

22<sup>rd</sup> May, 2013

TO: H.E Ambassador Dr. Roberto RIDOLFI  
Head of the European Union Delegation to Uganda

Dear Sir,

**RE; Concerns over EU delegation to WTO' S TRIPS Council demands over LDC Request for extension of the Transition time to enforce Intellectual Property**

We (the undersigned) are writing this Letter as Civil Society Organizations in Uganda working in areas of Health, Trade, Intellectual Property and access to Medicines.

The purpose of this letter is to express our concerns over the unjust manner in which discussions for grant of an extension for enforcement of Intellectual Property are being handled by the TRIPS Council Chair and the developed countries which entail the **EU delegation** to WTO, the **US delegates** to the TRIPS council, representatives of **Canada, Switzerland, Australia, New Zealand and Japan.**

On 5 November 2012 the Delegation of Haiti on behalf of the LDC Group submitted a duly motivated request to the WTO TRIPS Council for an extension of the LDC transition period, until a Member ceases to be a LDC (IP/C/W/583). It has come to our notice that EU representatives at the TRIPS Council continue to be opposed to the extension request submitted by the LDC Group. **Instead the EU jointly with the US is offering LDCs an unrealistic offer of just 5 - 7.5years)** that is subject to restrictive conditions. Particularly problematic is the “no-roll-back” clause that would force LDCs to maintain current levels of IP protections, irrespective of whether such protection is bad for development.

We are of the view that Article 66.1 of the WTO - TRIPS Agreement obliges the TRIPS Council to approve without conditions the duly motivated request submitted by the LDCs to which category Uganda belongs.

It should be noted that at least 25 Percent of the Uganda population in 2009/10 was living below the poverty line (According to the 2012 report of the Uganda Bureau of statistics<sup>1</sup>), On average, income inequality increased from 0.408 in 2005/06 to 0.426 in 2009/10 nationally, and Malaria remains the highest cause of both morbidity and mortality among the children below 5 years of age, this is aside from the fact that

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<sup>1</sup> <http://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/2012StatisticalAbstract.pdf>

the HIV/AIDS Incidence in Uganda has increased to 7.3% in the previous months despite international research efforts to curb the scourge.

Access to ART in Uganda is measured at approximately 50% of those that need it. And currently local industry cannot meet the medicine needs of the Uganda population. It should also be noted that almost 90% of drugs in Uganda are imports of which most are generic versions from India. If expansive trade rules are sneaked into the agreement, many Ugandans will be unable to access cheap basic necessities of life such medicines, food, and learning materials from countries like India as our country laws as is do not fully utilize TRIPS flexibilities.

The extension presented by Haiti provides us with an opportunity to continue participating in trade and product development partnerships with India like that between CIPLA and Quality Chemicals which has impacted the accessibility and affordability of cheap lifesaving drugs by Ugandans.

However, if provisions like the ‘no roll back provision’ are introduced into the agreement, then the ability to gain policy space to revise our laws and policies to ensure that we utilise all flexibilities entailed to us under TRIPS will be curtailed. This is in conflict with the intent and spirit of Article 66.1 that LDCs should have maximum flexibility and policy space including the option of revising existing IP protections should such protection be adverse to its needs. Accordingly the “no-roll-back” condition is illegal under the TRIPS Agreement as it modifies the nature of rights that LDCs are entitled to under the TRIPS Agreement during the transition period.

The 5 -7.5 year suggestion being raised by your colleagues at the WTO is also not practical as it is a very short time to develop a viable technology base that is able to meet all of our essential needs, it does not give us room to explicitly put in place laws, policies and strategies that promote social welfare aspects of all Ugandans.

The TRIPS Agreement, allows provision of “special and differential treatment” for developing countries- specifically for LDCs, in recognition of their vulnerability and constraints.

We therefore urge you to URGENTLY APPEAL to your colleagues at the WTO TRIPS Council to;

1. Support the LDC request for an extension of the LDC transition period, until a Member ceases to be a LDC as submitted by Haiti on 5 November, 2012

2. **DO NOT** attach to the extension decision any conditions and limitations that limit the policy space and flexibility available to LDCs under Article 66.1 of TRIPS
3. **CEASE** pressuring LDCs to agree to an illegitimate demand for short time periods and impractical language in decision texts of the agreement
4. **Support** an open discussion of LDC needs and Priorities at WTO

We are therefore looking forward to working with you to address our Concerns in approving the LDC request as proposed by the LDC Group to the TRIPS Council before the existing transition period expires at the end of June 2013.

**Sincerely;**

1. The Center for Health, Human Rights and Development (CEHURD)
2. The Aids Support Organisation (TASO)
3. Uganda Network on Law, Ethics and HIV/AIDS (UGANET)
4. Coalition for Health Promotion and Social Development (HEPS -Uganda)
5. The HIV/AIDS Alliance
6. Health GAP
7. The National Community of Women Living with AIDS (NACWOLA)
8. The Mariam Foundation
9. Health Advocates Network (HAN)
10. Community Health and Information Network (CHAIN)
11. Office of the High Commissioner for Human Rights -Uganda Country Office (OHCHR)
12. SALT -Uganda
13. Uganda Youth Against AIDS foundation (UYAF)
14. The Action Group for Health, Human Rights and HIV/AIDS (AGHA)
15. Southern and Eastern African Trade Information & Negotiations Institute Uganda

**Cc; Mr Scott DeLisi**  
**US Ambassador to Uganda**

**CC; Ambassador, Kazuo Minagawa**  
**Japanese Embassy in Uganda**

**CC: Ambassador David Collins**  
**Canadian Consulate to Uganda**

Cc: Ambassador  
New Zealand Consulate to Uganda

Cc: Ambassador Geoff Tooth  
Australian Ambassador to Uganda

Cc: WTO Secretariat

CC: Mr. Alfredo Suescum,  
Ambassador of Panama to the World Trade Organization & TRIPS council chair