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

IMPLEMENTATION ISSUES REFERRED TO THE COUNCIL FOR TRIPS

Report by the Chairman of the Council on his own Responsibility

1. At its meeting of 18 October 2000, the Special Session of the General Council referred a number of implementation issues to the Council for TRIPS for its consideration, with the request that the TRIPS Council should report to the General Council on progress on these points to its Special Session in December 2000. The purpose of this report, which is being made on the responsibility of the Chairman of the Council for TRIPS, is to respond to this request.
2. One area which was referred to the Council for TRIPS was the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD). The TRIPS Council was urged to continue its ongoing work with a view to clarifying this relationship. In connection with this request, the Chairman of the Council held informal consultations on 31 October 2000, which agreed that sufficient time for informal consultations on this subject be reserved during the course of the meeting of the Council for TRIPS held from 27-30 November. These informal consultations took place on the afternoon of 28 November. Building on the work that the Council had previously done on the relationship between the TRIPS Agreement and the CBD, Members had a detailed exchange of views on this matter, which touched also on some other matters in connection with the Council's work on the review of Article 27.3(b) of the TRIPS Agreement. New written submissions were presented by the delegations of Brazil (IP/C/W/228), Japan (IP/C/W/236) and Singapore (non-paper). Various views were expressed, ranging from those who believe that there is no evidence of incompatibility and that the two instruments are mutually supportive, through those who consider that, while the underlying relationship is one of synergy, there is need for care to ensure that this is realized in the actual implementation of the two agreements, to those who consider that there is a conflict and that the two agreements need to be reconciled. Some Members indicated that they were still studying in their capitals the relationship between the two agreements and were not yet ready to take a position on the matter. The Council will continue its consideration of the relationship between the two agreements at its next meeting.
3. The Council for TRIPS was urged at the 18 October 2000 Special Session of the General Council to give positive consideration to granting observer status to the CBD secretariat on an ad hoc basis pending the conclusion of the wider discussions on observer status for intergovernmental organizations in the General Council. The Council took up this matter in both formal and informal session at its meetings in the week of 27 November but was unable to reach a consensus.
4. At the General Council's Special Session of 18 October 2000, the Council for TRIPS was requested, with a view to facilitating full implementation of Article 66.2, to give consideration to drawing up an illustrative list of incentives of the sort envisaged by Article 66.2. Further the Council was requested to put on a regular and systematic basis its procedure for the notification and monitoring of measures in accordance with the provisions of Article 66.2. It was understood that, in doing so, the Council would give consideration to avoiding unnecessary burdens in notification procedures. The Council held informal consultations on this matter on 31 October and in the week of

27 November 2000. At the informal consultations on 31 October, some representatives of least developed countries indicated their intention to come forward with proposals for an illustrative list and a systematic notification and monitoring procedure. The Council has not yet received these proposals.

5. At its Special Session of 18 October 2000, the General Council also urged the Council for TRIPS to invite other intergovernmental organizations to provide information on their activities aimed at technology capacity building. In this connection, the Council for TRIPS agreed at its meeting of 27-30 November to invite the secretariats of UNCTAD, WIPO, UNIDO, the World Bank and the CBD to provide written information on their activities on technology capacity building prior to the Council's meeting in April 2001.

6. The Council stands ready to continue to keep the Special Sessions of the General Council informed of further developments in its work regarding the relationship between the TRIPS Agreement and the CBD and regarding Article 66.2 of the TRIPS Agreement.
