

Congress of the United States
Washington, DC 20515

May 14, 2013

The Honorable Demetrios Marantis
Acting United States Trade Representative
Office of the United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Marantis:

We write to urge the Administration to consider the request made by Least Developed Countries (LDCs) to extend the existing transition period for LDCs to implement World Trade Organization (WTO) intellectual property rules (IPRs) under the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which is set to expire on July 1, 2013. We are aware that at the November TRIPS Council meeting Haiti submitted, on behalf of WTO LDC Members, a request to extend the transition period for LDC Members until such time as they individually “graduate” from LDC status.

As you know, LDCs are impoverished and economically vulnerable countries. They are officially classified by the United Nations based on three factors: lowest income (per capita Gross National Income of less than \$1,190); poor human development indicators of nutrition, health, and literacy; and economic vulnerability. LDC status helps designate countries in need of increased assistance, investment, and technology transfer in order to enable them to “graduate” to developing country status, as Botswana and Cape Verde have. LDCs are home to over half of the one billion people living in extreme poverty, and in May 2011 the United Nations set a global goal that at least half of LDCs graduate to lower-middle-income within ten years.

In addition, LDCs bear extreme health burdens. According to UNAIDS, LDCs account for 9.7 million of the 34 million people living with HIV worldwide and although 4.6 million of these individuals are eligible for antiretroviral (ARV) treatment under the World Health Organization (WHO) HIV treatment guidelines, only 2.5 million are receiving ARVs. Eighteen of the 34 Global Health Initiative countries are LDCs, and 14 of the 33 President’s Emergency Plan for AIDS Relief (PEPFAR) recipient countries are LDCs.

The special status of LDCs with respect to IPRs was explicitly recognized within the TRIPS Agreement framework. LDCs were given an extended transition period for IPR adoption and enforcement so that they could develop their technological base and needed capacities at the local level. LDCs were also given express permission to seek and obtain further extensions upon proper motivation. Article 66.1 of TRIPS states that “the Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period.” We consider the Haiti proposal to be such a request.

We are concerned that if LDCs are required to fully implement TRIPS while still “least developed” this could limit access to quality, affordable medicines to fight HIV, malaria, and

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other diseases; educational and information resources; and agricultural goods and green technology. The Haiti proposal does not in any way prevent countries from implementing elements of the TRIPS intellectual property rules if desired, but the application would give LDCs the flexibility to structure intellectual property rules to support development.


Given these essential health, education, development, and environmental concerns, and the significant investments we are making in LDCs through multilateral channels such as PEPFAR and the Global Fund to Fight AIDS, TB and Malaria, we ask you to consider the LDC proposal and support a policy to extend the LDC waiver for implementing WTO intellectual property rules.

Sincerely,


Henry A. Waxman
Member of Congress


Barbara Lee
Member of Congress


Rosa L. DeLauro
Member of Congress


Janice D. Schakowsky
Member of Congress


Karen Bass
Member of Congress

cc: Michael Froman, Deputy National Security Advisor for International Economic Affairs
Michael Punke, U.S. Ambassador to the World Trade Organization