

### ***About this working paper***

As part of its decision of 29 November 2005 extending the transition period for Least Developed Countries (LDCs) to implement the Trade related Agreement on Intellectual Property Rights (TRIPS Agreement), the World Trade Organization (WTO) Council for TRIPS also mandated LDC members to provide as much information as possible to the Council, preferably by 1 January 2008, on their individual priority needs for technical and financial co-operation in order to assist them in taking steps necessary for implementing the Agreement. As of July 2007, however, no LDCs have been able to respond substantively to this invitation and make such submissions to the Council.

The need to make better use of this valuable opportunity for LDCs was discussed by representatives from a group of developed and developing countries, international institutions and Non Governmental Organisations (NGOs) at the Intellectual Property Technical Assistance Forum (IPRTA Forum) meeting sponsored by the UK Department of International Development (DFID) in Bangkok in December 2006 (for more information about the agenda, participants and outcomes from the meeting, see [www.iprtaforum.org](http://www.iprtaforum.org)). As a follow-up to the meeting, this working paper has been prepared as part of ICTSD Programme on IPRs and Sustainable Development in partnership with Saana Consulting. It is aimed at providing technical support to undertake, upon request, a comprehensive diagnostic study and assessment of technical and financial assistance needs on IP and development in LDCs. The project would also seek to facilitate the response by LDCs and their development partners to the invitation made by the WTO Council for TRIPS in 2005.

The working paper provides a diagnostic toolkit to aid the assessment of needs for IPR technical and financial assistance (IPRTA) in LDCs. Based on an earlier version of a common IPRTA needs assessment tool developed by Mart Leesti and Tom Pengelly at Saana Consulting in December 2004, this diagnostic toolkit has been specifically adapted for use in LDCs as they face the challenge of implementing the objectives, principles, rights and obligations of the WTO TRIPS Agreement, whilst taking proper account of the objectives, principles flexibilities, safeguards and Special and Differential Treatment (S&DT) provisions they enjoy because of their LDC status and low levels of human, social and economic development.

The working paper is the result of an ongoing process of stakeholder dialogue, consultation and peer review organized by ICTSD and Saana Consulting. To date, this process has included the following elements:

1. A draft version of the working paper was made available online and presented at a dialogue on “Improving Intellectual Property Technical Cooperation for LDCs to facilitate the Implementation of the TRIPS Agreement” on 3 May 2007 in Geneva. Participants at the meeting, in their personal capacity, included members from the Missions of Bangladesh, Cambodia, Djibouti, Malawi, Rwanda and Uganda and staff members from

WTO, UNCTAD, ACWL, South Centre, CIEL, QUNO, Saana Consulting and ICTSD.

2. An informal consultation organized by the LDC Group in Geneva on 9 May 2007, where ICTSD presented the draft diagnostic toolkit to receive comments and feedback. Those present at the meeting included representatives of the permanent missions to the WTO of Angola, Bangladesh, Lesotho, Malawi, Maldives, Mali, Mauritania, Nepal, Rwanda, Tanzania, Uganda, and Zambia.
3. Informal consultations were conducted by Tom Pengelly from Saana Consulting with the WIPO Secretariat and the TRIPS Division of the WTO Secretariat in Geneva on 1 June 2007. The consultations allowed discussion of the draft diagnostic toolkit and yielded a number of comments and suggestions, as well as additional background information on the activities of WIPO and the WTO in relation to IPRTA needs assessment and delivery for LDCs.
4. Expert reviews of the draft diagnostic toolkit have been solicited by ICTSD and Saana Consulting from a number of experienced and knowledgeable experts on IPRs and development. In particular, comments and drafting suggestions were gratefully received from Ron Marchant (independent consultant and former CEO of the UK Patent Office); Sisule F. Musungu (independent researcher and former Team Leader of the Innovation & Access to Knowledge Programme at the South Centre in Geneva); Anderson Zikonda (Zambian High Court Justice, former Registrar of Patents and Trademarks in Zambia and the first Director General of ARIPO) as well as by members on the ICTSD Programme on IP and Sustainable Development.

Following these consultations and the online publication via the ICTSD website of the draft diagnostic toolkit in early May 2007, ICTSD has received expressions of interest from a number of LDCs to date wishing to participate in piloting the use of the diagnostic toolkit in conducting a national assessment of their needs for technical and financial co-operation, with a view to submitting the resultant information to the WTO Council for TRIPS. Currently, two such pilot national needs assessments are being undertaken with the support of ICTSD and Saana Consulting in Sierra Leone and Uganda. Extension of the pilot scheme to a limited number of other LDCs is also under active consideration. These pilots will provide the opportunity to field test the diagnostic toolkit and highlight further improvements where necessary.