
**Council for Trade-Related Aspects
of Intellectual Property Rights**

**LEAST DEVELOPED COUNTRY MEMBERS' PRIORITY NEEDS
ASSESSMENTS: THE AID-FOR-TRADE INITIATIVE AND
THE ENHANCED INTEGRATED FRAMEWORK**

Note by the Secretariat

*This document has been prepared under the Secretariat's own
responsibility and without prejudice to the positions of Members
and to their rights and obligations under the WTO.*

I. INTRODUCTION

1. At its meeting of 8-9 June 2009, the Council for TRIPS continued its discussion of least developed country (LDC) Members' priority needs for technical and financial cooperation.¹ A number of delegations requested the Secretariat to contact the Enhanced Integrated Framework (EIF) Secretariat and the coordinator for Aid-for-Trade (AfT) with a view to gathering and presenting information to the Council's meeting in October 2009 on how these existing multilateral mechanisms and the expertise and funds available for trade-related technical assistance could be made use of to assist least developed country Members to establish their individual priority needs assessments. In concluding the discussion under the agenda item on technical cooperation and capacity building, the Chair requested the Secretariat "to contact the EIF Secretariat and the coordinator for AfT Initiative to work out the details and contents as well as the format of their contributions" to the Council's October meeting.² Accordingly, the Secretariat has compiled information received on the respective roles of the AfT Initiative and the EIF with respect to the LDC needs assessment process in this note.

II. THE AID-FOR-TRADE INITIATIVE

A. WHAT IS AID-FOR-TRADE ?

2. Aid for Trade (AfT) aims to help developing countries, particularly LDCs, to build the supply-side capacity and trade-related infrastructure that they need to assist them to implement and benefit from WTO Agreements and more broadly to expand their trade. AfT is the part of overall Official Development Assistance (ODA) - grants and concessional loans - targeted at trade-related programmes and projects. As trade is a broad activity, AfT is broad and not readily defined.

¹ See the Decision of the Council for TRIPS of 29 November 2005 on the Extension of the Transition Period under Article 66.1 for Least Developed Country Members (IP/C/40) which provides, among others, that "with a view to facilitating targeted technical and financial cooperation programmes, all the least developed country Members will provide to the Council for TRIPS, preferably by 1 January 2008, as much information as possible on their individual priority needs for technical and financial cooperation in order to assist them taking steps necessary to implement the TRIPS Agreement".

² IP/C/M/60, paragraph 90.

3. A work programme on AfT was agreed at the Hong Kong Ministerial Conference in December 2005 and operationalized by a Task Force which reported in July 2006.³ The Task Force recommended that the definition of AfT should rely on it being identified as a trade-related development priority in the partner country's national development strategies.⁴ It identified six categories which covered AfT:

(a) Trade policy and regulations, including:

Training of trade officials, analysis of proposals and positions and their impact, support for national stakeholders to articulate commercial interest and identify trade-offs, dispute issues, institutional and technical support to facilitate implementation of trade agreements and to adapt to and comply with rules and standards.

(b) *Trade development, including:*

Investment promotion, analysis and institutional support for trade in services, business support services and institutions, public-private sector networking, e-commerce, trade finance, trade promotion, market analysis and development.

(c) *Trade-related infrastructure, including:*

Physical infrastructure

(d) *Building productive capacity*

(e) *Trade-related adjustment, including:*

Supporting developing countries to put in place accompanying measures that assist them to benefit from liberalized trade.

(f) *Other trade-related needs*

B. THE AID-FOR-TRADE MONITORING FRAMEWORK

4. The WTO Task Force underscored the need to reinforce the global accountability of AfT flows. It stressed that all providers and recipients of AfT have a responsibility to report on progress and results, and to increase confidence that AfT will be delivered and used effectively. To perform this function, the OECD and the WTO established a monitoring and evaluation framework. The system is being constantly refined. The centrepiece of the monitoring framework is the joint publication "Aid-for-Trade at a Glance". Two editions of this document have been published: one in 2007 and 2009.⁵ The 2009 edition included analysis of aid flows, self-assessment questionnaires and included AfT country fact sheets for the partner-countries which responded to the joint OECD/WTO questionnaire (88 in total).

5. In value terms, AfT was estimated at USD 25.4 billion in 2007. This figure was US\$4.3 billion higher than during the baseline period of 2002-2005. Furthermore, this increase in

³ WT/AFT/1.

⁴ See document WT/AFT/1.

⁵ Aid for Trade at a Glance 2007 is available online at:

http://www.oecd.org/document/56/0,3343,en_2649_34665_42835064_1_1_1_1,00.html

Aid for Trade at a Glance 2009 is available online at:

http://www.oecd.org/document/56/0,3343,en_2649_34665_42835064_1_1_1_37413,00.html

AfT was not at the expense of overseas development assistance provided in other areas, such as health or education.

C. MONITORING INTELLECTUAL PROPERTY RIGHTS-RELATED ASSISTANCE

6. Support to trade policy and regulation helps low income countries to develop trade strategies, negotiate trade agreements and implement their outcomes. In general, technical assistance programmes aimed at building trade-related institutional and human capacities are relatively inexpensive compared with capital intensive projects, such as infrastructure development. Consequently, the share of this category in total AfT was only 3 per cent or an estimated US\$685 million in 2007.

7. Following the six categories established by the AfT Taskforce (listed above), assistance activities in support of trade-related intellectual property rights (IPRs) are typically recorded in the category of support to trade policy and regulation. However, assistance within this category is not disaggregated by donors reporting to the OECD's Creditor Reporting System (CRS)⁶. Hence a multi-million dollar project providing trade capacity building assistance may cover IPR-related issues. However, the assistance will not be categorized as specifically IPR-related. The only way to discover if IPRs are covered will be to contact the beneficiary or project implementation team. Furthermore, IPR-related activities may also be listed under other categories of AfT assistance, including trade development and building productive capacity. Here again the same problem may arise in that it is impossible to identify IPR-specific assistance in projects with much broader aims, such as sector competitiveness programmes. Consulting the CRS-data highlights that in the category of support to trade policy and regulation IPR-specific activities are sometimes identified.

8. Prior to 2008, the joint WTO-OECD Doha Development Agenda Trade Capacity Building Database (TCBDB) used the data reported by donors to the CRS and grouped it according to specific trade-related technical assistance categories, including trade-related IPRs. Some 588 entries for trade-related IPR activities can be found on the TCBDB for the years 2001-2007 (only partial year data is available for 2007). Assistance is listed as being provided from 15 different sources. These include WTO Members (Australia, the European Communities and EC member States, Japan, Korea and Norway) and international organizations (including APEC, Inter-American Development Bank, Islamic Development Bank, UNESCWA, WIPO and WTO). The information shows that specific programmes of assistance also exist to further the implementation of IPR regimes.

9. The TCBDB data records the value of assistance to trade-related intellectual property reported as averaging some US\$12.1 million annually between 2002-2005 rising to US\$27.4 million in 2007.⁷ However, this figure needs to be treated with caution due to under-reporting (i.e. not all donor activities may have been reported) and other reporting (i.e. they were counted as something else e.g. general trade policy support as per the example of given above). Actual levels of assistance may be higher, perhaps considerably higher. The TCBDB information is useful in providing an idea of the type of assistance on offer and the assistance providers. However it is a snapshot, not a full picture.

10. Intellectual property has been referenced in the discussions at the various national, regional AfT meetings which have been held since 2007 and at the two Global Reviews in 2007 and 2009. However, the only systematic treatment of intellectual property as a specific topic occurred at a national AfT event in Peru, held in March 2009. During this event, an Intellectual Property Action Plan was presented by two consultants of the Inter-American Development Bank. As information

⁶ OECD Aid for Trade data is available on-line at:
http://www.oecd.org/document/21/0,3343,en_2649_34665_43230357_1_1_1_1,00.html

⁷ Data from the joint WTO-OECD Doha Development Agenda Trade Capacity Building Database is available online at: <http://tcbdb.wto.org/index.aspx?lg=en&>

becomes available from the LDC priority need assessments with respect to the implementation of the TRIPS Agreement, it may be possible to showcase these needs in future AfT events.

D. REQUESTING AFT ASSISTANCE

11. AfT is not a new global development fund, but an integral part of normal programmable ODA. In fact, assistance to build supply-side and more specifically trade capacity in developing countries has a long history. Each year, around a fifth of ODA is dedicated to building supply-side capacities that - among other objectives - is meant to help low and middle income countries engage in international trade. In short, the AfT Initiative launched in 2005 at the Hong Kong Ministerial Conference did not result in a new type of ODA. Existing mechanisms are used to channel assistance. This means expressing trade-related needs in dialogues with development partners.

12. Part of the recommendations of the AfT Task Force concerned strengthening the "demand side" - in short, ensuring that the demand for AfT assistance is expressed. Given that this demand is predicated on country-ownership and country-driven approaches, the Task Force placed the onus on governments to fully "mainstream" trade into their development strategies. Through this process of mainstreaming, AfT assistance priorities are reflected as part of the dialogue between the government and development partners. The EIF has a critical role to play in this mainstreaming process, as discussed below.

13. Implementation of the TRIPS Agreement is an area which can and does emerge in the mainstreaming process and which is then identified as a priority in dialogue with development partners. IPR needs assessments can play a potentially useful role in this regard by helping intellectual property emerge as an identified priority area in the mainstreaming process and in dialogue with development partners.

E. CONCLUSION

14. Due to data disaggregation problems, it is impossible to offer an accurate picture of the assistance offered in support of IPR-related activities. It is clear, however, that implementation of the TRIPS Agreement is an integral component of AfT both at the practical level of projects on the ground and at the conceptual level of the coverage of the definition of AfT.

15. The AfT Initiative works through existing mechanisms; new mechanisms were not envisaged. As such, the onus is on developing countries to "mainstream" trade-related needs into their national development plans and to prioritize these needs in discussion with their development partners. The EIF plays a critical role for LDCs in this process. The same is true of the conclusions which may emanate from the LDC IP priority needs assessments or projects submitted under the Decision of the Council for TRIPS of 29 November 2005 on the Extension of the Transition Period under Article 66.1 for Least Developed Country Members.⁸ If so requested by LDCs, these needs assessments could help them to include IPRs in their mainstreaming processes and highlight it as a priority area in dialogue with their development partners.

III. THE ENHANCED INTEGRATED FRAMEWORK

A. WHAT IS THE IF/EIF?

16. The (Enhanced) Integrated Framework is Aid for Trade in action for the LDCs. The EIF's structures and processes form the building blocks available to LDCs to operationalise Aid for Trade by assisting them in mainstreaming their trade-related needs into their development strategy and

⁸ IP/C/40.

highlighting them as priority areas in dialogue with their development partners. The EIF is an international partnership, through which the IMF, ITC, UNCTAD, UNDP, the World Bank and WTO (the IF Core Agencies) combine their efforts with those of LDCs, donors and other development partners, such as UNIDO, to respond to the trade development needs of LDCs so that they can become full and active players and beneficiaries of the multilateral trading system. Experience with the IF so far shows that those trade development needs cover a wide area, ranging from increasing macroeconomic stability, developing trade policy and trade administration capacity, enhancing efficient management of import and export procedures to supply-side constraints, meeting international standards, developing infrastructure, developing export promotion capacity and developing targeted economic sectors. The LDCs are leading this process. The mechanism was first created by the IF partners in 1997 at the WTO and since then constantly improved. This has led to the current EIF which consolidates stronger LDC ownership, increased coordination among and commitments from the partners and improved global governance structures. The EIF is not a new initiative but an enhanced version of the IF that has evolved since its inception. The EIF automatically applies to all IF beneficiaries.

17. The EIF is exclusively available to LDCs. Almost all LDCs are at various stages of the EIF process. The EIF is designed to be the overarching mechanism available to LDCs to identify the totality of their trade-related needs (upstream and down stream), to mainstream those needs into their national development strategies, approach their donor community to seek collaboration and necessary funding over and above that available in the EIF's own Trust Fund. It thus establishes the link between the demand by LDCs for assistance and the response by the donor community in the form of AfT. It supports LDCs in their efforts to build trade capacity and to integrate trade issues into their overall national development strategies, so that trade can effectively contribute to the economic development and growth of their economies. The implementation of the TRIPS Agreement is therefore an integral part of the IF/EIF, provided that the LDCs make it a priority in their EIF process.

18. The objectives of the EIF are:

- to mainstream trade into LDCs' national development plans such as PRSPs;
- to assist in the coordinated delivery of trade-related assistance in response to needs identified by LDCs; and
- to develop the capacity of LDCs to trade, including through capacity building and addressing supply constraints.

19. The EIF process consists of four phases, namely:

- awareness-building on the importance of trade for development in the beneficiary LDC; and establishing/strengthening of the in-country EIF governance structure;
- preparing a DTIS or a DTIS update to identify constraints to overall competitiveness and supply chains and sectors of greatest export potential. The DTIS includes an Action Matrix – a list of trade priorities – for better integration into the global trading system as well as a write-up on the LDC's strategy for EIF implementation, and executing this strategy;
- mainstreaming trade into the national development strategy,
- seeking financing from the development partners for priority actions requiring external funding.

20. The DTIS exercise is an important part of the EIF process. It is a detailed analysis by the LDC identifying constraints to overall competitiveness and supply chains and sectors of greatest export potential. The DTIS includes an Action matrix – a list of trade priorities – for better integration into the global economy as well as a write-up on the LDC's strategy for (E)IF implementation. Mainstreaming, or integrating the trade priorities into the country's national development strategy, such as the Poverty Reduction Strategy Paper (PRSP) or other, will feed them into the dialogue between the LDCs and their donors. This in turn will facilitate the generation of the bulk of necessary funding for the priorities resulting from the EIF process. In fact, many donors require that for any activity to be considered for possible funding it needs to be mainstreamed into the country's national development strategy.

21. The EIF process has a global as well as an in-country governance structure and a multilateral Trust Fund attached to it. The Trust Fund manager of the enhanced IF is the UN Office for Project Services (UNOPS), taking over from UNDP as the Trust Fund manager for the (earlier) IF Trust Fund.

22. Funding of the actions identified in the DTIS and its Action Matrix can be done through three separate channels:

- the EIF's multilateral Trust Fund (EIFTF); or
- local, regional or multilateral donors active in the respective EIF beneficiary LDC; or
- the national budget.

Activities proposed for EIFTF funding should be translated into Tier 1 or Tier 2 projects. Project proposals should be designed and adopted at the local level before submission for approval by the EIF Board. Specific procedures to ensure accountability and country ownership apply.⁹ To obtain funds through local, regional or multilateral donor action, it is advisable that throughout the EIF process, LDCs keep their local donors abreast and involve them early on to allow incorporation of trade priorities into their aid cycles and assist in project design. Mainstreaming the DTIS and its Action Matrix into LDCs' national development plans will greatly facilitate this as donors often look to these plans for their overall aid programming decisions.

23. Funds in the EIFTF cannot be earmarked for IPR-related technical assistance because they are co-mingled. However, funding of the actions identified in the DTIS and its Action Matrix can be done through three separate channels of which the EIF Trust Fund is but one. Local, regional or multilateral donors active in the respective EIF beneficiary LDC may have set aside or earmarked IPR-specific funds.

B. FUNDING OF THE LDC IPR PRIORITY NEEDS ASSESSMENT UNDER THE EIF

24. Funding under the EIF umbrella, be it from the EIF Trust Fund or via bilateral or regional sources, can only be done as long as the LDC has identified IPR-related needs as a priority in its (updated) DTIS/Action Matrix. Hence, where LDCs have included, or referred to, IPR-related priority needs assessment projects as a priority in their respective DTIS, funding would be possible.

25. The EIF also provides for a possibility to update the DTIS. Some LDCs are in the process of doing so and could choose to include IPR-related assistance. In terms of choice of funding, it is up to the LDC to decide whether IPR-related needs, once listed in its DTIS, are of such priority so as to

⁹ See the EIF website: <http://www.integratedframework.org/> or contact the EIF Executive Secretariat (at the WTO) for information on detailed procedures.

request funding from the EIFTF. This is done according to specific procedures. Alternatively, once included as a priority in its DTIS, the LDC could approach its bilateral or regional donors directly and request support.

26. To implement EIF-financed technical assistance, LDCs can choose any partner, including WIPO, and need not be limited to the EIF core Agencies or observers. The country itself could be included as an implementing partner. The basis will be an existing or new Partnership Agreement between the implementing partner and the EIFTF Manager (UNOPS).
