

# EU wants to ban Seed-freedom in poorest countries of the world under WTO law.

by Burghard Ilge, 5/6/2013

Without much public notice, hefty discussions are currently taking place at the WTO in Geneva. The fight is about the current rights of the so-called country grouping of Least Developed Countries[1], which until now are not bound by the strict WTO rules related to the protection of Intellectual Property Rights[2]

This WTO exception for the poorest countries in the world had been one of the few positive results of the tedious negotiations of the *Doha devolvement round*.

In 2005 the WTO rules on intellectual property rights were amended. Since then they allow Least Developed Countries an exception from the WTO requirements on Intellectual Property rights until the end of this month and grant the right of an automatic extension of these exceptions once these countries submitted a duly motivated request to the WTO.

When Haiti as required submitted such a request last November[3], a group of developed countries, (most prominently the US and EU), suddenly opposed the request and demanded to open negotiations on this text.

This process which has been taking place behind closed doors in Geneva since autumn last year, has been very intransparent.

Recently, on 27 May the EU commission circulated a secret draft of a proposal on how to position the EU in these discussions in Geneva. This proposal now seems to have been agreed upon by EU member states and can now be found in the public domain[4]. In this Document the EU demands that after 7,5 years all least developed countries will lose the current exceptions.

Should the EU succeed, the WTO would have to start to allow trade sanctions against these countries in case they don't meet their WTO obligations on Intellectual Property Rights before the end of 2020.

## **Why are the rules on Intellectual Property Rights so important for developing countries?**

Intellectual property rights limit the access for developing countries to goods such as medicine, seeds or any other goods which are protected by Intellectual Property Rights. Access to educational material in schools, universities or books in public libraries in least developed countries is also under threat.

Moreover, intellectual property rights also undermine development projects.

One example has been a failed development project of the joint Ministries of Agriculture of the Netherlands and Indonesia, which briefly drew some attention in 2011 when a related article appeared in the Dutch press[5]. The project failed because of patents on seeds.

Intellectual property right laws cause many problems for sustainable development, this is nothing new. To further explore these challenges, in 2008 the Dutch Minister for development cooperation mandated a study to explore the role and impact of Intellectual Property Rights for Development objectives[6]

This report also contains quite specific recommendations on the role of the WTO. While it asks to adapt and use the existing flexibility of the WTO rules on intellectual property rights to meet African development needs, it also recommends to fundamentally revise the existing rules of the WTO[7]

It seems that these recommendations have been widely ignored by the current Dutch government; no evidence is found showing that the authorities took serious efforts to influence the process in Brussels or Geneva accordingly.

The window of opportunity to prevent that WTO rules become even worse for the poorest countries in the world is closing quickly since the current exceptions granted to least developed countries will expire on 1 July 2013;

Now is the time for political decision makers, always highlighting the importance of the "appropriate trade rules for development" or "policy coherence for development" to intervene if they want to be taken serious.

As an activist formulated it nicely "the EU will have to call back its bit bulls in Geneva" if they want to prevent irreversible damage.

Burghard Ilge is policy officer at Both ENDS (Amsterdam)  
where he works on international trade and investment rules

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[1] A Least developed country (LDC) is a country which, according to the United Nations, exhibits the lowest indicators of socioeconomic development, with the lowest Human Development Index ratings of all countries in the world.

(see [http://en.wikipedia.org/wiki/Least\\_developed\\_country](http://en.wikipedia.org/wiki/Least_developed_country))

LDCs (most of which are from sub-Saharan Africa) are the most vulnerable segment of the international community. Generally the conditions prevailing in LDCs are terribly poor. More than half of the LDC population lives on less than \$1.25 (PPP) per day; adult literacy rate in LDCs is on average at 60.7%, with gross enrolment in tertiary education at about 6.6% while primary school dropout rate at 40.9 % of the population; only 1.7 per 100 people have personal computers, while about 5 out of 100 have access to the worldwide network; more than half of the LDC population do not have access to electricity, water or sanitation facilities. The productive capacities in LDCs are also extremely limited and they tend to be at the bottom of all innovation/technology indices. LDCs also face challenges such as natural disasters (e.g. severe droughts, floods, earthquakes, tsunamis) and political instability.

[2] The WTO rules on Intellectual property rights (IPR) are defined in the so called TRIPS agreement The Wikipedia entry on Intellectual Property Rights can be found here [http://en.wikipedia.org/wiki/Intellectual\\_Property\\_Rights](http://en.wikipedia.org/wiki/Intellectual_Property_Rights)

[3] For the relevant the WTO document see Document IP/C/W/583 from 5 November 2012 which can be found here

[http://www.wto.org/english/tratop\\_e/trips\\_e/ta\\_docs\\_e/7\\_1\\_ipcw583\\_e.pdf](http://www.wto.org/english/tratop_e/trips_e/ta_docs_e/7_1_ipcw583_e.pdf)

or here

<http://www.scribd.com/doc/145834932/LDC-request-for-extension-of-WTO-TRIPS-waiver>

[4] The document can e.g. be found here:

<http://www.scribd.com/doc/145836880/EU-position-on-LDC-TRIPS-waiver-27-5-2013>

and via this link

[http://ec.europa.eu/prelex/detail\\_dossier\\_real.cfm?CL=en&DosId=202686](http://ec.europa.eu/prelex/detail_dossier_real.cfm?CL=en&DosId=202686)

[5] Christoph Schmidt "Patenten dwarsbomen ontwikkelingsprojecten" TROUW 8 Dec 2011

[6] Harnessing Intellectual Property Rights for Development Objectives

The Double Role of IPRs in the Context of Facilitating MDGs Nos. 1 and 6

Willem van Genugten, Anna Meijknecht (Project coordinators), Bernard Maister, Caspar van Woensel, Bram De Jonge, Godber Tumushabe, Julian Barungi, Niels Louwaars, Grant Napier, Sibongile Gumbi, Tobias Rinke de Wit

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[7] see page 417-418 of the report [6]