

**Commonwealth/UNCTAD Technical Workshop****Understanding the IPR-related landscape for graduating LDCs: Issues and challenges**

**31 October 2022  
Salle XXII, Palais des Nations  
Geneva, Switzerland  
09:30-16:00**

The world's least developed countries (LDCs) enjoy flexibilities through a waiver exempting them from implementing most elements of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In addition, a special transition period – currently running to 1 January 2033 – has been granted to the pharmaceutical industry, which exempts LDCs from protecting patents and undisclosed information for pharmaceutical products. It also enables manufacturers of pharmaceuticals in LDCs to export patented products to other countries where the existing patent has expired or is absent. Moreover, manufacturers of generics in LDCs are exempted from paying royalties for patented medicines.

However, LDCs lose access to these manifold benefits when they exit the category. Graduating LDCs are no longer eligible for TRIPS waivers and flexibilities and must implement all substantive provisions of the Agreement. They are also required to introduce provisions for patents to pharmaceutical products and processes. For LDCs with pharmaceutical industries, this may negatively affect their ability to produce and import generic versions of patented medicines.

The loss of these benefits can pose significant challenges for LDCs after graduating, while also potentially exposing major gaps in their awareness of post-graduation IPR requirements and their capacity to implement them. To meet these obligations, graduating LDCs may have to introduce or significantly enhance their intellectual property (IP) governance systems, policies and regulations, and improve IPR standards and safeguards. They may also need to update existing IP laws or enact new laws as envisaged under the TRIPS Agreement. Significant investment and capacity building may be required to address gaps in national IPR systems. LDCs may also lack the capacity to enforce IPRs, necessitating improvements to enforcement infrastructure and procedures.

This workshop will take stock of the current IPR landscape for LDCs, highlight persistent, new and emerging IPR-related challenges confronting these countries, unpack IPR-related compliance obligations and flexibilities for graduating LDCs, and identify strategies and special support measures to help unlock IPR-related benefits and opportunities. This is intended to help enable smooth transition for graduating LDCs and, ultimately, support their economic growth and structural transformation. For example, the rapidly growing digital economy is founded upon intangible assets protected by IPRs. IPRs could play an essential role in supporting innovative small and medium enterprises in graduating LDCs. The workshop discussions will help to inform the development of Terms of Reference for a technical study on IPR-related challenges for graduating LDCs, which will be completed ahead of Part II of the 5<sup>th</sup> United Nations Conference for the Least Developed Countries (LDC5) in March 2023.

### Agenda

| Time (CET)    | Item   | Speakers  |
|---------------|--|---|
| 09:30 - 10:00 | <b>Arrival and coffee</b>  |   |
| 10:00 - 10:15 | <b>Brief welcome remarks</b>   | Brendan Vickers<br>(Adviser and Head,<br>International Trade Policy<br>Section, Commonwealth<br>Secretariat)<br><br>Junior Davis (Head, Policy<br>Analysis and Research Branch,<br>Division for Africa and LDCs,<br>UNCTAD) |
| 10:15 - 11:00 | <b>Session 1: Taking stock of the IPR landscape for LDCs: Current scope and challenges</b>   |   |
|               | <i>Moderator</i> (5 minutes)<br>Introductory remarks   | Debapriya Bhattacharya,<br>(Distinguished Fellow, Centre<br>for Policy Dialogue, Dhaka)   |
|               | <i>Technical presentation</i> (10 minutes)<br>How the current IPR regime can<br>support trade, structural<br>transformation and sustainable<br>development in LDCs | Rolf Traeger<br>(Chief, Least Developed<br>Countries Section, UNCTAD)   |
|               | <i>Technical presentation</i> (10 minutes)<br>IPR-related support measures<br>available to graduating LDCs: Current<br>scope and gaps                              | Duong Chi Dung<br>(Director, Division for Least<br>Developed Countries, WIPO)   |
|               | <i>Roundtable discussion</i> (20 minutes)<br>Identifying persistent, new and<br>emerging IPR-related challenges for<br>LDCs  | All participants  |
| 11:00 - 11:30 | <b>Tea Break</b>   |   |
| 11:30 - 12:30 | <b>Session 2: Unpacking IPR-related compliance obligations and flexibilities for graduating LDCs</b>   |   |
|               | <i>Moderator</i> (5 minutes)<br>Introductory remarks   | Kim Kampel<br>(Trade Adviser, Commonwealth<br>Small States Office)  |
|               | <i>Technical Presentation</i> (15 minutes)<br>Understanding the TRIPS Agreement –<br>waivers, flexibilities and transition<br>periods for LDCs                     | Antony Taubman<br>(Director, Intellectual Property<br>Division, WTO)  |
|               | <i>Technical presentation</i> (15 minutes)<br>IPR requirements for LDC graduates –<br>compliance obligations and capacity<br>issues                                | Ermias Biadgleng<br>(Legal Affairs Officer,<br>Intellectual Property Unit,<br>Division on Investment and<br>Enterprise, UNCTAD)   |
|               | <i>Roundtable discussion</i> (25 minutes)<br>Going beyond TRIPS – key issues for<br>consideration  | All participants  |
| 12:30 - 13:30 | <b>Lunch</b>   |   |

| Time (CET)    | Item   | Speakers   |
|---------------|--|--|
| 13:30 - 14:30 | <b>Session 3: IPR and smooth transition for graduating LDCs</b>  |  |
|               | <i>Moderator</i> (5 minutes)<br>Introductory remarks   | Lisa Borgatti<br>(Economist, UNCTAD)   |
|               | <i>Technical presentation:</i> (15 minutes)<br>Lessons from the experiences of recent graduates (incl. IPR-related benefits and opportunities, challenges, policy solutions, support needs)  | Vitor Ido<br>(Program Officer, Health, Intellectual Property and Biodiversity Program, South Centre)   |
|               | <i>Roundtable discussion:</i> (40 minutes)<br>Scoping potential IPR-related strategies, special support measures and opportunities to enable smooth transition for graduating LDCs   | All participants   |
| 14:30 - 15:00 | <b>Tea Break</b>   |  |
| 15:00 - 16:00 | <b>Session 4: Towards a technical study on IPR-related challenges for graduating LDCs [Hybrid format, allowing virtual participation]</b>  |  |
|               | <i>Moderator</i> (5 minutes)<br>Introductory remarks   | Neil Balchin<br>(Economic Adviser, Commonwealth Secretariat)   |
|               | <i>Open discussion</i> (50 minutes)<br>Focusing on:<br>(a) Identifying specific areas requiring further research or greater understanding<br>(b) Key focus areas for inclusion in ToR for the study<br>(c) Refining the analytical approach – methodology and technical considerations | All participants   |
|               | Closing remarks and way forward (5 minutes)  | Junior Davis (Head, Policy Analysis and Research Branch, Division for Africa and LDCs, UNCTAD)<br><br>Brendan Vickers (Adviser and Head, International Trade Policy Section, Commonwealth Secretariat) |