

June 25, 2021

Ambassador Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Supporting LDCs' Request for Transition Period

Dear Ambassador Tai:

We urge the United States to support the request of Least Developed Countries (“LDCs”) to the TRIPS Council of the World Trade Organization (IP/C/W/668) for a transition period from implementing the TRIPS Agreement for as long as they remain LDCs. The current transition period is due to expire on July 1, 2021.

The preamble of the TRIPS Agreement recognizes the “special needs” of LDCs and their need for “maximum flexibility in the domestic implementation of laws and regulations in order to enable them to create a sound and viable technological base.” Accordingly, Art. 66.1 grants LDCs an automatic right to transition period following a duly motivated request by LDCs. The LDCs’ request comes at a time of global unprecedented crisis, with the most vulnerable bearing the worst impact.

LDCs represent the most vulnerable segment of the international community. Although LDCs only make up 14 percent of the global population, they account for 50 percent of the world’s extremely poor (*i.e.*, those living on less than \$1.90 a day). Their constraints include the very limited availability of skilled labor, productive capacities, access to secondary education, electricity, and internet access. Consequently, LDCs do not have the conditions to benefit from the full implementation of the TRIPS.

The COVID pandemic has revealed LDCs’ extreme vulnerability to external shocks, and the lack of the most basic tools to control the COVID pandemic and deal with its impacts. According to a UN study, “the pandemic has highlighted the great inequality in access to the technologies required for remote learning, disproportionately affecting poorer communities.”¹

Access to knowledge is a massive challenge in LDCs. One legacy of colonialism is that LDCs tend to have much stricter copyright laws than wealthy countries, with much narrower exceptions for vital purposes such as education, research, health, and to fulfill the missions of libraries, archives and museums. To promote the actualization of human rights and the global interests in a healthy and educated population everywhere, LDCs deserve to have maximum flexibility permitted under international intellectual property laws without threat of WTO challenge.

¹ Comprehensive Study on the Impact of COVID-19 on the Least Developed Country Category, April 2021, UN Committee of Development Policy.

In view of the exceptional massive challenges lying ahead for LDCs and uphill battle towards sustainable development with a viable technological base, we are of the view that the LDC Group's request to the WTO is justified and urge you to support the LDCs' request in IP/C/W/668.

Respectfully,

Program on Information Justice and Intellectual Property, American University
Fight for the Future
IP Justice
Library Copyright Alliance
Library Futures
Public Knowledge
Software Preservation Network

cc Ms. Nora Todd, Chief of Staff

Mr. David Bisbee, Charge d'affairs, U.S. Mission to the World Trade Organization