certainty and predictability, as well as foster creation and innovation, which will have a positive impact on the promotion of trade and investment.

359. For our National Institute for the Defence of Competition and the Protection of Intellectual Property (INDECOPI), other IP offices are strategic allies for strengthening the IP ecosystem at all levels, including through the transfer of knowledge, technical skills and capacities, and direct support for specific projects. There are three categories of cooperation in which INDECOPI participates:

- First, those aimed at enhancing information exchange, for example, our Office's participation in the European Union Intellectual Property Office's (EUIPO) DesignView or the European Patent Office's Latipat search engines. We also wish to highlight, as the EU delegate mentioned yesterday, cooperation with EUIPO to ensure the integration of data on national trademarks into the online information and classification systems developed by EUIPO known as "TMview" and "TMclass".
- A second category is cooperation to enhance the skills of examiners of patents and industrial designs through workshops, seminars, webinars and internships organized by various offices with whom we have agreements, such as internships with the Spanish Patent and Trademark Office (OEPM).
- The third category of cooperation is aimed at improving the quality of the service provided, for example, mechanisms to accelerate the examination of patent applications concluded with the Spanish Patent and Trademark Office, the European Patent Office, the Pacific Alliance countries and PROSUR members, as well as countries and member offices of the PPH Global Agreement. Another case is implementation of computer systems, where we wish to highlight the support of EUIPO, which granted INDECOPI the source code for the non-commercial use of "Cesto", a tool used by trademark examiners.

360. At the regional level, cooperation is maintained among the IP offices of the countries that make up the Andean Community (CAN). For example, just days ago, we launched the Andean Opposition Protocol, which seeks to provide faster processing of trademark applications. We also maintain cooperation among IP offices belonging to the Ibero-American Programme on Industrial Property and Development Promotion (IBEPI) and APEC. Benefits include skills development of our examiners, improved management, examination and processing of applications, enhanced implementation of public policies and adoption of strategies linked to different aspects of IP.

361. Lastly, we wish to highlight the significant impact of cooperation on specific projects that focus on areas such as MSMEs, digitalization, and implementation and use of IT tools for the purpose of simplifying access and expediting procedures for users.

### 13.13 India

362. At the outset I would like to thank the co-sponsors of document [IP/C/W/697](#) for their paper Cross-Border Cooperation among IP offices and also the delegations who made this presentation. My delegation would wish to share some initial thoughts and also some questions on the paper.

363. IP offices establish various forms of collaboration, and cooperation at bilateral, regional as well as international (WIPO) level, which this paper also acknowledges. The questions proposed for discussion in the paper can be useful to assess the existing forms of collaboration among IP offices. In this context it would be interesting for us to understand the purpose and intent of the paper overall. Further, the document implies a harmonized approach on IP protection for artificial

intelligence and since this is an evolving and complex area where many countries are analysing the nature, scope and impact for their domestic policy making and, we believe is the right approach for now as it is crucial to have the policy space and freedom for countries to build a domestic landscape. In this regard, it would be good to understand if the co-sponsors are looking at any substantive outcomes in this area in the Council for TRIPS. We look forward to learning and understanding more from the co-sponsors on these issues that we raised.

#### **13.14 Bangladesh**

364. Under this item I deliver this statement under my national capacity. Bangladesh thanks Japan and other co-sponsors for the presentation of the document [IP/C/W/679](#). Of course, our capital is examining this paper but here are some preliminary observations.

365. Innovation is important for all Members including the LDCs. Article 7 of the TRIPS Agreement provides, and I quote: "The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations".

366. From our perspective, as an LDC, gap in productive capacities, infrastructure and finance, digital divide, and cross-border data governance are some of the major challenges when we think of the digital trade. This paper proposes, among some key ideas, establishing global IT infrastructure to share information among IP offices as a base. This is a reality that a large portion of our Members lack such a base. In addition, we continue to struggle with inherited challenges including in human and institutional capacity. The paper mainly proposes, as its title suggests, cross-border cooperation among the IP offices. In my delegation's understanding, this may primarily be a subject of further examination in WIPO. The paper talks about WIPO's relevance.

367. There are several issues proposed in this paper. We are not sure whether all would fit under the scopes of the IP offices. For example, the paper includes the intricate issues of advanced technologies like Artificial Intelligence (AI) and metaverse. We need more information to understand their trade linkages and scopes of our work in the World Trade Organization. In conclusion, Bangladesh supports the idea of exploratory and inclusive discussion through the guided questions listed at the end of the paper. We also look forward to working with interested Members.

#### **13.15 South Africa**

368. Before thanking the co-sponsor and sharing our national reflections please allow me to extend best wishes to the people of Ireland and all people celebrating Saint Patrick's day today.

369. With regards to the paper, we thank the co-sponsors, and our capital is still considering the paper and the questions entailed therein. We recall the paper prepared by the Africa Group on policy space for industrial development submitted to the General Council. The paper emphasizes the need for the World Trade Organization (WTO) to ensure that trade rules promote a better balance between protection and incentives to promote research and innovation on the one hand and the unfolding needs of society on the other. It emphasizes that the COVID-19 pandemic has exposed this imbalance. Article 8 of the TRIPS Agreement provides that Members must take steps to safeguard the public interest in economic and technological development. Articles 7 and 8 of the TRIPS Agreement express the intention of the drafters of the TRIPS Agreement to allow countries to pursue measures protecting their societal needs. However, Members have not developed mechanisms to achieve these objectives. We are considering this submission in the context of this background. In our view we need to enhance our discussions on how we bring a better balance to ensure that the IP system, while supporting research and development, enables an effective response to societal challenges and is not an obstacle.

370. South Africa is in the process of developing its system of Substantive Search and Examination (SSE) of patents and has already been cooperating with other IP offices in developing its capacity. Could the co-sponsors advise how they see the WTO playing a role in the context of cooperation between IP offices given the initiatives taking place under the World Intellectual Property Organization (WIPO)? Furthermore, given the nature of the TRIPS Agreement, the recognition of different levels of development, the link of the IP system to economic policies and development

trajectory of Members, we need to caution against one size fits all approaches and I believe colleagues would recall such discussions within the context of the substantive patent law treaty. There are concerning objectives outlined in the submission such as the need to ensure that applicants obtain the same scope of rights for the same invention in multiple regions/countries based on the same standards. The implications of this need to be properly discussed and unpacked.

### **13.16 Canada**

371. Our approach in terms of cooperation, as was reflected in our statement, goes back to what is at the core of the mandate of our intellectual property office, and that is the delivery of quality IP rights. We have mentioned quality a number of times in our statement. Quality IP rights, which is a priority for us, is what inspires market confidence and what promotes investments and promotes recognition abroad, promotes confidence, and that is the trade link there. So, just to reassure everyone when we talk about cooperation it is the objective, at least for Canada, to promote approaches that lead to the delivery of quality rights, and that is at the core of our approach.

### **13.17 World Intellectual Property Organization**

372. The World Intellectual Property Organization (WIPO) would like to thank the co-sponsors of document [IP/C/W/697](#), which draws attention to the role of IP offices in creating an environment for innovation and IP to flourish. I would like to express our deep gratitude to all delegations that have mentioned that cooperation with the World Intellectual Property Organization. For WIPO, engaging in and facilitating cross-border cooperation is at the core of our mission to lead the development of a balanced and effective global intellectual property ecosystem.

373. WIPO is the home of cross-border intellectual property cooperation because of its responsibility for, among others, the Patent Co-operation Treaty (PCT), the Madrid System and the Hague System. They are registration systems based in longstanding multilateral treaties, which depend on national and regional IP offices being able to work together effectively. To support the proper functioning of these systems, WIPO actively collaborates with IP offices as part of carrying out the required functions under those respective systems. For example, the PCT system currently includes 157 Contracting States, and in 2021 PCT applications were filed in 83 IP offices and 24 of those offices also act as International Searching and International Preliminary Examining Authorities. The Madrid System currently has 114 members, covering 130 countries, and the Hague System has 79 members, covering 96 countries.

374. WIPO offers training, workshops and seminars for national IP offices on relevant systems, such as Madrid post-accession training for IP offices across the globe, most recently providing training to the IP offices of Algeria, Botswana, Cabo Verde, Liberia, Malawi, Mozambique, and the United Arab Emirates. Online Regional Workshops on the Hague System for IP offices including of the ASEAN, Latin American, OAPI and ARIPO countries to provide pre-accession and post-accession training to the IP Offices.

375. WIPO notes the reference in document [IP/C/W/697](#) to record levels of international applications and registrations under its systems in 2021. As outlined in WIPO's press release of 28 February 2023, the demand for international patent applications under the PCT and international design registrations under the Hague System has continued to grow in 2022. International applications under the Madrid System, in turn, have declined in 2022, having seen exceptional growth in 2021. Notwithstanding short-term filing fluctuations due to the broader macroeconomic context, international patent, trademark and industrial design filings have over the long term trended upward, highlighting the importance of supporting the cross-border cooperation that makes these systems function. While respecting the territoriality of IP rights, WIPO systems facilitate the process of seeking multinational protection and likewise facilitate public access to a wealth of technical information related to those rights, building up knowledge repositories and contributing to future innovation.

376. WIPO cooperates with IP offices by providing technical assistance and training on relevant WIPO back-office systems, which help IP offices to make best use of technological developments to support efficient rights application and registration. In this regard:

- WIPO has provided technical support to IP offices, including OAPI and ARIPO on using WIPO IPO Business Solutions. This includes the WIPO Industrial Property Administration System Suite, currently being used by 90 IP offices in all regions of the world.
- WIPO supports IP offices in developing countries make best use of publicly accessible WIPO AI systems such as the AI image trademark search.

377. Various WIPO committees provide our member States the opportunity to share information and experiences relating to the development of industrial property systems and their operation, as well as institutional and human capacity building and agree on any type of convergence they see fit. For instance, the Standing Committee on the Law of Patents (SCP) provides a forum for discussion of pertinent topics on both substantive and procedural matters and collects information about international work sharing and collaborative activities relating to examination of patent applications by IP offices. Topics under discussion also include the patentability of AI inventions and questions of inventorship, expedited patent examination and sufficiency of disclosure.

378. The use of new technologies in IP office procedures, for example, the use of AI for patent examination procedures, blockchain and digital transformation, is also a topic that WIPO member States actively discuss within various WIPO fora, including the WIPO Conversation on IP and Frontier Technologies, SCP and the Committee on WIPO Standards.

379. WIPO shares with IP offices its ongoing initiatives, learnings and best practices as well as engages with them to go beyond its work as a register of IP rights and to become a more active participant in the innovation ecosystem. In this regard it has recently begun implementing projects to support IP offices create or strengthen business support services for SMEs. WIPO is also building the capacity of underserved communities including women, youth and SMEs to create a conducive environment for innovation and creativity. Some examples include:

- Annual regional meetings among focal points of national networks of Technology and Innovation Support Centres, or TISCs, in Africa, Latin America and the Caribbean, South-East Asia, and Arab countries, which aim to promote exchange of experiences and best practices in managing and delivering technology and innovation support services for local inventors, researchers, and entrepreneurs.
- A Roundtable on the results of the managing and landscaping of the SME Support Services of National IP Offices in the Central European, Baltic States and Mediterranean countries region.

380. WIPO remains committed to working with IP Offices in all parts of the world to build a reliable, predictable environment for innovators and creators. We have taken note of the discussion today and yesterday and look forward to enhancing and strengthening our cooperation with IP offices to facilitate more targeted technical activities that achieve our shared objectives.

### **13.18 Japan**

381. With regards to some comments from some Member please allow me to clarify the intentions of our paper. We, of course, do not disagree with the basic notion that cooperation of IP system should be promoted based on mutual understanding. Regarding the specific comment on possible harmonization in areas of emerging technologies such as AI, or metaverse, we shared that there are many Members where the policy direction is not yet set. I totally agree with that. So, this is why we need that cooperation. The cooperation includes, of course, information sharing as a reference to consider a future policy direction in each country. So, this is why we consider that this meeting opportunity is already a good occasion to learn more about how IP offices all over the world are positively cooperating with each other in order to achieve a win-win situation that promotes innovation within the framework of the TRIPS Agreement and other instruments.



## **14 INFORMATION ON RELEVANT DEVELOPMENTS ELSEWHERE IN THE WTO**

### **14.1 WTO Secretariat**

382. As in previous occasions and for Members' information, the Secretariat will provide a brief update of the issues related to intellectual property policy that have come up in the most recent Trade Policy Reviews. Since our last report during the TRIPS Council Meeting in October 2022, the Trade Policy Reviews of Djibouti, Barbados, Brazil, Seychelles, the United States of America, the Dominican Republic, Malaysia, and Japan took place. During these reviews, delegations engaged in the discussions and sought further details on:

- The domestic implementation of the TRIPS Agreement;
- Institutional arrangements for the administration and enforcement of intellectual property;
- Copyright and related rights regimes;
- Trademark regime;
- Protection of geographical indications;
- Patent regime;
- Enforcement, online and at the border; and
- Measures taken in response to the COVID-19 pandemic.

383. We have also started to work on the upcoming Director-General's Trade Monitoring Report. On 10 March, the Director-General invited delegations to submit information on measures implemented between mid-October 2022 and mid-May 2023. This request covers trade- and intellectual property-related measures. In her communication, the Director General announced the new online platform for the submission and verification of measures, which the Secretariat developed in response to requests by delegations during the 7th Appraisal of the Trade Policy Review Mechanism to modernize and digitalize the exchange of information. This new online platform is part of the WTO Trade Monitoring Database (TMDB) (<https://tmdb.wto.org>).

384. Delegates responsible for the Trade Monitoring Exercise are receiving this week an email with a secure and individual link to access the Trade Monitoring Platform. This link will allow delegates to access their respective space for the submission and verification of measures. Therefore, and as flagged at the beginning of this meeting, it is essential that delegates update their information on the Registration System. Delegates will also receive an invitation to the launch of the Trade Monitoring, envisaged for next Thursday, 23 March 2023, at 2pm in the afternoon, in Room E. We look forward to receiving your submissions on TRIPS-related measures.

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

385. No statements were made under this agenda item.

## **16 OTHER BUSINESS**

386. No statements were made under this agenda item.

## **17 ELECTION OF CHAIRPERSON**

### **17.1 Thailand**

387. With your permission, Chair, I do not have much to say but I think I am going to give the Secretariat and interpreters a hard time because I rarely read from a script, and I have noticed that

all delegates and also representatives from other organizations read from scripts. Maybe next time we can do it a little bit more lively.

388. It is my great pleasure to be entrusted by WTO Members to chair this important issue. For me, I am afraid this was not my first choice because I know how difficult it is, but I took up the challenge. People are saying – this is a great issue, but it is very difficult, very challenging. Maybe the experience of wanting to be challenged arose in me, and so I said ok, I will do it. But I think for me personally, intellectual property is a very important area for LDCs, for developing countries, and for developed countries alike. I think this is an issue on which WTO Members must work very hard together to achieve something because this is an issue of the future, and I am very humbled that I will be serving Members. So, I cannot say that as a Chair my doors will be open – because I do not have an office in the building – but I am available to everyone, to all Members. You can reach out to me, do not wait for me to reach out to you, as I am here to serve Members.

389. My last word will be of course to sincerely thank Ambassador Gberie for his contribution as the Chair. I am not sure everyone has been participating in the run-up to MC12, but I can say that Ambassador Lansana Gberie had a very difficult job, but he did his work greatly and admirably, so I hope I am speaking on behalf of all WTO Members and not only from my delegation that we are very thankful for your contribution and your active and very dedicated role that you have played before MC12, as well as since then. And thanks to the Secretariat as well. I wish you will have good time, have a good rest and, of course, we will see you around.

## **17.2 Chair**

390. Thank you very much for your kind words and congratulations again. I would like to thank all delegations for your trust and your cooperation during my term as Chair. It has been very interesting, very exciting, very challenging, but I think that you are a much nicer person than I am, and you will be treated more nicely, frankly. I am very grateful for the chance that I have had, and I would like to thank particularly the Secretariat, the very hard-working Secretariat that guided me through the year and supported my work. I am grateful also to the African Group who pushed me to do this, and who stood by me with the LDC Group, a very active LDC Group in the Council for TRIPS, and I am grateful to all Members.

391. I am particularly grateful to a few Members that have been very much supportive: Australia, New Zealand and there are several other countries. I thank you all, the UK, the United States, Brazil, and everyone for the support. I have enjoyed this, but all good things must come to an end, and I think I will enjoy the afterlife better, the after-TRIPS life. We have no further items on the agenda, we are coming to the end of this meeting, and this is the place for the customary farewells to those delegates who are leaving their posts. We are informed that Mr Assan Touray from the delegation of The Gambia is leaving us. He has been an active member of the Council and we would like to thank him for his contribution to the work of the WTO and the Council for TRIPS, in particular, and I wish him all the very best in his future endeavours.

## **17.3 European Union**

392. Thank you Chair, I regret that you did not mention the European Union as your supporter because we tried to support you as much as we could, but we really wanted to express our sincere gratitude for your outstanding leadership and contributions during your time as the Chair of this Council. We think that your dedication, professionalism, and expertise have been invaluable to the success of this Council and to the success of MC12 in the first place. Your ability to guide discussions, keep the parties engaged and facilitate constructive dialogue have been really remarkable and your patience, tact and diplomacy have helped us navigate through difficult issues and achieve important compromises in particular on the TRIPS waiver discussion. So, I think you set a very high standard for future Chairs, that is clear for the EU and on behalf of the EU again we would like to thank you for your service to this Council and wish you all the best in your future endeavours.

393. We would, of course, like to take the opportunity to congratulate Ambassador Pitfield on her appointment as the Chair of this Council. The EU is eager to work with you and to support you in the same manner as we supported Ambassador Gberie and we wish you all the best in your new role.

#### **17.4 Bangladesh**

394. My delegation welcomes HE Pimchanok Pitfield of Thailand as the new Chair of the Council for TRIPS. We can assure you our full support and cooperation and we wish you all success in the work of the TRIPS Council. With that we also wish goodbye to our good colleague Assan Touray from The Gambia. Finally, the delegation of Bangladesh, commends you, Excellency Ambassador Dr Gberie, for your guidance and leadership in the Council for TRIPS, particularly during the most difficult time. I should say that this Council, during MC12, was the toughest one and you were very courageous because as I feel – I have been working here for almost 4 years – I have full respect for all other colleagues, but you are very courageous for taking the leadership during the most difficult time of MC12. So special congratulations and gratitude to you, and we hope that you will continue to support the works of the Council for TRIPS with your wisdom and do stay in Geneva with us.

#### **17.5 Nepal**

395. We congratulate the new Chair HE Ambassador Pitfield and we wish her all the best. She can count on Nepal's full support while discharging her responsibilities. I extend the sincere thanks to Ambassador Gberie for your excellent role.

#### **17.6 United Kingdom**

396. I am really happy to deliver my first ever statement to sincerely thank you for the hard work you have been doing during these really complex discussions I have been closely following since last year, both to MC12 and also in the last month. We truly appreciated also the transparent manner that has inspired your mandate. We also take the chance to welcome Ambassador Pitfield from Thailand for her appointment. We are confident that her experience and leadership will help us in moving the discussions forward.

#### **17.7 Tanzania, on behalf of the African Group**

397. I take this opportunity to express our appreciation, and speaking on behalf of the African Group we are really appreciative of your commitment and particularly, your Excellency, the way you have guided the Council for TRIPS. The leadership generally you have provided is really appreciated, especially last year during the negotiations of the decision which was adopted during MC12. In the process towards that decision, you really provided very commendable guidance for which we really grateful. The way you worked in a very transparent manner, also the zeal and commitment were really exemplary, and being a brother from the continent we feel really happy and express our confidence and wish you all the best as we continue to work with you perhaps in different configurations. We want you to continue to be with us with that zeal and commitment and we look forward to working with you in other council or committees. So, we wish you all the best.

398. For the incoming new Chair we want to express our confidence and assure her of the African Group's commitment to work with her. We have already started working on the issue of the extension of the MC12 Decision to cover therapeutics and diagnostics and we have called the Council to commence some discussions, so we are looking forward to your guidance, your Excellency, in taking that process towards conclusion. We are available and ready to extend our cooperation and with those few words your Excellency we welcome you and wish you all the best also in leading the Council for TRIPS as we will be working down towards that decision which is expected to be decided ahead of MC12 and perhaps in few months. Good luck if it happens, good luck to the Council if it happens and we will be looking forward. For the African Group, this really is one of the issues that we are looking forward and are eager that we commit our work towards that. I want to thank all the Members for their cooperation that was extended to HE Lansana Gberie for the success obtained.

#### **17.8 Japan**

399. I changed my seat position today in order to show my face toward you in order to express our gratitude to your great chairmanship. Let me join the preceding speakers in thanking Ambassador Gberie for the tremendous efforts you put forth to get us through a really difficult phase. We are very grateful for your efforts in organizing many of the meetings toward consensus at the Council for TRIPS and we wish you all the best. I would also like to echo previous speakers in congratulating

Ambassador Pitfield for her appointment and welcoming you as the new Chair of the Council for TRIPS. We very much look forward to working with you.

### **17.9 United States of America**

400. I was actually inspired by Ambassador Pitfield's comments about going off script. We actually have a point for this, but I am going a little bit off of them, unfortunately I was not able to turn around to face you directly but hope this is ok. Ambassador Gberie, I just want to say thank you for your leadership as others have said. I think this has been a very challenging year, especially with MC12 and you helped the Council for TRIPS navigate that through. And to come out with a very successful MC12 despite multiple extensions of days of negotiations, hot mosquito-filled green rooms, you know, Members with a lot of domestic consultations and domestic dynamics to deal with. Your leadership has been greatly appreciated, so thank you. Ambassador Pitfield, congratulations, or condolences, depending on the particular perspective. We look forward to potentially having TRIPS Council karaoke sections like you chaired at MC12 but hopefully with properly licenced public performances of videos and music. But in any case, congratulations and then finally as other have noted, thank you to the Secretariat for your support – often behind the scenes, but still very important.

### **17.10 Indonesia**

401. Inspired by my colleague I purposely changed my seating so that I can face you and the incoming Chair. Just want to take this opportunity to convey appreciation to you, Chair, for your leadership. I know that it has been a very difficult and complex negotiations when we got to the follow-up of the MC12 Decision. We also want to extend our most sincere congratulations and best wishes to Ambassador of Thailand. I always enjoy your interventions in other sessions, so I am sure that under your leadership, it will be another productive session of the Council for TRIPS. Rest assured of Indonesia's continued collaboration with you.

### **17.11 Cambodia**

402. I think you are probably not hearing a lot of statements from me but as part of the LDCs Group we have contributed to discussions a lot and thank you for your guidance and contribution to the Council for a year, particularly during MC12, and wish you success in your future endeavours. At the same time, I would like to congratulate the new Chairperson, Her Excellency Pitfield for her appointment and wish her the best for her responsibilities in this Council. As my colleagues in the room have said, it is a very challenging Council indeed. Please rest assured of our support and engagement from the LDCs Group particularly from the Asian Member states.

### **17.12 Canada**

403. I think my seating is ok. I will be remiss if I did not share in the congratulations which are indeed in order, for having navigated us and guided us through what was one of the Council's most complex vintages in several years. Few people would switch seats with you or at least not voluntarily, but Ambassador Pitfield is, perhaps even involuntarily. Canada certainly looks forward to working with Ambassador Pitfield in the coming year.

### **17.13 Kenya**

404. Thank you Chair for ably steering the Council for TRIPS during your tenure. We commend your leadership, especially in the run-up to MC12 and the outcomes that we achieved. We also take this opportunity to welcome the incoming Chair and we wish you all the best in your tenure. We look forward to working with you and assure you our unwavering support.

### **17.14 Egypt**

405. We wish you all the best in your future endeavours and we believe that your expertise, wisdom and your sense of humour provide a strategic exit from some difficult situations sometimes during the TRIPS waiver negotiations. Also, we congratulate Ambassador Pitfield for her new role, and we express our commitment to support her during the Council and looking forward to engaging

constructively in the next meetings. For my brother and my friend Assan Touray we want to say goodbye to him, and we wish him all the best in his future endeavours.

#### **17.15 Korea, Republic of**

406. I would just like to simply add my voice to thanking you, Chair, for your dedication and service to this Organization. Also taking this opportunity, I would like to welcome incoming Chair and look forward working under your guidance.

#### **17.16 Brazil**

407. Just want to also add our voice in support and full recognition of the work you have done in the last year in the Council for TRIPS. It was very important the role you have played in guiding us in achieving consensus during MC12. It was really tough, we all know. Looking forward to the year ahead, Ambassador Pitfield, we welcome you as well. Our pending issue is one of the several pending issues that MC12 has left for us to be working toward MC13, and you can count first of all on Brazil, on our work and our full support. We are fully confident of your guidance, as did Ambassador Lansana last year, for achieving consensus in the Council for TRIPS.

#### **17.17 WTO Secretariat**

408. I have no choice on where to sit, but I would not choose any other place than between two of the most distinguished diplomats and Ambassadors in the World Trade Organization (WTO) ecosystem. I would just like, very briefly, to express our deep appreciation to Ambassador Gberie. We are very conscious of the sacrifices that delegates and particularly heads of delegation make in stepping-up to the post of Chair of a Council such as this. It is an act of true, pure contribution to the multilateral system, and it is deeply appreciated by all of us. It has been honestly a real pleasure to work with you, Sir, in what have been indeed challenging times, but with some remarkable achievements to your remarkable CV. So, thank you very much and I think I can say on behalf of all of us it is deeply appreciated and, Ambassador Pitfield, we are delighted at the vote of confidence that you have made to seek to head-up this Council. We, of course, think it has got a lot of potential, it can do some wonderful things and we look forward to working with you to fulfil that.

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