

**CIVIL SOCIETY LETTER TO MEMBERS OF THE WORLD TRADE ORGANIZATION  
(WTO) CONCERNING A FURTHER EXTENSION OF THE TRANSITION PERIOD FOR  
LEAST DEVELOPED COUNTRIES (LDCs) UNDER ARTICLE 66.1 OF THE TRIPS  
AGREEMENT**

**Dear Members of the World Trade Organization (WTO),**

As civil society organisations concerned with access to health products, to educational resources, to environmentally sound technologies (ESTs), and to other public goods and cultural creations and further concerned with farmers' rights, food security, human flourishing, sustainable and equitable technological and industrial development in Least Developed Countries (LDCs), **we call on WTO Members to grant the LDC Group the transition period requested in their duly motivated request to WTO's Council for TRIPS (IP/C/W/668).**

Article 66.1 of the TRIPS Agreement accorded LDC Members of the WTO an initial ten-year transition period, with an automatic right of further extensions, that grants LDCs exemption from implementing most TRIPS obligations in view of the special needs and requirements of the LDC Members, including their economic, financial and administrative constraints and their need for flexibility to create a viable technological base.

The general transition period was originally due to expire on 31 December 2005, but has since been extended twice following LDCs' requests. However, each time, the full demands of LDCs have not been met, with developed countries only willing to give impractically short extensions. The most recent extension of transition period granted in 2013 is again set to expire on 1 July 2021.

**On 1 October 2020, the LDC Group submitted a duly motivated request to the WTO TRIPS Council (IP/C/W/668) seeking an extension of the LDC transition period, for as long as a country remains an LDC AND an additional period of 12 years as a country graduates from its LDC status to ensure smooth transition.**

**We are firmly of the view that LDCs' request is fully justified.** Short extensions granted to date have proven to be ill-considered and unrealistic, requiring LDCs to repeatedly seek extensions from the TRIPS Council. They are also impracticable given that development of a viable technological base and overcoming capacity constraints requires a long-term strategy. Further even as LDCs graduate from the LDC category, these challenges persist. Nascent industries in LDCs require assurances that they can copy and adapt existing technologies and mature sufficiently to survive in globalized markets.

In recognition of this situation, UN General Assembly resolutions have called on WTO Members to consider extending to graduated LDC Members the existing special and differential treatment measures and exemptions available to LDCs.<sup>1</sup>

By definition, LDCs represent the most vulnerable segment of the international community. Extreme poverty, limited infrastructure, weak scientific and productive capacities, human and financial constraints continues to widely persist in LDCs. They also lack affordable access to knowledge-based goods crucial for sustainable development such as access to health products including for COVID-19 such as ventilators, educational materials, green technologies.

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<sup>1</sup> United Nations General Assembly resolutions 59/209 of 20 December 2004 and 67/221 of 21 December 2012

Historically most technological development in developing and even in developed countries has come through a period of copying and adapting technologies initially invented elsewhere.<sup>2</sup> Oftentimes, LDCs are misguided into focusing on becoming TRIPS compliant. We believe that this focus is misplaced as LDCs are not in a position to benefit from full TRIPS compliance. As stated in the preamble of the TRIPS Agreement, LDCs require “maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base.” In any case, the main users and beneficiaries of a TRIPS compliant IP regime in LDCs are foreign right holders that tend to set high monopoly prices, unaffordable to most of the population.

This year marks the final year of implementation of the Programme of Action for the Least Developed Countries for the Decade 2011–2020 (Istanbul Programme of Action). While some very modest progress may have been made, the LDCs continue to face daunting development challenges, now aggravated by the COVID-19 pandemic. Extremely limited testing<sup>3</sup>, health services<sup>4</sup> and sanitation<sup>5</sup>, makes curbing COVID-19 in LDCs a massive challenge. Moreover, because of the impact of COVID-19 on commodity markets and LDC economies, resources for development are even more constrained than before.

The United Nations Development Programme (UNDP) estimates that global human development, as the combined measure of the world’s education, health and living standards, is on course to decline for the first time in 30 years.<sup>6</sup> The number of people living in extreme poverty could increase by nearly 130 million by 2030.<sup>7</sup> By all accounts, LDCs will be most affected by the COVID-19 pandemic for many many years to come. In this context, the economic, financial and administrative costs associated with TRIPS implementation are simply unacceptable.

**In conclusion we request that WTO Members honour their obligation under Article 66.1 and unconditionally accord to the Least Developed Countries their properly motivated and requested extension and adopt the decision text proposed in IP/C/W/668.**

**Any attempt to refuse or weaken the LDC’s request will be unconscionable given the social and economic hardship already facing LDCs. Adopting the LDC decision in its entirety is crucial to uphold the credibility of the WTO as an institution that can benefit the poorest and most vulnerable segment of the international community.**

**4th February 2021**

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<sup>2</sup> This trend is aptly captured by Ha-Joon Chang: “...when they were backward themselves in terms of knowledge, all of today’s rich countries blithely violated other people’s patents, trademarks and copyrights. The Swiss “borrowed” German chemical inventions, while the Germans “borrowed” English trademarks” and the Americans “borrowed” British copyrighted materials – all without paying what would today be considered “just” compensation”; Ha-Joon Chang (2007), “Bad Samaritans The Guilty Secrets of Rich Nations & the Threat to Global Prosperity”

<sup>3</sup> As at 28<sup>th</sup> October Covid testing in LDC is only 1.2% of global reported testing, see <https://www.un.org/development/desa/dpad/wp-content/uploads/sites/45/LDC-testing-28-Oct.pdf>

<sup>4</sup> Hospital beds per 10 000 people (2010-2015): LDCs (7 beds) vs. World (28 beds), OECD (50 beds), Physicians per 10 000 people (2010-2018): LDCs (2.5) vs. World (14.9), OECD (28.9), see Human Development Index

<sup>5</sup> Population using at least basic sanitation facilities (2017): LDCs (34%) vs World (73%), OECD (99%)

<sup>6</sup> UNDP (2020), COVID-19 and Human Development: Assessing the Crisis, Envisioning the Recovery: <http://hdr.undp.org/en/hdp-covid>

<sup>7</sup> World Economic Situation and Prospects as of mid-2020, pg. 14, <https://www.un.org/development/desa/dpad/publication/world-economic-situation-and-prospects-as-of-mid-2020/>

## SIGNATORIES

### Global

1. Association for Plant Breeding for the Benefit of Society (APBREBES)
2. DAWN (Development Alternatives with Women for a New Era), Global South
3. EIFL (Electronic Information for Libraries)
4. Health Global Access Project
5. International Trade Union Confederation
6. International Treatment Preparedness Coalition (ITPC)
7. Médecins Sans Frontières Access Campaign
8. Peoples Health Movement
9. Social Watch
10. SWISSAID
11. Third World Network
12. War on Want

### Regional

13. African Centre for Biodiversity
14. Africa Young Positives Network (AY+)
15. AIDS and Rights Alliance for Southern Africa-ARASA
16. Asia Pacific Network of People Living with HIV/AIDS
17. International Treatment Preparedness Coalition-South Asia
18. People's Health Movement - East & Southern Africa
19. Southern African Programme on Access to Medicines and Diagnostics
20. South Asia Alliance for Poverty Eradication
21. Vinacefuganda

### National

22. All India Drug Action network, India
23. Access to Medicines Ireland
24. Access to Medicines Research Group, China
25. Action against AIDS, Germany
26. ActionAid France - Peuples Solidaires, Paris, France
27. ACTS101 Uganda
28. AIDS Access Foundation, Thailand
29. Alliance of Women Advocating Change (AWAC), Uganda
30. Alliance nationale des Mutualités chrétiennes, Belgium
31. Alofa Tuvalu, France
32. Amis de l'Afrique Francophone- Benin
33. Amis de la Terre France, France
34. Ashar Alo Society (AAS), Bangladesh
35. Association des étudiants en pharmacie du Niger
36. Association for Promotion Sustainable Development, India
37. Association for Proper Internet Governance, Switzerland
38. ATTAC Hungary Association, Hungary
39. Australian Fair Trade and Investment Network, Australia
40. Both ENDS, Netherlands
41. Bread for all, Switzerland

42. Business of Agricultural Products and Services, Bangladesh
43. Center for Health Policy and Law, Northeastern U. School of Law, USA
44. Center for Health, Human Rights and Development, Uganda
45. Center for Participatory Research and Development, Uganda
46. Centre national de coopération au développement (CNCD-11.11.11), Belgium
47. Centro Internazionale Crocecvia, Italy
48. Coalition of women living with HIV and AIDS, Malawi
49. COAST Trust, Bangladesh
50. Comité pour l'abolition des dettes illégitimes, France
51. Consumer Association the Quality of Life, Greece
52. Corporate Europe Observatory (CEO), Belgium
53. Delhi Network of Positive People (DNP+), India
54. Ecologistas en Acción, Spain
55. Faith Mulira Health Care Centre, Uganda
56. Liberia United Youth for Community Safety and Development, Liberia
57. Fundación Mexicana para la Planeación Familiar, A. C. MEXFAM, México
58. Global Environment Centre, Malaysia
59. Global Justice Now, United Kingdom
60. Gouvernement jeunesse Burkina (GJB), Burkina Faso
61. HEBRAD, France
62. HIV Legal Network, Canada
63. Human Rights Research Documentation Center (HURIC), Uganda
64. Indonesia AIDS Coalition, Indonesia
65. Initiative for Health and Equity in Society, India
66. Just Treatment, United Kingdom
67. Kasisi Agricultural Training Centre, Zambia
68. Knowledge Ecology International, USA
69. Le Burkina des Idées (BDI), Burkina Faso
70. Life Concern, Malawi
71. Madhira Institute, Kenya
72. Malaysian Women's Action on Tobacco Control and Health (MyWATCH), Malaysia
73. Medicina Democratica, Italy
74. Mouvement de Réflexion sur les Opportunités de Développement du Burkina Faso (MROD-BF), Burkina Faso
75. Myanmar Positive Group, Myanmar
76. National Alliance for Human Rights and Social Justice, Nepal
77. National Front for the People Health of Ecuador
78. Naturefriends Greece
79. Nepal Development Initiative (NEDI), Nepal
80. NGO Federation of Nepal
81. Non-communicable Diseases Alliance Kenya
82. Pacific Asia Resource Center (PARC), Japan
83. Peoples Health Movement-Uganda,
84. PHM- Japan Circle, Japan
85. Policies for Equitable Access to Health, Italia
86. Policy Analysis and Research Institute of Lesotho,
87. Positive Malaysian Treatment Access & Advocacy Group (MTAAG+), Malaysia
88. Public Citizen, USA
89. Public Eye, Switzerland
90. Public Health Research Society Nepal
91. Réseau Foi & Justice Afrique Europe antenne France
92. Réseau Pour l'Expertise et Développement Pharmaceutique, Burkina Faso

93. Rural Area Development Programme (RADP), Nepal
94. SEATINI-Uganda
95. SECTION 27, South Africa
96. Social Awareness Service Organisation, India
97. Southern and East African Trade & Negotiations Institute - South Africa
98. Sukaar Welfare Organization, Pakistan
99. Tanzania Alliance for Biodiversity, Tanzania
100. The Center for Health, Human Rights and Development, Uganda
101. Trade Justice Movement, United Kingdom
102. Treatment Action Group, USA
103. Uganda Harm Reduction Network (UHRN), Uganda
104. Universities Allied for Essential Medicines, United Kingdom
105. Vietnam Network of People living with HIV (VNP+), Vietnam
106. Voices for Interactive Choice and Empowerment (VOICE), Bangladesh
107. WomanHealth Philippines, Philippines
108. Women for Fair Development (WOFAD), Malawi
109. Women Empowerment Against Poverty of Nepal (WEAPoN), Nepal
110. Women's Coalition Against Cancer - (WOCACA), Malawi
111. Youth Foundation of Bangladesh
112. Zimbabwe National Network of People living with HIV, Zimbabwe