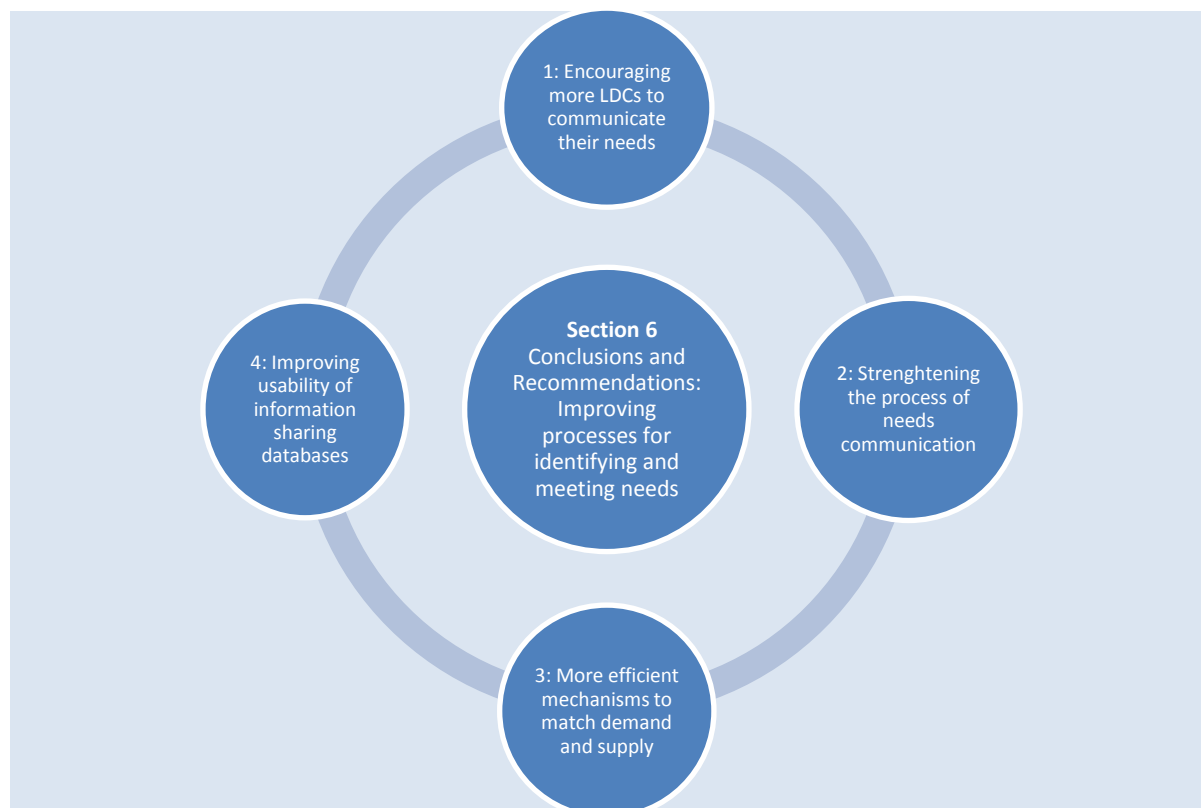# 6   CONCLUSIONS & RECOMMENDATIONS

Figure 5. Section 6 outline

6.1   Encouraging more LDCs to communicate their needs

The communication of LDCs' needs following the TRIPS Council decision in November 2005 has emerged as a valuable tool for specifying and communicating requirements for technical and financial assistance, and for describing the state of play with national IP systems. Perhaps above all, their greatest value is the fact that they are fully owned by the LDC member and express the country's individual requirements and priorities. The needs communicated so far, as well as the various toolkits produced by development partners, provide a very useful resource for other LDC members to follow in preparing and submitting their own needs communications to the TRIPS Council.

LDC members that have not yet communicated their needs to the TRIPS Council should consider doing so. LDC members can undertake the identification of needs themselves, drawing on the available models and toolkits (as in the case of Bangladesh for example); or they can request support from a development partner (as in the case of Uganda, Sierra Leone and Lesotho). As highlighted during the November 2012 symposium, this could take the form of a number of communications that can be submitted to the TRIPS Council in a thematically sequenced fashion. LDCs members who have already communicated their needs to the TRIPS Council may also wish to update these over time, reflecting new priorities or highlighting where existing needs have not been met.

Furthermore, the needs communication process is about communicating needs and thus not necessarily undertaking a separate, stand-alone needs assessment. In many cases, the relevant work has already been done in other contexts and the TRIPS Council process simply provides an additional arena where information about unmet priority needs can be circulated and responded to. The Senegal needs communication from 2011 is an example of

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this as it was based on an existing assessment prepared by WIPO that was subsequently circulated to the WTO Council for TRIPS.

6.2 Strengthening the process of needs communication

The TRIPS Council processes for communicating and responding to needs could be strengthened and better co-ordinated with related initiatives. Mechanisms to effectively incorporate the increasing regionalisation of IP systems involving LDCs would be one important area to address - and specifically, consideration could be given to undertaking identification of needs at a regional level. For example, for OAPI and ARIPO members, administrative systems for industrial property administration have been established at the regional level and several co-operation partners are willing to channel financial and technical co-operation to them. However, only national-level identification of needs have so far been presented to the TRIPS Council and these do not cover the regional organisations or all of their LDC members.

There is also a need to more effectively and systematically co-ordinate the efforts of the TRIPS Council process with the identification of IP-related capacity building needs in other processes such as WIPO's support for the preparation of national IP and innovation strategies, the updating of EIF Diagnostic Trade Integration Studies, and the WTO Trade Policy Reviews, where coverage could be much more consistent and comprehensive, based around the five dimensions of national IP systems considered in this paper for example.

With regards to WTO Trade Policy Reviews specifically, the WTO Biennial Technical Assistance and Training Plan 2012-2013 points to the benefits of greater coordination of technical assistance needs and priorities with the TPR process, which represents a potentially valuable avenue for advancing and improving the coordination of needs assessments in the area of trade-related IP. These reviews can also draw on the needs identified in the EIF DTIS process, which, as noted above, do in some cases include needs that require effective implementation of IP mechanisms.

The WTO Institute for Training and Technical Cooperation (ITTC) and Trade Policies Review Division (TPRD) have elaborated a methodology to use TPRs more systematically as a tool for needs communications. Through the participation of officials from these units of the WTO Secretariat in Trade Policy Review missions, LDC members that undergo the review are specifically to be assisted in undertaking needs communications. In addition, the Secretariat will endeavour to organise briefing sessions following the reviews, to engage directly with the LDC member delegation in reviewing their trade-related technical assistance needs and establishing a road map for action.[222]

Future TPRs of LDC member countries identified in this report may provide the opportunity for taking forward this recommendation.

6.3 More efficient mechanisms to match demand and supply

At present, mechanisms to match efficiently needs identified by LDCs members with technical and financial assistance from co-operation partners and providers are not sufficiently co-ordinated. On the demand side, LDCs report that once they have communicated their needs to the TRIPS Council, they are unsure how to determine which co-operation partner(s) should be approached with specific requests and how this should be done. On the supply side, co-operation partners report that the appropriate organisational units do not receive concrete requests from LDC members which meet their internal requirements, or they receive them too late in their budget programming cycles when funds have already been fully committed elsewhere.

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[222] WTO, Biennial Technical Assistance and Training Plan 2012-2013, WT/COMTD/W/180/Rev.1, 2012

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It would seem timely for LDCs and co-operation partners/providers to meet together to reflect on how the mechanisms for matching demand and supply for IP-related technical and financial co-operation could be streamlined. These consultations could perhaps focus on three areas which seem to offer considerable potential efficiency gains, and could be facilitated by the WTO Secretariat.

First, co-operation partners/providers could provide LDC members who have communicated their needs to the TRIPS Council with detailed information about which countries they are likely to be able to focus on, how/when requests for assistance should be made and to whom, and through which modalities they can channel support to meet identified needs. On the latter point, co-operation partners/providers and LDC members could pay particular attention on how best to package and co-ordinate assistance effectively, and how to ensure that well-formed requests are properly followed-up.

Second, LDC members and co-operation partners/providers could consider closely how to realise the opportunities to reduce transaction costs and lead times for mobilising and delivering IP system modernisation efforts for LDC members by working through regional or sub-regional delivery approaches (even if these still contain distinct national level work programmes). This is of particular relevance for sub-Saharan Africa, where the two principal IP regional co-operation organisations, ARIPO and OAPI, are based. Moreover, following ASEAN's model, there are opportunities for African regional economic communities like the EAC, ECOWAS, COMESA and SADC to play a larger role in catalysing and co-ordinating needs communications as well as resource mobilisation for technical and financial co-operation programmes on behalf of their member states. Increasingly, regional economic communities have access to earmarked regional aid budget lines from development partners, and these could be tapped more systematically to finance IP-related technical and financial assistance programmes.

Third, LDCs members and co-operation partners/providers could consider whether it would be useful to endow – even modestly – a dedicated TRIPS/LDCs trust fund to accelerate the completion of needs communications for the remaining LDC members, disseminate best practices, and support improved co-ordination between LDCs and co-operation partners/providers in mobilising and monitoring effective IP technical and financial cooperation programmes at the national and regional level. The fund could be managed jointly by WTO and WIPO, and the fund's operational capabilities could be modelled on the successful features and lessons learnt from the WTO Standards and Trade Development Facility and the Enhanced Integrated Framework.

6.4 Improving usability of information sharing databases

As noted earlier in this document, a great deal of relevant information is already available in a range of public sources, including many WTO notification documents, but it is diverse in character and effectively impossible for delegates, officials and policymakers to gain a practical overview. A number of WTO members have notified contact points specifically for technical assistance and a contact point list arising from this process currently exists. No specific format has been established for use of the system and it is up to members to make use of the contact points they choose. There is however a publically available informal format that can be used for directing an enquiry through the contact point system.[223] If co-operation partners and LDC members are willing to share information through the existing WTO-OECD Global Trade-Related Technical Assistance Database (GTAD)[224] this could

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[223] Contact points for technical co-operation website: https://www.wto.org/english/tratop_e/trips_e/trips_notif_art67_e.html
[224] Established in 2010, the WTO-OECD Global Trade Related Technical Assistance Database (GTAD) was developed as a response to the recognition of the importance of Trade Related Technical Assistance (TRTA) and Capacity Building (CB) as core elements for the development of the Multilateral Trading System (MTS). The database aims to enhance communication and visibility of organisations active in the TRTA and CB fields, ensuring coherence in programme design and implementation. Further, the database was developed as a portal for exchange and sharing of information between partner agencies on future

enable the improved channels of information sharing and coordination on IP-related technical and financial co-operation as described below:

- **Sharing information about individual LDCs needs:** the database could separate thematically (perhaps into the five categories identified in this study) the needs requested by each LDC. This would for example mean that a co-operation partner agency with particular skills in enforcement could easily locate an LDC member where this demand is not being met. If project documents exist and are not confidential, they could be uploaded for co-operation partners to review. Past project documents could also be uploaded for LDC members interested in similar projects to use as templates. The database should identify contact points for each LDC member.

- **Sharing information about co-operation partners' past activities:** the database could separate thematically (perhaps into the five categories identified in this study) what needs have been met in each LDC member. If it is feasible, reporting into the GTAD database could be made possible in lieu of annual Art 67 submissions. This means data could be downloaded for individual LDC members (e.g. 'all IP technical assistance to Mozambique in 2007'), and/or for thematic areas (e.g. 'IP technical assistance on enforcement 2006-2010'). The database should identify contact points for each co-operation partner agency.

- **Sharing information about pipeline activities:** Co-operation partners could also commit to uploading programmed activities onto the database in order to improve the data on pipeline technical and financial co-operation for LDC members. This would reduce the risk of duplication of efforts and improve co-operation partner coordination.

Using the GTAD database for this purpose in a systematic way will likely make the key information required more accessible and available to all and improve the coordination of the process.

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executions of TRTA and CB activities, e.g. planned TRTA activities by partner agencies. The objectives of the database are to create transparency in trade related technical assistance and capacity building delivery by agencies to ensure coherence in coordination and encourage effective management by beneficiary countries of their technical assistance requirements. The database contains 30 categories of trade related technical assistance and capacity building data with 20 sub categories under trade policy and regulations and 6 under trade development. The search options provided – TRTA and CB category; Region/Group; Agency Provider – enable the identification of relevant data with ease. The database contains a national request form for beneficiary countries that would like to request a national technical assistance activity to be initiated in their country, which should contain precise information on topics and issues to be addressed by the respective developed country technical assistance team. The matching of supply and demand in this fashion ensures that the relevant partners are allocated, and assistance is provided by the relevant experts to the intended beneficiaries.