

JOINT IGO SIDE EVENT

MAMEY, December 7, 2010, 18h30 to 20.00

TRIPS and Climate Change

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Disclaimer

- Not an institutional view of the WTO
- On my own responsibility
- Without prejudice to the positions of WTO Members and to their rights and obligations under the WTO
- Not an authoritative account or interpretation

TRIPS Agreement

- **Article 7**

The protection and enforcement of intellectual property rights **should contribute to the**

- promotion of **technological innovation** and
- to the **transfer and dissemination of technology**,
 - to the mutual advantage of producers and users of technological knowledge and
 - in a manner conducive to social and economic welfare,
 - and to a balance of rights and obligations.
- **Patents: obligations and policy options**
 - Article 27, 28, 29, 30, 31, 32, 33

Important to note

- Patents rights are obtained for each jurisdiction separately and are independent of each other.
- At the time of patent filing, or even grant, it is not commercially proven technology – many fall by the wayside.
- Even if it is commercially proven, the mere existence of a patent on a particular clean technology in a particular country is not, in and of itself, proof of barriers to access.
 - It all depends on how the patent is exploited and this in turn depends on the competition and availability of close substitutes.
- Equally, absence of a patent is not by itself a guarantee to technology transfer and diffusion
 - Much depends on skill levels, infrastructure and other factors important to the absorption of technology
 - Without the partnership or involvement of the technology originator, and the transfer of valuable knowhow for the effective exploitation of the technology, it may often difficult to replicate the technology inherent in patent documents.
- Nevertheless, incentives to enterprises to promote tech transfer can be important.

Article 66.2

- Developed country Members shall 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.
- Several developed countries have reported under this provision projects for LDCs in climate friendly technologies:
 - Australia, EU, Canada, Norway, Switzerland and the US.

EU - IP/C/W/536/Add.7

- ACP-EU Energy Facility
 - **€200 million** for a new phase of the Energy Facility for the period **2009-2013**.
 - Objective is to increase access to energy services in rural and peri-urban areas while fighting against climate change.
 - **Eligible enterprises or institutions:**
 - All ACP and EU stakeholders (State actors and public bodies, local authorities, regional organisations, NGOs, private companies, etc);
 - Non ACP International Organisations are allowed to participate only as partners, co-donors or associates
 - A partnership with ACP actors is compulsory.

ACP-EU Energy Facility – activities

- **Provision of electricity to dispersed populations in isolated areas**
 - decentralized systems mainly based on:
 - **Small solar / wind / bio-energy / hydro power plants** in combination with a rural distribution network;
 - Technical innovations for rural electrification in areas such as **bio-fuels for village diesel motors** (e.g. multifunctional platform), micro-hydro, new types of electricity distribution technology, decentralised grids, etc.);
 - **Training** of entrepreneurs, development of markets, awareness campaigns in rural and peri-urban electrification and renewable technologies.

ACP-EU Energy Facility – Examples of ongoing/implemented projects

Countries	Name of applicant	Title
Benin	Deutsche Gesellschaft für Technische Zusammenarbeit	Programme d'électrification rurale par réseau SBEE
Burkina Faso	N.V. Nuon	Solar energy for improved energy services in rural areas
Eritrea	Ministry of Energy and Mines the State of Eritrea	Expansion of LPG storage and distribution facilities to rural areas of Eritrea
Ethiopia	Plan UK	Community managed renewable energy programme for rural Ethiopia.

Japan - IP/C/W/551/Add.3

- New Energy and Industrial Technology Development Organization (NEDO)
 - dispatch of **research staff and technicians**
 - conduct of **joint research**
 - **joint production**
 - **Joint installation** of materials and equipment in the recipient countries, and integrated operation and conduct of research.
 - **Cambodia**: Development of the Generation Technology by Mixed Combustion of Non-food Biomass Fuel (2009-2010)
 - **Myanmar**: Cooperative Research Project on Utilization of Rice Husks as Biomass Fuels in Myanmar (2010-2011)

United States - IP/C/W/551/Add.5 – US

- The **Private Financing Advisory Network (CTI-PFAN)**
 - a multilateral public-private partnership
 - **receives funding from USAID to help finance developers of climate-friendly technologies in developing countries**
 - nurtures innovative clean and renewable energy projects
 - bridges the gap between investors and clean energy entrepreneurs and project developers
 - provides guidance on feasibility, project structure, investment and financing, preparation of the business plan, and introductions to investors
 - works through regional networks in Latin America, Asia, Eastern Europe, and Africa and through dedicated in-country networks, for example in Mozambique and Uganda
 - See more at www.cti-pfan.net

United States - IP/C/W/551/Add.5

- USAID's **South Asia Regional Initiative for Energy (SARI/Energy)**
 - The SARI/Energy programme focuses on regional approaches to meet South Asia's energy security needs through, *inter alia*, access to clean energy
 - Three of the eight partner countries in SARI/Energy are WTO Member LDCs, specifically **Nepal, Bangladesh, and the Maldives.**
 - Examples
 - fostering a partnership agreement among two US-based utility companies and the Dhaka Electric Supply Company Limited (DESCO).
 - supplying Nepalese farmers with Indian-developed solar technology used to preserve surplus fruits, vegetables and spices.

Switzerland - IP/C/W/551/Add.2

Country	Field	Technology	Mechanism	Budget
Global , incl. Madagascar, Senegal, Mali	Renewable energy, energy efficiency	Wind, solar, biomass, geothermal, hydropower energy	Swiss platform for Renewable Energy Promotion in International cooperation	Sw F 4,000,000 (2007-2010)
Global , incl. Cambodia, Lao PDR	Industry / environment	Cleaner production: Identification and implementation of ESTs	Training of consultants, company assessments, together with UNIDO, Swiss Federal Institute of Technology and Material Testing	Sw F 3,000,000 (2008-2011)
Global , with focus on sub-Saharan Africa	CDM capacity building	CDM-methodologies; institutional capacity of Designated National Authorities	World Bank (CF Assist); consultancy; knowledge transfer in host country committee; CDM fairs	Sw F 5,000,000 (2010-2012)

Concluding remarks

- TRIPS is the most comprehensive international treaty on intellectual property rights and is enforceable through the WTO dispute settlement mechanism
- Article 66.2 is an obligation like any other in TRIPS.
- Have given just a few examples of what developed countries have put in their Art. 66.2 reports
- Much more in these reports, including for other countries not mentioned such as Australia, Canada, Norway.
- Art. 66.2 reports not comprehensive. Much more being done on financing and transfer of climate technologies to LDCs than in some Art. 66.2 reports.
 - e.g. see US Climate Action Report, 2010, Chapter 7
- More also being done in South-South cooperation but no obligation to report to the WTO.

Thank you for your attention!

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