



Both ENDS



JOINT NGO STATEMENT TRIPS Council Decision On Extension of the Transition Period Concerning Pharmaceutical Products

Today (6th November), the WTO-TRIPS Council adopted a decision granting Least Developed Countries (LDCs) an exemption from patents and test data protection for pharmaceutical products for a duration of 17 years.

With this exemption, LDCs will not be obliged *to implement* or *apply* or *to enforce* patents as well as test data protection for pharmaceutical products until 1 January 2033.

This decision is without prejudice to the right of LDCs to seek additional extensions of transition periods pursuant to Article 66.1 of the TRIPS Agreement. This is consistent with LDCs' right to not implement the TRIPS Agreement at this level of their development.

The TRIPS Council also adopted a recommendation to the WTO General Council for waivers from mailbox and exclusive marketing rights until 1 January 2033. Hence, LDCs will not be obliged to make available a mechanism for filing patent applications for pharmaceutical products (mailbox) or to grant exclusive marketing rights to such applications until 1 January 2033.

In numerous letters on this matter, civil society organizations have highlighted the critical importance of this exemption from pharmaceutical patents and test data protection for the world's poorest nations that suffer massive challenges in facilitating access to affordable treatment for infectious as well as non-communicable diseases. Considering the dire socio-economic conditions in these countries, they also need maximum flexibility in implementation of national laws to improve their technological base and to boost local production of affordable medicines.

For this reason, the LDCs' request for a pharmaceutical transition period until a country ceases to be an LDC, has received almost universal unequivocal support from civil society globally, international and UN agencies (WHO, UNDP, UNAIDS, UNITAID) and the European Union with no declared opposition from the WTO members except for the United States.

Had the WTO-TRIPS Council granted the LDCs their desired and valid requests, it would have demonstrated to the world that the WTO will take the necessary steps to protect the poor and vulnerable. Instead, unfortunately due to strong opposition mainly from the US, the WTO-TRIPS Council reached a decision to accord LDCs' a transition period of 17 years.

Nevertheless, with this decision we urgently call on all Least Developed Countries to actively use the created policy space this renewed transition period provides and accordingly to take immediate steps to amend their respective national laws to exclude pharmaceutical products from patent protection and test data protection with explicit provisions that this would be until 1 January 2033 or the expiry of such later transition period that may be granted by the WTO Council for TRIPS.

SIGNATORIES:

The Asia Pacific Network of People living with HIV/AIDS (APN+); Both ENDS (Netherlands); Bern Declaration (Switzerland); EquityBD (Bangladesh); Coastal Association for Societal Transformation Trust (Bangladesh); Center for Health Human Rights and Development (CEHURD)(Uganda); Health Action International (HAI); Health GAP (Global Access Project); Knowledge Ecology International; LDC Watch; MSF Access Campaign; Public Citizen; Third World Network, Yolse (Burkina Faso).