

EXECUTIVE SUMMARY

The WTO TRIPS Agreement entered into force on 1st January 1995, providing minimum standards for protection of intellectual property rights (IPR), as well as enforcement, whilst leaving it to individual members to determine their implementation strategy and trajectory. The WTO Council for TRIPS was established alongside the Agreement to administer its operation, and this includes monitoring implementation by WTO members.

The TRIPS Agreement recognises the particular concerns and needs of Least Developed Countries (LDCs) when it comes to the IP system. The Agreement specifically recognises the continuing needs of LDC members for technical and financial cooperation so as to enable them to realise the economic, cultural, social, technological and other developmental objectives of IP protection. Article 67 of the Agreement requires developed countries to provide technical and financial cooperation in favour of developing country Members, including LDCs, on request and on mutually agreed terms and conditions. To facilitate the implementation of Article 67 for the benefit of LDC members, in November 2005, the Council for TRIPS called on LDC members to identify their priority needs for technical and financial cooperation. It stated that developed countries would provide technical and financial cooperation in order to effectively address the needs identified, and requested the WTO to seek enhanced cooperation with other international organisations.

This resource aims to provide a factual overview of the latest situation regarding the identification of priority needs by LDC members and the responses given to them by developed countries and other development partners, strengthening the flow of practical information and coordination with WTO members, inter-governmental organisations and other providers of technical and financial assistance. It further aims to promote practical coordination so as to match more systematically the priority needs identified with available programmes and providers of technical and financial assistance.

Chapter 1 recalls the background and implementation history to date of the TRIPS Agreement, and then defines the objectives and scope of work for this study.

Chapter 2 presents the methodology adopted for the study including the design of the information resource, identifying the stages involved; a taxonomy of technical and financial co-operation related to TRIPS, and comments on data sources, availability and limitations.

Chapter 3 broadly assesses the state of play with regards to IP-related policies and measures in LDC members with case studies from individual LDCs where data availability has been sufficiently strong. The analysis has been separated into the following headings:

- Policy framework
- Legal framework
- IP administration
- IP enforcement
- Using IP as a developmental tool

This chapter further considers the regional level policies and measures relevant to LDC members including those of the African Regional Intellectual Property Organisation (ARIPO), the Organisation Africaine de la Propriété Intellectuelle (OAPI), the Association of Southeast Asian Nations (ASEAN), and the East African Community (EAC).

Chapter 4 provides an analysis of LDC needs as identified and communicated by the individual LDC members themselves. The countries that have submitted needs

communications to the Council for TRIPS to date are Sierra Leone, Uganda, Bangladesh, Rwanda, Tanzania, Senegal, Mali and Madagascar. The LDC members who have reported ongoing or planned needs assessments are Cambodia, Lesotho, Malawi and Nepal. Each LDC member is considered in turn, detailing the articulated financial and technical needs identified.

Chapter 5 provides summaries of bilateral and multilateral technical and financial co-operation programmes for LDCs provided by developed countries, non-governmental organisations (NGOs) and inter-governmental organisations (IGOs) that provide IP technical assistance. The chapter also provides a summarised analysis of the overall picture for provision of IP technical assistance to LDC members between 2008-2012, based on analysis of data from submissions made to the TRIPS Council each year by developed countries and international organisations under Article 67.

Finally, **Chapter 6** provides conclusions and recommendations for improving the coordination processes for identifying and meeting the priority needs articulated by WTO LDC members.

- **Recommendation 1** encourages more LDC members to communicate their needs to the TRIPS Council, highlighting their unique value for co-ordination and the numerous toolkits available to assist LDCs in the needs assessment process.
- **Recommendation 2** supports the strengthening of the process of needs communications in the TRIPS Council, as well as calling for greater efforts to link-up with other ongoing processes that may provide information on IP-related priority technical assistance needs.
- **Recommendation 3** highlights the need for more efficient mechanisms to match demand and supply of technical assistance to LDCs. It calls for more effective communication channels and focused discussion between WTO members and other development partners on specific areas where considerable efficiency gains can be made, facilitated by the WTO Secretariat.
- Finally, **Recommendation 4** looks to improve usability of information sharing databases, calling for the upgrading of existing models to promote better accessibility and coordination on IP-related technical and financial co-operation through the information about individual LDC needs; co-operation partners' past activities; and pipeline activities.