



## EUROPEAN UNION

DELEGATION TO THE REPUBLIC OF UGANDA

The Head of Delegation

11 JUN 2013

Kampala,

Ref. No.: D(2013)/RR/TM/cp/631

The Center for Health, Human Rights and Development (CEHURD)  
The Aids Support Organisation (TASO)  
Uganda Network on Law, Ethics and HIV/AIDS (UGANET)  
Coalition for Health Promotion and Social Development (HEPS-Uganda)  
The HIV/AIDS Alliance  
Health Gap  
The National Community of Women Living with AIDS (NACWOLA)  
The Mariam Foundation  
Health Advocates Network (HAN)  
Community Health and Information Network (CHAIN)  
SALT-Uganda  
Uganda Youth Against AIDS foundation (UYAF)  
The Action Group for Health, Human Rights and HIV/AIDS (AGHA)  
Southern and Eastern African Trade Information & Negotiations Institute Uganda  
Uganda Health and Science Press Association

**Subject: Concerns over EU delegation to WTO's TRIPS Council demands over LDC Request for extension of the Transition time to enforce Intellectual Property**

**Ref.: Your letter received on 27<sup>th</sup> May 2013**

Thank you for your letter related to the request the Least Developed Country (LDC) Group has made for an extension of their transition period under Article 66.1 of the World Trade Organisation's (WTO) Trade Related Aspects of Intellectual Property (TRIPS) Agreement.

Article 66.1 states that "upon duly motivated request by a least-developed country Member", the TRIPS Council shall accord extensions of this period. The European Union recognises the importance of flexibility and policy space for LDC needs. Therefore, we support an extension beyond the current deadline of July 2013. The 2001 Doha Declaration on TRIPS and Public Health had already extended the period for LDCs to comply with provisions on patent and data protection for pharmaceuticals to 2016. It should be noted therefore that this separate deadline is not the focus of the formal request that has been made by the LDC Group, which should continue to be dealt with separately from the current discussion at hand. It is important to agree an organised, flexible and well-thought-out process for the future. Due consideration should be given to the reality of the situation on the ground, and how technical assistance can be targeted to help LDCs.

Let me highlight that the European Union recognises that LDCs remain confronted with critical challenges in their economic development. This actually underscores the importance and potential of trade and innovation. Indeed, LDCs have repeatedly emphasised at the WTO and in other international fora the importance they attach to intellectual property (IP) and innovation as tools for development, and significant work has already been achieved in the development of their intellectual property systems.

Discussions are currently on-going in Geneva between WTO members on how to find an effective solution to this request. These discussions are taking into account a number of important factors. Previous extensions have been of specific time-limited duration, which have been designed in order to set clear goals, including proper incentivisation and support. Also, as the WTO decision in 2005 to extend the transition period stated, "Least developed country Members will ensure that any changes in their laws, regulations and practice made during the additional transitional period do not result in a lesser degree of consistency with the provisions of the TRIPS Agreement".

LDCs signalled their intent to maintain the protection they would build for intellectual property, and indeed we are not aware of any changes being reversed during the transition period. LDCs have also already undertaken many regional or bilateral commitments, for example as part of the Organisation Africaine pour la Propriété Intellectuelle or part of the World Intellectual Property Organisation (WIPO) conventions. Article 67 of the TRIPS Agreement indeed states that "In order to facilitate the implementation of this Agreement, developed country Members shall provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of developing and least-developed country Members." The European Union has cooperated significantly in this regard, and LDCs are currently requesting further technical assistance and capacity building. It would seem perverse that assistance would be requested to achieve certain results, only for those results to be reversed. Indeed, I would like to point out that Uganda itself was the recent beneficiary of significant technical assistance (in particular from the European Union) in order to assist the Government with updating its national IP policy and legal and regulatory framework (including implementation of the WTO Doha Declaration on the TRIPS Agreement and Public Health).

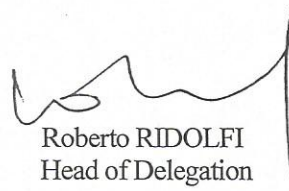
LDCs, like Uganda, and developing countries have understood the utility of intellectual property for development. I would like to give you some further examples. Ministers at the Regional Preparatory Meeting for Africa in Dar es Salaam in March 2013, ahead of the Annual Ministerial Review of the UN Economic and Social Council declared that "Policymakers in Africa should redouble efforts to develop their legal and policy frameworks, including their intellectual property legislation and policy, so as to release the region's untapped potential." The Common Market for Eastern and Southern Africa (COMESA) has put intellectual property at the core of its growth strategy. In its draft IP policy, it recognizes that "in a 'knowledge-based and innovation-driven economy' the generation, creation, innovation and management of knowledge through IP play a crucial role in wealth creation and national development".

Let us not therefore ignore the clear messages LDCs are sending in their development strategies, and the role that intellectual property has to play. Our actions reflect that development is at the heart of the EU's external action, and will continue to do so now and in the future.

Should need further clarifications, we invite you to contact our colleagues in Brussels in the Directorate General Trade, Unit D2 (EPA, ACP, OCT), Mrs. Sandra Gallina, CHAR 09/208, B-1049 Brussels/Belgium.

We are at your disposal to transfer any additional communication to them if needed be.

Yours sincerely,



Roberto RIDOLFI  
Head of Delegation

Cc: DG Trade, Head of Unit D2, Mrs. Sandra Gallina  
Cc: WTO Secretariat, Mr. Roger Kampf  
Cc: Ministry of Trade, Industry and Cooperatives in Uganda, Mrs. Elizabeth Tamale  
Cc: US Ambassador to Uganda, Mr. Scott H. DeLisi  
Cc: Japanese Ambassador to Uganda, Mr. Kazuo Minagawa  
Cc: Canadian Consul to Uganda, Ms. Pamela Kirkland Wright  
Cc: Australian Honorary Consul - Mr. Patrick Bitature  
Cc: Ambassador of Panama to the WTO & TRIPS council chair, Mr. Alfredo Suescum