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**FOLLOW-UP TO THE REVIEW UNDER PARAGRAPH 8 OF THE DECISION ON
THE IMPLEMENTATION OF PARAGRAPH 6 OF THE DOHA DECLARATION
ON THE TRIPS AGREEMENT AND PUBLIC HEALTH**

**List of issues for further discussion or information as identified
by Members at the Council's October 2010 meeting**

At its meeting of 26-27 October 2010, the Council for TRIPS took up its annual review of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. The record of the discussion is annexed to the TRIPS Council's report to the General Council (IP/C/57 and Corr.1).

..... As requested by the TRIPS Council, I have held consultations with a number of Members on follow-up to the review, including both the question of a workshop and other proposals made. My consultations have confirmed the broad support for following up open questions and outstanding issues at the Council's next meeting scheduled for 1-2 March. Consequently this issue has been put on the proposed agenda circulated in document WTO/AIR/3697.

In light of my consultations, I have requested the Secretariat to prepare the attached list of issues that Members identified at the Council's October meeting as requiring further discussion or information. This list that highlights these issues on the basis of the record of the annual review is intended to help Members to prepare for the follow-up discussion.

During my consultations, some delegations reiterated their proposal for an open-ended workshop involving all the key stakeholders. However, views continue to diverge on this proposal.

Martin Glass
Chairman
Council for TRIPS

ANNEX

List of issues for further discussion or information as identified
by Members at the Council's October 2010 meeting¹

Members were requested to provide information on the following general issues:

- Information from potential importing Members who have considered using the Paragraph 6 System ("System"), but have subsequently not done so, including examples of any specific obstacles or concerns.²
- Information from potential importing Members regarding their efforts to publicize the System within their countries.³
- Any experience potential importing Members have with the implementation of the waiver regarding the payment of royalties.⁴
- Whether potential importing Members have taken advantage of international procurement systems and their experiences in this regard.⁵
- Whether any importing Members apply tariffs or duties on donated medicines that were imported.⁶
- Whether any Members have increased their domestic manufacturing capacity since 2003.⁷
- Information on developed country Members' efforts to transfer technology to least developed countries,⁸ in particular how they have implemented paragraph 7 of the Decision.⁹
- Measures taken by potential exporting Members to ensure the safety and efficacy of medicines procured under the System.¹⁰
- Analysis of whether the economic and political incentives provided by the System are adequate to secure investment in the production of generic medicines at affordable prices.¹¹
- Analysis of TRIPS-plus provisions that adversely affect the right to access to medicines, such as data exclusivity.¹²
- Incentives provided to Members to implement the System and to accept the Protocol Amending the TRIPS Agreement.¹³
- Information on budgets available to actors from the private and public sectors regarding the distribution of essential medicines.¹⁴

¹ All references are to the Annex to the TRIPS Council's report to the General Council in document IP/C/57 and Corr.1.

² Canada, para. 38; New Zealand, para. 72; US, para. 228; Australia, para. 229; Japan, para. 230; EU, para. 232; Switzerland, para. 233.

³ Canada, para. 46.

⁴ Canada, para. 119.

⁵ Canada, para. 203.

⁶ Canada, para. 203.

⁷ Canada, para. 203.

⁸ Nigeria, para. 120.

⁹ India, para. 224.

¹⁰ Nigeria, para. 120.

¹¹ Brazil, para. 61.

¹² Brazil, para. 61.

¹³ Chile, para. 118.

- Analysis of how international organizations, such as WTO and WIPO, could make better use of their resources for technical cooperation in collaboration with other organizations, including UNCTAD, WHO and UNAIDS, to implement TRIPS flexibilities.¹⁵

Members were requested to provide information on the following specific issues:

- Information from the delegation of India on a possible partnership between the Canadian company Apotex and the Indian company Ranbaxy Laboratories to export to Liberia the same fixed-dose combination that had been exported to Rwanda, in particular whether a voluntary licence had been secured and whether any shipment had taken place. In addition, information on other partnerships between Indian generic companies and foreign firms under which medicines were exported to developing countries, based on either voluntary or compulsory licences.¹⁶
- Information from the delegation of India on three applications for compulsory licences by NATCO Pharma under the Indian legislation implementing the System.¹⁷
- Additional information from the delegations of Canada and India on any difficulties encountered by the Doctors Without Borders in placing an order with the Canadian company Apotex before procuring the fixed-dose combination drug from Indian generic companies.¹⁸
- Information from the delegation of Indonesia regarding specific examples of resistance encountered from patent holders, and whether such resistance was related to the use of the System. In addition, information on medicines which Indonesia had found difficult to obtain and the efforts made to obtain them, including any use of the System.¹⁹
- Information from the delegation of Egypt on why it considered it to be more onerous for Egyptian generic companies than for their Canadian counterparts to comply with the anti-diversion measures under the System.²⁰
- Report on further developments regarding the proposed amendment of Canada's Access to Medicines Regime.²¹
- Preparation of a detailed report by the WHO on the coverage of flexibilities in its technical assistance activities.²²
- Information from WIPO on projects under its development agenda, covering the development dimension with respect to the effective use and implementation of TRIPS flexibilities.²³

¹⁴ Ecuador, para. 216.

¹⁵ Ecuador, para. 170.

¹⁶ Canada, para. 54; India's initial response, para. 55.

¹⁷ New Zealand, paras. 25 and 71; EU, para. 35; India's initial response, para. 75.

¹⁸ Switzerland, para. 31.

¹⁹ Canada, para. 76.

²⁰ New Zealand, para. 71.

²¹ India, para. 224; Canada's initial response, para. 227.

²² India, paras. 172, 224.

²³ Ecuador, para. 170.