

ITEM 3: PROTOCOL AMENDING THE TRIPS AGREEMENT
GENERAL COUNCIL, 20 FEBRUARY
DG STATEMENT

At the General Council meeting in December 2005, Members agreed to amend the TRIPS Agreement to secure a permanent solution for the problem identified by ministers in paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health.

The problem was the difficulties that WTO members with insufficient or no manufacturing capacities in the pharmaceutical sector could face in making effective use of compulsory licensing under the TRIPS Agreement.

Existing compulsory licenses under the TRIPS Agreement were mostly to serve the domestic market of the country issuing them – they did not cover the possibility of producing exclusively for export to those countries reliant on imports of medicines.

Members took a decision to solve this problem by giving permanent legal effect, and not just a waiver, to a new kind of compulsory license – a special compulsory license for export.

It has been 10 years since that agreement was reached. And we are still to bring that agreement into force.

I believe that it is high time to finalize this process.

And let me explain why.

The 2005 decision was a clear recognition by all WTO members of the importance of providing a permanent legal certainty to this new compulsory licensing system under the TRIPS Agreement.

Currently access to medicines through compulsory licensing can take place on the basis of a waiver.

Members called for the legal certainty of a permanent amendment to the TRIPS Agreement.

Entry into force of the amendment will give this new compulsory licensing system the same status as all other public health related flexibilities under the TRIPS Agreement.

Furthermore, the legal certainty that this provides will strengthen the future potential to facilitate export of much-needed medicines. This is particularly important in the event of a pandemic or when newer generations of medicines are protected by patents in traditional lower-cost producing countries.

The 2005 decision was a great achievement for developing and least-developed countries. It was designed to give the most vulnerable a permanent pathway for access to affordable medicines.

Two-thirds of the membership have to confirm acceptance before the amendment comes into force. Around half of our members have already taken this step – including some LDCs.

But we are not there yet – we need 27 more acceptances.

The map behind me shows in blue those that members have confirmed acceptance. And in red it shows those that are still to do so.

I have written to ministers of all relevant countries who have not yet taken this step to urge them to formally accept the TRIPS amendment, and I hope you will follow this up.

Over recent days I have also taken this message to meetings of the African Group and the LDC Group, and a gathering of parliamentarians from around the world.

Many members have already shown positive feedback. And some members are asking for further guidance and assistance in carrying out necessary steps.

The Secretariat stands ready to provide all the necessary assistance. As a starter, they have prepared an aide mémoire as a room document for this meeting.

It's time that we completed this process and that the amendment is brought into force.

When we fight to secure outcomes at the WTO it is essential that we follow up by acting upon what we agree. The TRIPS amendment was the first ever amendment to the entire package of WTO law – so let's now deliver on that commitment.

Thank you Mr Chairman.