APPENDIX 1

GUIDE TO TRIPS NOTIFICATIONS

A. GENERAL

The TRIPS Agreement gives effect to a principle of transparency, founded on a system of notifications about how countries choose to implement TRIPS provisions. These notifications, built up since 1996, now amount to a useful collection of factual information about national intellectual property (IP) systems, as well as specific details on key issues such as incentives for transfer of technology, and contact points within national systems. These notifications help the Council for TRIPS to monitor the operation of the Agreement and to promote understanding of Members' IP policies.

These transparency provisions oblige WTO Members to

- notify to the Council for TRIPS their intellectual property laws and regulations.
- establish and notify contact points in their administrations for the purposes of cooperation with each other aimed at the elimination of trade in infringing goods.
- notify the Council in the event that they wish to avail themselves of certain possibilities provided for in the Agreement that relate to the substantive obligations. These concern, for example, modifications of the criteria of eligibility for protection, exceptions to the most-favoured-nation treatment, and protection of state emblems.

In order to implement these notification obligations, the Council has adopted procedures and guidelines relating thereto. An Annex to this Appendix contains a list of the IP/N/- series of documents in which such notifications are circulated.

Developed country Members have also agreed to provide certain information and make notifications which are not specifically provided for in the Agreement: these include technical cooperation and transfer of technology. Members also often share information on their legislation and practices as part of the Council's work. This has been done in a structured way when the Council undertakes reviews national implementing legislation, the review of the application of the provisions of the Section on geographical indications under Article 24.2 (see Module 4), and the review of the provisions of Article 27.3(b) (see Module 5).

This Appendix summarizes these notification procedures and provides references to the relevant decisions as well as to background documents.

All of the WTO documents and notifications referred to in this Appendix are available on the WTO Document Online database.\(^1\) The easiest way to access this documentation is through the WTO TRIPS transparency toolkit webpage, which provides a single access point to various notifications and other reports from Members, as well to related formats, guidelines and background materials.\(^2\) Notified laws and regulations are also available on the WIPO Lex search

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1. From the WTO homepage at [http://www.wto.org/](http://www.wto.org/), follow the links "documents" and "documents online".
2. From the WTO homepage, follow the links "trade topics" and "intellectual property". From this TRIPS gateway page, follow the link "Notifications – members' transparency toolkit".
facility for national laws and treaties on intellectual property, which can be accessed through the WIPO GOLD on-line database.3

B. RELEVANT NOTIFICATION PROCEDURES

1. Notification of laws and regulations under Article 63.2

(a) Procedures for the notification of laws and regulations

Article 63.2 of the TRIPS Agreement, in conjunction with Article 63.1, requires Members to notify the laws and regulations made effective pertaining to the subject-matter of the Agreement (the availability, scope, acquisition, enforcement and prevention of the abuse of intellectual property rights) to the Council in order to assist it in its review of the operation of the Agreement. The basic procedures for the notification of national laws and regulations under Article 63.2 are contained in document IP/C/2.4 The Agreement Between WIPO and the WTO is also relevant with regard to these procedures.

As regards the initial notification, the procedures provide that, as of the time that a Member is obliged to start applying a provision of the TRIPS Agreement, the corresponding laws and regulations shall be notified without delay (normally within 30 days, except where otherwise provided by the TRIPS Council). Accordingly, developed country Members were to make their initial notification of their TRIPS legislation at the end of their transition period in 1996, and developing country Members in 2000. Newly acceded Members are to notify their TRIPS

4 Further procedures can be found in documents IP/C/4 and 5.
implementing legislation as of the time they are to start to apply the provisions of the TRIPS Agreement in accordance with their accession protocol.

The general transition period for least developed country Members has been extended until 1 July 2013.5 As regards pharmaceutical products, the transition period has been extended until 1 January 2016.6 Least-developed country Members are not yet obliged to notify their TRIPS legislation implementing those provisions of the Agreement in respect of which they are availing themselves of the extended general transition period. However, as regards advance notifications, the procedures provide that a Member who has amended a law or regulation to bring it into conformity with the provisions of the Agreement in advance of its obligation under the Agreement to start applying those provisions will use its best endeavours to notify such law or regulation as soon as possible after its entry into force.

The procedures also provide that any subsequent amendments of a Member's laws and regulations shall be notified without delay after their entry into force (normally within 30 days where no translation is required and within 60 days where translation is necessary).

The procedures provide that, wherever possible, notifications shall be made in machine-readable as well as hard copy form.

According to the procedures, notifications of laws and regulations need to comprise the following elements:

- the texts of all relevant laws and regulations in their original language;
- translations into one WTO language (i.e. English, French or Spanish) of "main dedicated intellectual property laws and regulations", if the original language is not a WTO language;
- a listing of "other laws and regulations" in accordance with a specific format contained in document IP/C/4;
- responses to a checklist of questions on law and practice in the area of enforcement, in addition to the notification of the texts of enforcement laws and regulations; this "Checklist of Issues on Enforcement" is contained in document IP/C/5.

These procedures for the notification of laws and regulations under Article 63.2 reflect a number of departures from traditional GATT/WTO practice regarding submission, translation and distribution of notifications. It was recognized that the volume of these notifications would be very large and procedures were adopted to attempt to reduce the burdens for Members in preparing them as well as for the Secretariat in processing them. At the same time, they nevertheless attempted to ensure that the purpose of the notification system as an instrument to monitor implementation would not be unduly impaired and could remain effective.

- Not all laws and regulations need to be notified in a WTO language. A distinction has been made between so-called "main dedicated intellectual property laws and regulations" and "other laws and regulations". Document IP/C/2, paragraphs 6 and 9 and document IP/C/W/8 contain some guidelines for Members in order to help them make their assessment when dividing their laws and regulations into these two categories. Main laws and regulations have to be notified in English, French or Spanish; other laws and regulations can be notified in a Member's national language. Translations of laws and regulations must be accompanied by the authentic texts of the laws and regulations in question in a national language.

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5 Document IP/C/40.
6 Document IP/C/25.
• Under Article 2(5) of the Agreement Between WIPO and the WTO, the assistance of WIPO will be available to developing country Members for translation of laws and regulations for the purposes of Article 63.2 of the TRIPS Agreement, whether or not they are Members of WIPO.

• Only the texts of main laws and regulations will be distributed in WTO documents and only in the WTO language in which they have been submitted.

• Other laws and regulations will not be distributed but only be available for consultation in the WTO Secretariat. However, in order to maximize transparency as to the contents of other laws and regulations, the notification of the texts of all "other laws and regulations" must be accompanied by a listing of them according to the format contained in document IP/C/4. This listing must be submitted at the same time as the laws and regulations themselves. A model of such a listing can be found in document IP/C/W/8. According to the two-column format, the titles of the laws and regulations will be presented on the left side and a brief description of them in English, French or Spanish on the right side. In order to improve the user-friendliness of their notifications, recently some Members when updating their earlier notifications have provided such listings for both their "main dedicated intellectual property laws and regulations" and "other laws and regulations".

• It has been recognized that adequate transparency of the contents of enforcement laws, in particular as to how TRIPS obligations have been implemented, may not necessarily be achieved by the notification of laws and regulations according to the above-mentioned procedures. For example, in countries with a common law tradition, this area of law is often not codified but governed by case law. Therefore, the Council has adopted a "Checklist of Issues on Enforcement" (document IP/C/5), responses to which Members have to submit in addition to any texts of laws and regulations including any brief description in the format referred to in the previous indent. The responses to this checklist have to be submitted by each Member as soon as possible after the date on which it is obliged to start applying the TRIPS provisions on enforcement.

(b) Availability of the information received

Notifications of laws and regulations under Article 63.2, including listings of "other laws and regulations", are distributed in the IP/N/1/- series of documents. The actual texts of "main dedicated intellectual property laws and regulations" are further categorized according to their substantive subject matter (see Appendix 2 for the detailed document codes).

Responses to the Checklist of Issues on Enforcement are circulated in the IP/N/6/- series of documents.

The notifications and the texts of the laws and regulations referred to in these documents are available on the WTO Documents Online database. They can also be easily accessed through the aforementioned TRIPS transparency toolkit webpage.

The procedures in document IP/C/2 provide that "[w]herever possible, notifications shall be made in machine-readable as well as hard copy form". Earlier, the texts of most notified laws

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7 It should be noted that, unless an enforcement law is notified as a main law, enforcement laws must be taken up in this listing, including their brief description. In addition, a Member must provide responses to the Checklist of Issues on Enforcement.

8 From the WTO homepage at http://www.wto.org/, follow the links "documents" and "documents online".
and regulations were received only in hard copy form. In these cases, the texts were attached to the WTO document containing the cover note as offset copies. Therefore, one could find only the cover note on the database, since these texts were not put into electronic form by the WTO Secretariat. However, all of the old offset documents have been scanned and prepared in .pdf format to be available in the database.9 Some notifications continue to be received only in hard copy form or in such electronic formats that cannot be converted into a WTO document. In such cases, the texts are circulated and made available in the database as described above. Presently most texts are received in electronic form. These texts are generally included in an annex to the relevant document and also made available on the database.

Cooperation between WIPO and the WTO plays an important part in the management of notifications of laws and regulations. Article 2 of the WIPO-WTO cooperation agreement contains a number of provisions on notification procedures, translation of laws and regulations, and making them available. As provided in Article 2(4) of the cooperation agreement, the WTO Secretariat transmits to WIPO a copy of the laws and regulations notified to the WTO Secretariat by WTO Members under Article 63.2 of the TRIPS Agreement in the language or languages and in the form or forms in which they were received, and WIPO places such copies in its collection.10 The main way WIPO makes this information available to the public is through its WIPO Lex search facility for national laws and treaties on intellectual property. It can be accessed through WIPO GOLD on-line database, which provides a one-stop gateway to WIPO's global collections of searchable IP data.

Article 63.2 of the TRIPS Agreement refers to the possibility of minimizing the burden on Members relating to notification obligations through the establishment of a common register in cooperation with WIPO. The provisions on close cooperation between the two Organizations in the current notification procedures and in the WIPO-WTO cooperation agreement reflect this intention to streamline the administration of notifications. In 2010, the two Organizations established a WIPO-WTO Common Portal that allows countries to simultaneously electronically submit texts of IP laws and regulations to the two Organizations.

By the end of 2010, 127 Members had notified all or part of their implementing legislation and 99 Members had provided responses to the Checklist of Issues on Enforcement.

2. Notifications of contact points under Article 69

Article 69 of the Agreement provides that Members agree to cooperate with each other with a view to eliminating international trade in goods infringing intellectual property rights and that, for this purpose, they shall establish and notify contact points in their administrations and be ready to exchange information on trade in infringing goods. They shall, in particular, promote the exchange of information and cooperation between customs authorities with regard to trade in counterfeit trademark goods and pirated copyright goods.

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9 Search results on the WTO Document Online database indicate where such second format for a document is available. The second format can be accessed by clicking on "display second format".

10 As foreseen in Article 3(3) of the WIPO-WTO cooperation agreement, a WTO Member may choose to make its initial notification to the TRIPS Council by reference to WIPO's collection. The cooperation agreement provides that where, on the date of its initial notification of a law or regulation under Article 63.2, a WTO Member has already communicated that law or regulation, or a translation thereof, to the WIPO Secretariat and that WTO Member has sent to the WTO Secretariat a statement to that effect, and that law, regulation or translation actually exists in WIPO's collection, the WIPO Secretariat will transmit a copy of it to the WTO Secretariat.

At their meetings in December 1995, the Assemblies of the Berne and Paris Unions resolved that the receipt, by the International Bureau of WIPO from the WTO Secretariat, of a copy of any law or regulation that the WTO Secretariat received under Article 63.2 of the TRIPS Agreement shall have, for the purposes of, respectively, Article 24(2) of the Berne Convention and Article 15(2) of the Paris Convention, the same effect as if that law or regulation had been communicated to the International Bureau under the said Articles of the Berne or Paris Convention. See, respectively, paragraph 5 of WIPO document B/A/XVIII/2 and paragraph 5 of WIPO document P/A/XXIV/2.
At its meeting in September 1995, the Council agreed that notifications should be made by 1 January 1996 and that any subsequent changes to the information should be notified promptly. The Council has agreed to invite each Member to notify the following information relating to the contact point, or each of the contact points, that it establishes for the purposes of Article 69: the name of the authority in question; its address; its telephone and telefax numbers and e-mail address, and, where appropriate, to identify at each contact point a contact official.\textsuperscript{11}

These contact points can be found in a database that can be accessed through the above-mentioned transparency toolkit webpage.

By the end of 2010, 123 Members had notified their contact points under Article 69. The Council receives each year a number of updates to contact points notified earlier.

3. **Notification requirements for Members availing themselves of certain possibilities under the TRIPS Agreement**

Members wishing to avail themselves of certain possibilities in the Agreement that relate to the substantive rights and obligations or contain various flexibilities have to notify the Council. The following reviews these possibilities and summarizes the procedures and guidelines on such notifications that the Council has adopted.

(a) Articles 1.3 and 3.1

Article 1.3 of the Agreement defines the persons that must be eligible for the protection to be made available by Members under the Agreement. The Article does so by referring to the criteria for eligibility as laid down in the Paris Convention, the Berne Convention, the Rome Convention and the Washington Treaty for the relevant areas of intellectual property. Thus, the same criteria have to be applied among WTO Members as well, whether or not they are member States to any of the Conventions or Treaty themselves. Certain of the exceptions allowed under these criteria, notably those of the Berne Convention or the Rome Convention, are allowed on condition that they are notified to the TRIPS Council, whether or not they have been notified to the Secretary General of the United Nations under the Berne Convention and the Rome Convention themselves.

Article 3.1 of the Agreement requires national treatment to be given to persons eligible for protection under Article 1.3, subject to the exceptions allowed under the Conventions and Treaty mentioned above. Equally as under Article 1.3, certain of these exceptions under Article 3.1 are allowed on condition that they are notified to the TRIPS Council.

Notification under Articles 1.3 and 3.1 is only required if a Member wishes to avail itself of one of the exceptions concerned. No special procedures have been adopted by the Council in respect of these notifications.\textsuperscript{12}

These notifications are distributed in the IP/N/2/- series of documents. By the end of 2010, 31 Members had submitted such notifications.

(b) Article 4(d)

Under the most-favoured-nation (MFN) treatment provisions of Article 4 of the Agreement, each Member has to ensure that any advantage, favour, privilege or immunity that is available in its territory to certain foreign right holders is accorded to persons eligible under Article 1.3 for protection under the Agreement. Article 4 specifies the exemptions to such MFN treatment allowed by the Agreement. One of these exceptions, that in sub-paragraph (d), requires a

\textsuperscript{11} See WTO/AIR/168.

\textsuperscript{12} Further details concerning these notification requirements can be found in a background note prepared by the Secretariat and circulated in document IP/C/W/5.
notification, namely where the advantage in question derives from an international agreement related to the protection of intellectual property which entered into force prior to the entry into force of the WTO Agreement. The conditions for such exemptions are that the agreement in question is notified to the TRIPS Council and does not constitute an arbitrary or unjustifiable discrimination against persons eligible under Article 1.3 from other WTO Members.

Notification under Article 4(d) is only required if a Member wishes to avail itself of the exception concerned. No special procedures have been adopted by the Council in respect of these notifications.

These notifications are distributed in the IP/N/4/- series of documents. By the end of 2010, 28 Members or groups of Members had submitted such notifications.

(c) Article 6ter of the Paris Convention

Article 6ter of the Paris Convention (1967) concerns the protection of state emblems, official hallmarks and the abbreviations and emblems of intergovernmental organizations against the registration or use as trademarks. Article 6ter applies in the TRIPS context by virtue of Article 2.1 of the TRIPS Agreement and lays down procedures for the communication by Members (and intergovernmental organizations) to other Members of such emblems that they wish to prevent from being registered or used as trademarks and for the transmittal of objections to emblems communicated.

The application of the provisions of Article 6ter for the purposes of the TRIPS Agreement is addressed in Article 3 of the WIPO-WTO cooperation agreement and in the Decision of the TRIPS Council of 11 December 1995 (document IP/C/7). Accordingly, the International Bureau of WIPO administers the communication procedures under Article 6ter for the purposes of the TRIPS Agreement in accordance with the procedures applicable under Article 6ter of the Paris Convention (1967).

As regards the main features of these arrangements, following the entry into force of the TRIPS Agreement, notifications made under Article 6ter of the Paris Convention became effective under the TRIPS Agreement for all WTO Members (subject to the transition periods under the TRIPS Agreement) whether they were parties to the Paris Convention or not. This concerns all past as well as future notifications. The arrangements apply both to the communication of emblems and to objections to emblems communicated. The WIPO Secretariat communicated, in January 1996, all emblems communicated before that date under Article 6ter of the Paris Convention to those WTO Members which were not parties to the Paris Convention. Since January 1996, the practice has been that a newly acceded WTO Member that is not party to the Paris Convention receives a set of emblems as communicated through the WIPO Secretariat under the provisions of Article 6ter of the Paris Convention before the date on which the WTO Agreement entered into force for the new Member in question.

Signs for which protection was requested were earlier communicated individually and on paper. Since 2009, such communications have been replaced by a periodic (half yearly) electronic communication that uses the WIPO "6ter Express" database.\textsuperscript{13}

All state emblems of WTO Members and of parties to the Paris Convention, as well as emblems of international intergovernmental organizations, which benefit from the application of Article 6ter are available in the 6ter Express database. It contains some 2,500 individual records and is fully accessible and searchable online. Updated versions of the database are also being made available on CD-ROM, and can be ordered from WIPO.

\textsuperscript{13} The database can be accessed at \url{http://www.wipo.int/ipdl/en/search/6ter/search-struct.jsp}. 
(d) Other Notification Requirements under the Berne Convention and the Rome Convention
Incorporated by Reference into the TRIPS Agreement

A number of notification provisions of the Berne and the Rome Conventions are incorporated by reference into the TRIPS Agreement but without being explicitly referred to in it. Such notifications are only required if a Member wishes to avail itself of one of the possibilities concerned. No special procedures have been adopted by the Council in respect of these notifications. These notifications are distributed in the IP/N/5/- series of documents. To date, three Members have submitted such notifications. The following summarizes the notification possibilities in question.14

Articles 14bis(2)(c) and 14bis(3) of the Berne Convention: Article 14bis(2)(b) of the Berne Convention as incorporated into the TRIPS Agreement applies to a WTO Member which in its legislation includes among the owners of copyright in a cinematographic work authors who have brought contributions to the making of the work. In such a Member it must be presumed that these authors have consented, in the absence of any contract to the contrary, to certain ways in which the film may be exploited. If such a Member's legislation requires that the consent of the authors must have been in writing, Article 14bis(2)(c) requires that Member to inform other Members of this requirement by means of a notification. Article 14bis(3) requires that a Member the law of which does not make the presumption binding on the principal director of the film must similarly make a notification. The purpose of these notification requirements is to allow those concerned to know the Members whose legislation applies the presumption in such a restricted way and to make their arrangements accordingly.

Article 15(4) of the Berne Convention: Article 15(4) of the Berne Convention as incorporated into the TRIPS Agreement is mainly directed at the protection of folklore. It deals with unpublished works where the identity of the author is unknown, but where there is every ground to presume that he or she is a national of a given WTO Member. In such a situation, the Member concerned may designate a competent authority to protect the interests of the author. Other Members should be informed about this authority by means of a notification giving full information.

Appendix to the Berne Convention: Article 9.1 of the TRIPS Agreement requires Members to comply with the Appendix to the Berne Convention (1971), which contains special provisions for developing countries. The Appendix contains a number of notification procedures which are discussed below.

- Article I of the Appendix: Paragraph 1 requires a developing country Member wishing to avail itself of the possibilities provided in the Appendix to declare that it will avail itself of the faculty provided in Article II and/or Article III of the Appendix (compulsory licences for, respectively, translations and reproductions) by means of a notification. According to paragraph 2 such declarations can be made for renewable periods of ten years. Such declarations may be renewed by means of a notification.15 Paragraph 5 deals with the possibility for a country to make notifications in respect of territories for which it has international responsibility.

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14 Further details concerning these notification requirements can be found in a background note prepared by the Secretariat and circulated in document IP/C/W/15. At its meeting in February 1996, the Council invited each Member wishing to make such notifications to make them to the TRIPS Council, even if the Member in question had already made a notification under the Berne or the Rome Convention in regard to the same issue.

15 At its meeting in July 1998, the TRIPS Council took note of a statement that its Chair made in the light of informal consultations with Members on the calculation of renewable periods of ten years under the provisions of the Appendix to the Berne Convention as incorporated by reference into the TRIPS Agreement, according to which the provisions of Article I(2) of the Appendix as incorporated into the TRIPS Agreement can be understood so that, for the purposes of the TRIPS Agreement, the relevant periods are calculated by reference to the same date, i.e. 10 October 1974, as for the purposes of the Berne Convention (see paragraphs 7-9 of the record of the meeting in IP/C/M/19).
• **Article II(3)(b) of the Appendix:** This provision deals with the situation where a developing country Member secures the agreement of all developed country Members, in which the same language is in general use as in that developing country Member, to provide for a shorter period than the usual three years after publication for the application of compulsory licences to substitute for the exclusive right of translation. The provision requires that any such agreement shall be notified.

• **Article IV(2) of the Appendix:** This provision deals with the situation where an applicant for a compulsory licence of the types provided for in Articles II and III cannot find the owner of the right in question. In such a situation, he or she must send a copy of the application to any national or international information centre which may have been designated by the Member in which the publisher of the work concerned is believed to have his principal place of business. The paragraph provides that such information centres must have been designated in a notification by the Member concerned.

• **Article IV(4)(c)(iv) of the Appendix:** This provision allows developing country Members to export copies of translations made under compulsory licence, provided that a number of conditions are met: the language of the translation must not be English, French or Spanish; the recipients are individuals who are nationals of the Member whose competent authority has granted the licence, or organizations grouping such individuals; the copies must be sent for teaching, scholarship or research purposes; there must be no commercial purpose; and there must be an agreement between the Member granting the licence and that to which the copies are sent. The provision requires that such an agreement shall be notified by the Member in which the licence has been granted.

• **Article V of the Appendix:** This Article provides that a developing country Member may choose, by way of a declaration made at the time of ratification or accession, the "ten-year regime" which appeared in the 1896 Act of the Berne Convention for translations instead of the compulsory licensing system provided for in Article II of the Appendix.

**Article 17 of the Rome Convention:** Article 14.6 of the TRIPS Agreement allows a WTO Member to avail itself of exceptions permitted under the Rome Convention. Article 17 of the Rome Convention allows a state which, on 26 October 1961, granted protection to producers of phonograms solely on the basis of the criterion of fixation to continue to do so, provided it makes a notification to this effect at the time of ratification, acceptance or accession.

**Article 18 of the Rome Convention:** Articles 1.3, 3.1 and 14.6 of the TRIPS Agreement relate to certain exceptions under the Rome Convention, the invocation of which require notification. Article 18 of the Rome Convention provides that any state which has invoked such an exception by means of notifications under Articles 5(3), 6(2), 16(1) or 17 of the Rome Convention may, by a further notification, reduce the scope of or withdraw the notification in question.

**4. Notification requirements for Members making use of the additional flexibilities relating to TRIPS and public health**

On 30 August 2003, the General Council adopted a decision on "Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health" (WT/L/540). The Decision grants three distinct waivers from the obligations set out in Article 31(f) and (h) of the Agreement with respect to pharmaceutical products, subject to certain conditions. These waivers are

- a waiver of the obligation of an exporting Member under Article 31(f) of the TRIPS Agreement to the extent necessary for the purposes of production and export of the needed pharmaceutical products to those countries that do not have sufficient capacity to manufacture them;
• a waiver of the obligation under Article 31(h) of the Agreement on the importing Member to provide adequate remuneration to the right holder in situations where remuneration in accordance with Article 31(h) is being paid in the exporting Member for the same products; and

• a waiver of the obligation under Article 31(f) of the Agreement on any developing or least developed country Member that is party to a regional trade arrangement at least half of the current membership of which is made up of countries presently on the United Nations list of least developed countries.

WTO Members wishing to make use of this "Paragraph 6" system are required to make the following notifications:

• Paragraph 1(b): intention to use the system established by the Decision of 30 August 2003 as an importer. This notification needs to be made only once. It can be made at any time, either independently of any actual use of the system or together with the first notification under paragraph 2(a). This notification requirement does not apply to importing Members which are least developed countries.

• Paragraph 2(a): specific imports under the system established by the Decision of 30 August 2003, for which an eligible importing Member is required to: (i) specify the names and expected quantities of the products needed; (ii) confirm that it has insufficient or no manufacturing capacities in the pharmaceutical sector for the products in question; and (iii) confirm that, where a pharmaceutical product is patented in its territory, it has granted or intends to grant a compulsory licence in accordance with Article 31 of the Agreement and the provisions of the Decision. No notification requirement applies to least developed country Members as regards condition (ii), as they are deemed to have insufficient or no manufacturing capacities.

• Paragraph 2(c): grant of a compulsory licence under the system established by the Decision of 30 August 2003. The information provided shall include the name and address of the licensee, the product(s) for which the licence has been granted, the quantity(ies) for which it has been granted, the country(ies) to which the product(s) is (are) to be supplied and the duration of the licence. The notification shall also indicate the address of the website of the licensee that shall post on its website information on the quantities being supplied to each destination and the distinguishing features of the products in question.

To date, one notification has been received under each of paragraphs 2(a) and 2(c).

These three types of notifications are circulated in the IP/N/8-10 series of documents, respectively. The notifications discussed above can easily be accessed through the "TRIPS and public health: dedicated webpage for notifications".¹⁶

On 6 December 2005, the General Council adopted a Protocol Amending the TRIPS Agreement and submitted it to Members for acceptance (WT/L/641). The provisions of the waiver Decision will be replaced by identical provisions of Article 31bis of the TRIPS Agreement, once the amendment enters into force. The notification requirements will remain unchanged under the new Article 31bis.

¹⁶ The Decision of 30 August 2003 called for the establishment of such a dedicated page on the WTO website, in particular to make publicly available certain notifications made by Members in using the "Paragraph 6" system established under the Decision. To access the page, follow from the WTO homepage the links "trade topics", "intellectual property" and "Dedicated page: TRIPS and public health notifications".
5. Notification requirements for developed country Members agreed by the TRIPS Council in the context of Articles 66.2 and 67

(a) Reports under Article 66.2

Article 66.2 of the TRIPS Agreement requires developed country Members to provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least developed country Members in order to enable them to create a sound and viable technological base. In its Decision on Implementation-Related Issues and Concerns, adopted on 14 November 2001, the Ministerial Conference reaffirmed that the provisions of Article 66.2 of the TRIPS Agreement are mandatory, and instructed the TRIPS Council to put in place a mechanism for ensuring the monitoring and full implementation of the obligations in question.

Having regard to the instructions of the Ministerial Conference, the Council for TRIPS adopted a Decision on Implementation of Article 66.2 of the TRIPS Agreement on 20 February 2003 (IP/C/28). The Decision establishes a mechanism for ensuring the monitoring and full implementation of the obligations in Article 66.2. Paragraph 1 of the Decision provides that developed country Members shall submit annually reports on actions taken or planned in pursuance of their commitments under Article 66.2. To this end, they are to provide new detailed reports every third year and, in the intervening years, to provide updates to their most recent reports. These reports are to be submitted prior to the last Council meeting scheduled for the year in question. Moreover, paragraph 2 of the Decision provides that the submissions shall be reviewed by the Council at its end of year meeting each year.

The tri-annual new reports and the intervening updates are circulated in the IP/C/W- series of documents and made available on the WTO Online Database. They can be easily accessed through the TRIPS transparency toolkit webpage or a webpage on "Technology transfer" that contains a quick search documents online feature for reports under Article 66.2.

(b) Contact points for technical cooperation and reports under Article 67

(i) Contact points for technical cooperation on TRIPS

At its meeting in July 1996, the Council for TRIPS agreed that each developed country Member should notify a contact point for technical cooperation on TRIPS, in particular for the exchange of information between donors and recipients of technical assistance. Information on the format for these notifications can be found in WTO/AIR/388. The information on such contact points can be found in a database that can be accessed through the above-mentioned transparency toolkit webpage. In addition, the webpage on technical cooperation in the TRIPS area contains a link to this list of contact points. By the end of 2010, 29 developed country Members have notified their contact points for technical cooperation on TRIPS. The Council receives each year a number of updates to contact points notified earlier.

(ii) Reports under Article 67

Article 67 of the TRIPS Agreement requires developed country Members to provide, on request and on mutually agreed terms and conditions, technical and financial cooperation in favour of

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17 From the WTO homepage, follow the links "trade topics", "intellectual property" and "technology transfer".

18 The document provides that developed country Members have been requested to notify, in particular, the following information concerning their contact point(s): (i) the name of the authority in question; (ii) its address; (iii) its telephone and telefax numbers and, where appropriate, e-mail reference; and (iv) where appropriate, to identify at each contact point a contact official.

19 From the TRIPS gateway page, follow the link "technical cooperation in the TRIPS area".
developing and least developed country Members. According to this provision, the objective of such cooperation is to facilitate the implementation of the Agreement. The Article specifies that such assistance shall include assistance in the preparation of laws and regulations on the protection and enforcement of intellectual property rights as well as on the prevention of their abuse, and support regarding the establishment or reinforcement of domestic offices and agencies relevant to these matters, including the training of personnel.

In order to ensure that information on available assistance is readily accessible and to facilitate the monitoring of compliance with the obligation of Article 67, developed country Members have agreed to present descriptions of their relevant technical and financial cooperation programmes and to update this annually. For the sake of transparency, intergovernmental organizations have also presented, on the invitation of the Council, information on their activities. The Council normally holds its annual review of technical cooperation at its meeting in autumn.

The information from developed country Members, intergovernmental organizations and the WTO Secretariat on their technical cooperation activities in the area of TRIPS is circulated in the IP/C/W/- series of documents and made available on the WTO Online Database. The information can easily be accessed through the TRIPS transparency toolkit webpage or a webpage on technical cooperation in the TRIPS area contains a quick search documents online feature for reports on technical cooperation activities in the area of TRIPS.20

6. Certain other information flows

(a) Records of reviews of national implementing legislation

The initial notifications of laws and regulations made pursuant to Article 63.2 of the TRIPS Agreement form the basis for reviews of national implementing legislation carried out by the Council. Initially, the review exercise focused on those developed country Members whose transition period expired on 1 January 1996. Their legislation was reviewed in 1996 and 1997 in four week-long meetings according to the following subject areas: copyright and related rights; trademarks, geographical indications and industrial designs; patents, layout-designs of integrated circuits, undisclosed information and the control of anti-competitive practices in contractual licences; and enforcement. The legislation of developing country Members whose transition period expired on 1 January 2000 was reviewed in 2000 and 2001. The totality of the legislation of each Member was reviewed at a single review meeting. The legislation of newly acceded Members is reviewed as of the time that they start to apply the provisions of the TRIPS Agreement in accordance with their accession protocol. By the end of 2010, the Council had completed 117 reviews, and three reviews already initiated remained on its agenda.

The procedures for these reviews provide for written questions and replies prior to the review meeting, with follow-up questions and replies during the course of the meeting. At subsequent meetings of the Council, an opportunity is given to follow up points emerging from the review session which delegations consider have not been adequately addressed.

After the completion of a review, the record of the introductory statement made by the delegation subject to review, the questions put to it and the responses given in the review are circulated in the IP/Q/- series of documents. The records of the reviews of developed country Members' legislation in the four subject areas referred to above were circulated, respectively, in the IP/Q/-, IP/Q2/-, IP/Q3/- and IP/Q4/- series of documents. Given that the totality of the legislation of each developing country and newly acceded Member has been reviewed at a single review meeting, the records of these reviews have been circulated in single documents with four document symbols. These documents are available on the WTO Online Database. The

20 From the TRIPS gateway page, follow the link “technical cooperation in the TRIPS area”.
webpage on "review of implementing legislation" contains a quick search document online feature for these documents.21

(b) Responses provided in the context of the review of the provisions of the Section on geographical indications under Article 24.2

In the context of the review of the application of the provisions of the Section on geographical indications under Article 24.2 of the TRIPS Agreement, the Council, at its meetings in May and July 1998, invited those Members already under an obligation to apply the provisions in question to provide their responses to a Checklist of Questions contained in document IP/C/13 and Add.1, it being understood that other Members could also furnish replies on a voluntary basis. By the end of 2010, 49 Members had provided responses thereto.

The responses from Members have been circulated in document IP/C/W/117, addenda, supplements and revisions. At the Council's request, the Secretariat has prepared a note summarizing these responses. An updated version of the summary, circulated in November 2003, can be found in document IP/C/W/253/Rev.1. This documentation is available on the WTO Documents Online database.

(c) Responses provided in the context of the review of the provisions of Article 27.3(b)

At its meeting in December 1998, the Council agreed to initiate the review of the provisions of Article 27.3(b) through an information-gathering exercise. The Council invited Members that were already under an obligation to apply Article 27.3(b) to provide information on how the matters addressed in these provisions were presently treated in their national law. Other Members were invited to provide such information on a best-endeavours basis. While it was left to each Member to provide information as it saw fit, having regard to the specific provisions of Article 27.3(b), the Council requested the Secretariat to provide an illustrative list of questions relevant in this regard in order to assist Members to prepare their contributions. This list was circulated in document IP/C/W/122. A number of Members circulated an alternative format in document IP/C/W/126, and invited interested Members to be guided by it in completing their responses, if they so desired. By the end of 2010, 25 Members had provided such information.22

The responses from Members have been circulated in document IP/C/W/125, addenda, supplements and revisions.23 At the Council's request, the Secretariat prepared a note summarizing these responses. An updated version of the summary, circulated in February 2003, can be found in document IP/C/W/253/Rev.1. This documentation is available on the WTO Documents Online database.

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21 From the TRIPS gateway page, follow the link "review of Members' implementing legislation".
22 Counting the European Communities and its member States as of February 1999, when the responses were provided, as one.
23 A number of Members provided information by answering the questions listed in document IP/C/W/122, some others used the method in document IP/C/W/126, and some of them answered the questions in both documents. Finally, there were Members who provided information without referring to either of these documents.